



MEETING AGENDA

TIME/DATE: 9:30 a.m. / Wednesday, July 14, 2021

Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the meeting will only be conducted via video conferencing and by telephone. Please follow the instructions on the following page to join the meeting remotely.

COMMISSIONERS

Chair – Jan Harnik

Vice Chair – V. Manuel Perez

Second Vice Chair – Bob Magee

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
Jeff Hewitt, County of Riverside, District 5
Kyle Pingree / Alberto Sanchez, City of Banning
Lloyd White / David Fenn, City of Beaumont
Joseph DeConinck / Johnny Rodriguez, City of Blythe
Linda Molina / Wendy Hewitt, City of Calimesa
Jeremy Smith / Larry Greene, City of Canyon Lake
Raymond Gregory / Mark Carnevale, City of Cathedral City
Steven Hernandez / Denise Delgado, 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 / Russ Brown, City of Hemet
Dana Reed / Donna Griffith, City of Indian Wells

Waymond Fermon / Oscar Ortiz, City of Indio
Brian Berkson / Guillermo Silva, City of Jurupa Valley
Kathleen Fitzpatrick / Robert Radi, City of La Quinta
Bob Magee / Natasha Johnson, City of Lake Elsinore
Bill Zimmerman / Dean Deines, City of Menifee
Yxstain Gutierrez / To Be Appointed, City of Moreno Valley
Scott Vinton / Lisa DeForest, City of Murrieta
Ted Hoffman / Katherine Aleman, City of Norco
Jan Harnik / Kathleen Kelly, City of Palm Desert
Lisa Middleton / Dennis Woods, City of Palm Springs
Michael M. Vargas / Rita Rogers, City of Perris
Ted Weill / Charles Townsend, City of Rancho Mirage
Chuck Conder / Erin Edwards, City of Riverside
Alonso Ledezma / Crystal Ruiz, City of San Jacinto
Matt Rahn / Maryann Edwards, City of Temecula
Ben J. Benoit / Joseph Morabito, City of Wildomar
Mike Beauchamp, Governor's Appointee Caltrans District 8

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

www.rctc.org

MEETING AGENDA*

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

9:30 a.m.

Wednesday, July 14, 2021

Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the meeting will only be conducted via video conferencing and by telephone. Please follow the instructions below to join the meeting remotely.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Join Zoom Meeting

<https://rctc.zoom.us/j/88112969755>

Meeting ID: 881 1296 9755

One tap mobile

+16699006833,,88112969755# US (San Jose)

Dial by your location

+1 669 900 6833 US (San Jose)

For members of the public wishing to submit comment in connection with the Commission Meeting please email written comments to the Clerk of the Board at lmobley@rctc.org prior to July 13, 2021 at 5:00 p.m. and your comments will be made part of the official record of the proceedings. Members of the public may also make public comments through their telephone or Zoom connection when recognized by the Chair.

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 on the Commission's website, www.rctc.org.

In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, Executive Order N-29-20, 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** – 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. 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.*

6A. APPROVAL OF MINUTES – JUNE 9 2021

Page 1

6B. STATE AND FEDERAL LEGISLATIVE UPDATE

Page 22

Overview

This item is for the Commission to receive and file an update on state and federal legislation.

6C. COUNTY OF RIVERSIDE FUNDING REQUEST FOR CONSTRUCTION OF JURUPA ROAD GRADE SEPARATION PROJECT

Page 28

Overview

This item is for the Commission to:

- 1) Approve programming \$25 million of 2009 Measure A Western County Regional Arterial (MARA) funds for the city of Jurupa Valley's Jurupa Road Grade Separation project;
- 2) Approve Agreement No. 21-72-121-00 between the Commission and the County of Riverside (County) as the lead agency for the programming of \$25 million of MARA for the construction phase of the Jurupa Road Grade Separation project; and
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement.

6D. AGREEMENT FOR TRANSIT-ORIENTED COMMUNITIES STRATEGIC PLAN

Page 34

Overview

This item is for the Commission to:

- 1) Approve Agreement No. 21-65-043-00 with Stantec Consulting Services, Inc. to develop a transit-oriented communities strategic plan for an 18-month base period with two additional six-month optional terms in an amount of \$924,674, plus a contingency amount of \$25,326, for a total amount not to exceed \$950,000;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement, including option terms, on behalf of the Commission; and
- 3) Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for these services.

6E. CONSTRUCTION AND MAINTENANCE AGREEMENT WITH BNSF RAILWAY FOR INTERSTATE 15/STATE ROUTE 91 EXPRESS LANES CONNECTOR PROJECT

Page 96

Overview

This item is for the Commission to:

- 1) Approve Agreement No. 21-31-098-00 with BNSF Railway (BNSF) for a construction and maintenance (C&M) agreement, including property acquisition, for the Interstate 15/State Route 91 Express Lanes Connector Project (15/91 ELC) in the amount of \$1,988,607, plus a contingency amount of \$104,470, for a total amount not to exceed \$2,093,077;
- 2) Authorize the Executive Director, pursuant to legal counsel review, to finalize negotiations with BNSF and execute the agreement on behalf of the Commission; and
- 3) Authorize the Executive Director or designee to approve the use of the contingency amount as may be required by the 15/91 ELC.

6F. AGREEMENT FOR CALIFORNIA HIGHWAY PATROL CONSTRUCTION ZONE ENHANCEMENT ENFORCEMENT PROGRAM SERVICES DURING THE CONSTRUCTION OF THE COMMISSION'S HIGHWAY PROJECTS

Page 164

Overview

This item is for the Commission to:

- 1) Approve Agreement No. 21-31-103-00, with the California Highway Patrol (CHP) for Construction Zone Enhanced Enforcement Program (COZEED) services used during the construction of Commission highway projects (Projects), for a total amount not to exceed \$4 million for a five-year term; and
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement on behalf of the Commission.

6G. AGREEMENTS FOR FREEWAY SERVICE PATROL TOW TRUCK SERVICE

Page 172

Overview

This item is for the Commission to:

- 1) Approve Agreement No. 21-45-049-00 to Pepe's Towing Service Inc. (Pepe's) for Freeway Service Patrol (FSP) tow truck services on State Route (SR) 91, Beat No. 4, for a five-year term, in an amount of \$1,666,787, plus a contingency amount of \$83,340, for a total amount not to exceed \$1,750,127;
- 2) Approve Agreement No. 21-45-050-00 to Pepe's for FSP tow truck services on SR-60, Beat No. 7, for a five-year term, in an amount of \$1,666,787, plus a contingency amount of \$83,340, for a total amount not to exceed \$1,750,127;
- 3) Approve Agreement No. 21-45-051-00 to Pepe's for FSP tow truck services on SR-60, Beat No. 8, for a five-year term, in an amount of \$1,666,787, plus a contingency amount of \$83,340, for a total amount not to exceed \$1,750,127;
- 4) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreements on behalf of the Commission; and
- 5) Authorize the Executive Director, or designee, to approve the use of the contingency amount as may be required for these services.

6H. 2021 STATE ROUTE 91 IMPLEMENTATION PLAN

Page 314

Overview

This item is for the Commission to approve the 2021 State Route 91 Implementation Plan.

7. 2022 STATE TRANSPORTATION IMPROVEMENT PROGRAM FUNDING DISTRIBUTION AND DRAFT FUND ESTIMATE

Page 362

Overview

This item is for the Commission to approve the 2022 State Transportation Improvement Program (STIP) funding distribution among the three geographic areas in Riverside County per the adopted STIP intracounty Memorandum of Understanding (MOU).

8. COUNTYWIDE TRANSIT REPORT: FISCAL YEARS 2017/18 THROUGH 2019/20

Page 366

Overview

This item is for the Commission to receive and file the Countywide Transit Report for Fiscal Year 2017/18 through FY 2019/20.

9. FISCAL YEAR 2021/22 COMMUTER ASSISTANCE PROGRAM RECOMMENDATIONS

Page 375

Overview

This item is for the Commission to:

- 1) Approve Agreement No. 21-41-123-00 among the Riverside County Transportation Commission (Commission), San Bernardino County Transportation Authority (SBCTA), Los Angeles County Metropolitan Transportation Authority (LACMTA), Orange County Transportation Authority (OCTA), and Ventura County Transportation Commission (VCTC), for a total contract amount of \$977,719 for Regional Rideshare Software over a three-year term, including the Commission's total share of \$186,444 inclusive of \$18,000 in contingency;
- 2) Approve Agreement No. 20-41-090-01, Amendment No. 1 to Agreement No. 20-41-090-00, with SBCTA for Rideshare Program Implementation, removing Rideshare and Vanpool Software expenses from the Scope of Work and incorporating them into Agreement No. 21-41-123-00;
- 3) Approve Memorandum of Understanding No. 21-41-122-00 between LACMTA, OCTA, RCTC, SBCTA, and VCTC to merge and consolidate the agencies' rideshare databases;
- 4) Adopt Resolution No. 21-013, "*Resolution of the Riverside County Transportation Commission Adopting Amended Guidelines for the Administration of the Measure A Funded Commuter Incentive Projects as Part of Its Commuter Assistance Program*"; and
- 5) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreements on behalf of the Commission.

10. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

11. COMMISSIONERS / EXECUTIVE DIRECTOR REPORT

Overview

This item provides the opportunity for the Commissioners and the Executive Director to report on attended meetings/conferences and any other items related to Commission activities.

- Update on CV Rail Public Hearings

12. CLOSED SESSION

12A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Agency Negotiator: Executive Director or Designee

Item	Property Description	Property Owner	Buyer(s)
1	118-160-004	RCTC	Regency Realty
2	117-122-001, 002, & 029	RCTC	Inland Investment Group
3	229-082-003, 010	RCTC	Parag Patel

12B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: 1 potential case

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9:
1 potential case

13. ADJOURNMENT

AGENDA ITEM 6A

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

MEETING MINUTES

Wednesday, June 9, 2021

1. CALL TO ORDER

The Riverside County Transportation Commission was called to order by Chair Jan Harnik at 9:30 a.m., via Zoom Meeting ID 872 1813 3305. Pursuant to Governor Newsom's Executive Order N-29-20.

2. ROLL CALL

Commissioners/Alternates Present

Mike Beauchamp
Ben J. Benoit
Brian Berkson
Russell Betts
Chuck Conder
Joseph DeConinck
David Fenn
Waymond Fermon
Kathleen Fitzpatrick
Raymond Gregory
Jan Harnik
Steven Hernandez*
Jeff Hewitt*
Ted Hoffman
Kevin Jeffries
Linda Krupa
Clint Lorimore

Bob Magee
Lisa Middleton
Linda Molina
V. Manuel Perez
Matt Rahn*
Dana Reed
Wes Speake
Karen Spiegel
Jeremy Smith
Michael M. Vargas
Scott Vinton
Chuck Washington
Ted Weill
Bill Zimmerman

Commissioners Absent

Yxstain Gutierrez
Alonso Ledezma
Kyle Pingree

*Arrived after the meeting was called to order.

3. PLEDGE OF ALLEGIANCE

Commissioner Karen Spiegel led the Commission in a flag salute.

4. PUBLIC COMMENTS

Marven Norman, Rail Passenger Association of California Member, stated he wanted to comment about the plans for the Coachella Valley-San Geronio Pass Rail Corridor project as he has been following it. One thing they are concerned about as he noticed that it is RCTC's project it is going to focus on Riverside and on Riverside County's needs. As the

environmental document is put out, the project will cost \$1 billion to build the track with Union Pacific Railroad (UP) and there should be more public benefit out of it than just two daily round trip trains. Mr. Norman suggested the Commission work with other partners, including Arizona, Calexico, or Imperial Valley as that has been studied in the past in looking at extending services all the way down to Calexico. He expressed there needs to be more than two trains a day round trip because UP is opening a new popup intermodal yard where this track would start in Colton. There is still a single track between Indio and Yuma so why would the Commission build 80 miles of a third track when they still have 30 miles of single track that could be filled. He stated that there could be a bit of a bottleneck as that third track will not necessarily be needed as much as they are proposing. It is a good project in concept but there needs to be more out of it than just two daily trains when spending that amount of money.

At this time, Commissioners Steven Hernandez, Jeff Hewitt, Matt Rahn, and Jeremy Smith joined the meeting.

Chair Harnik provided the instructions for public comments.

Brian Yanity, the Vice President-South of the Rail Passenger Association of California and Nevada, concurred with Mr. Norman's comments and stated the Amtrak Sunset Limited has an effort underway to increase the frequency of that to daily. Currently it stops three times per week in Palm Springs and that is the only stop with Sunset Limited in Riverside County. The Sunset Limited goes from Los Angeles (LA) to New Orleans via Tuscan, El Paso, San Antonio, Houston, and points in between and it would be a great benefit for that to go daily. He stated in 2011, the Commission adopted a resolution in favor of the daily Sunset Limited and suggested that needs to be done again and it should be sent to the Congressional Representatives. On the Coachella Valley-San Gorgonio Pass Rail Corridor project they do want to see more than two trains a day each way and the third track that UP is asking for to go from Colton to Indio, there is a lot of utility to that third track beyond Coachella Valley rail passenger service as important as that is and suggested it should be 12 trains both ways. It can be used to enhance the Sunset Limited to get that to daily trips and it will provide a lot more freight traffic for UP, there is also the proposed passenger trains from Arizona to LA via the Coachella Valley. All of those things should be factored in when it comes to that third track along with the capacity of the BNSF San Bernardino Subdivision, which goes through Riverside from San Bernardino to LA via Fullerton. Mr. Yanity stated if the Sunset Limited would go to daily the most likely scenario is it would be rerouted through Riverside and Fullerton so downtown Riverside could be a stop on the Sunset Limited and he requested the Commission's support for that.

Chair Harnik expressed appreciation to Mr. Norman and Mr. Yanity for their time and their engagement and stated they should provide their comments on the draft environmental document that was released on the proposed Coachella Valley-San Gorgonio Pass Rail Corridor project.

Jim Steiner, RCTC's Alternate and a city of Corona Council Member, referred to the \$1.4 billion 91 Expansion project that was completed a few years ago and stated their residents had high hopes that this project would improve their commute and the overall conditions on their local streets. Specifically on the west end of Corona near Serfas Club Drive and Green River Road unfortunately, they have seen little or no improvement. Several projects are in the works along SR-91 that will hopefully speed up the traffic flow on the freeway, which in theory should improve circulation on their local streets. He expressed appreciation for this and to the Commissioners for approving these upcoming projects. As it relates to the I-15 and he expressed that they are frustrated, angry, and disappointed once again because after all the work that was done there is backup on their city streets and residential neighborhoods. Council Member Steiner stated on the south end of town it has become notably worse primarily on Ontario Avenue, Foothill Parkway/El Cerrito Road, Masters Drive and Cajalco Road and there is a horrible pinch point on the west end of Corona and now there is a new one on the south end of Corona. For years residents and commuters have not been able to get out of Corona in a reasonable time in the morning when trying to get to their jobs in LA and Orange County. Now the residents cannot get out of Corona as they navigate south to return home from work, even worse for the citizens of Corona is that they are stuck in mess as they try to get their kids home from school, go out to dinner, or patronize local businesses. He expressed not being able to catch a break on the weekends around noon this past weekend traffic was barely traveling along the I-15 from SR-91 to Cajalco Road. Citizens have suggested that maybe RCTC should close the recently opened I-15 toll lanes until after adequate funding is available to build the proper freeway infrastructure that does not negatively impact local streets. Others have suggested moving the southbound toll road exit points further to the north to allow for greater distance to accomplish their merge to the general purpose lanes and off ramps. He noted that RCTC has the funding to add an arterial lane from Cajalco Road and is also looking at restriping options. He expressed on behalf of the residents of Corona he is urging RCTC to continue to look at some temporary or permanent improvements in the short term while long term improvements continue to be planned and funded. Council Member Steiner stated morning and afternoon commutes will likely always be a challenge for this region but the hundreds of millions of dollars invested in our local freeways should not make life more difficult for the citizens on the local streets and in their neighborhoods.

Chair Harnik expressed appreciation to Council Member Steiner for his time and for his input. She noted having time to consider the issues raised at the May Commission meeting and generally how the Commissioners communicate to their residents. She was reminded that the communication they provide to their communities concerning their work here is critically important and they have a responsibility not only to bring their communities' voices to this Commission, but they also have an obligation to share in an accurate manner the sometimes difficult facts about traffic management, financing, and growth with their cities. She stated that means understanding and voicing the Commissions' role on our county's transportation network, it means sharing with our community members the process for deciding how projects are funded and ultimately

approved by this Commission. It may also require correcting inaccurate information circulating within our communities that if left unaddressed can lead to tempers flaring among their residents. Over the last few weeks, she has seen on social media a small and persistent set of voices speaking out against the I-15 Express Lanes and other Commission led work. One person wrote online the I-15 Express Lanes project designer “should be shot.” While the comment was eventually removed, these words are violent, and words matter. She expressed fearing that everyone has become so accustomed to harmful online content and are numb to language like this. She suggested they can all agree that this level of violence is disturbing, and it must stop. On SR-91 there have been BB gun shootings, a little boy was killed on SR-55 from an apparent road rage incident, and our hearts go out to the victims and their families at the San Jose Valley Transportation Authority mass shooting. Words do matter and it does not take much for violent words to spark a violent reaction. Inciting anger does not encourage constructive thought or solutions; with calm they can process, they can bring logic and have productive conversations. Every month the Commissioners come together to make decisions for our county’s transportation system, they work to implement voter approved Measure A projects, provide oversight and direction to staff on projects and budgeting, and they work to respond to the needs of their communities. Let’s commit to doing this well, respectfully, civilly, to ask questions, participate in the process, and communicate to our residents and community groups the meaning behind the work they do. That is the foundation of a democratic society and a privilege and honor that they all share as elected officials. We are not going to agree on every issue but let’s agree to consider the importance of how we communicate in order to do our part to turn down the temperature, turn down the tone so that we can work together finding real solutions for the issues in front of them. She knows as they continue this meeting, they will do their best to find solutions needed to make their communities quality of life as good as it can possibly be, and she expressed appreciation for allowing her to speak.

Vice Chair Manuel Perez expressed appreciation as Chair Harnik’s words were very powerful. As Chair Harnik mentioned words matter and he thanked Chair Harnik for her leadership and making that point for all the Commissioners as it makes good sense.

Chair Harnik expressed appreciation for Vice Chair Perez’s comments and stated that is very important and she knows they can get this job done and do it well.

Commissioner Chuck Washington concurred with Vice Chair Perez’s comments and expressed that Chair Harnik should be aware that a lot of people that are in this meeting are very supportive of what she just said.

Commissioner Wes Speake stated as the representative in the area that a lot of this stuff comes from, he thanked Chair Harnik acknowledging that the pain is real, the emotion is real, and equally for trying to get to a point to find corrective and creative solutions to bring that temperature down and communicate the next steps. He noted having additional comments, but he will reserve those until the end of the meeting.

Commissioner Karen Spiegel stated to Chair Harnik she would be remiss if she did not make a comment, because she is glad that it is somebody outside her district that stood up. It has been a tough time as she has personally dealt with this and as much of the things they want to do and wanted to get community meetings going but when it started it went exactly the way Chair Harnik described. She stated as Commissioner Speake commented about getting the community together, she concurred but it gets so negative, so the Commission needs Commissioner Speake's help to turn those attitudes around. Every time something is said it gets twisted and it is an ongoing issue, they want to fix it, but some things just are in a process and will not be fixed overnight. Commissioner Spiegel suggested they need to somehow come to a reasonable way of moving forward so that as time goes, they can fix some of these issues. She stated they all are working different angles and solutions that may not be seen by all, but they have to go by what this organization is leading the Commissioners, keep moving forward, and working for a commonsense solution that they can all live with.

Chair Harnik thanked Commissioner Spiegel and noted as Commissioner Spiegel stated during the Pledge of Allegiance, we have opportunity here and expressed making the most of this opportunity.

5. ADDITIONS / REVISIONS

There were no additions or revisions to the agenda.

7. PUBLIC HEARING – PROPOSED BUDGET FOR FISCAL YEAR 2021/22

At this time, Chair Harnik announced this public hearing remains open from the May Commission meeting and called on Michele Cisneros, Deputy Director of Finance, to present the proposed Budget for FY 2021/22.

Michele Cisneros, presented the proposed FY Budget for FY 2021/22, highlighting the following areas:

- Budget adjustments, budget summary, revenues/sources comparison, and summary of expenditures, expenses, and uses
- Management Services, Regional Programs, and Capital Project Development & Delivery expenditures/uses
- Capital Project highlights, toll operations, function breakdown, Measure A Administrative costs
- Next steps

Chair Harnik asked if there were any public comments. There were no public comments and no written comments received. At this time, Chair Harnik closed the public hearing. She asked if there were any comments from the Commissioners on the budget that is

presented. She expressed appreciation to Michele Cisneros for her explanation on generation and allocation of Measure A, LTF, and STA funds.

Commissioner Spiegel expressed appreciation to Michele Cisneros for an awesome job both in the written document and her explanation was very clear and as Chair Harnik stated with the Measure A there is always that lingering piece of document that they have to make sure they keep reiterating what voters voted for and that those guidelines are being met.

M/S/C (Berkson/Perez) to:

- 1) Receive input on the proposed Budget for Fiscal Year (FY) 2021/22;**
- 2) Approve the revised mid-year FY 2020/21 revenue projections of \$210 million for 2009 Measure A revenues for a revenue budget increase of \$15 million and a related local streets and roads expenditure budget increase of \$4,573,000 to reflect the revised FY 2020/21 Measure A projection;**
- 3) Approve the revised mid-year FY 2020/21 revenue projections of \$105 million for Local Transportation Fund (LTF) revenues for a revenue budget increase of \$5 million and the related planning allocation expenditure budget increases of \$113,000 and transfer out of \$150,000 to reflect the revised FY 2020/21 LTF projection;**
- 4) Approve the revised FY 2021/22 revenue projections of \$210 million for 2009 Measure A and \$105 million for LTF;**
- 5) Approve the salary schedule effective July 1, 2021, located in Appendix B of the proposed budget;**
- 6) Authorize the expenditure of \$1,025,700 of 91 Express Lanes toll revenues designated as surplus in accordance with the 2013 Toll Revenue Bonds Indenture to fund Commission costs related to the development of agreements related to the funding, construction, operations, maintenance, and use of toll revenues for the future direct, tolled connector linking the SR-241 toll road to the 91 Express Lanes (241/91 Connector);**
- 7) Close the public hearing on the proposed Budget for FY 2021/22; and**
- 8) Adopt the proposed Budget for FY 2021/22.**

Chair Harnik noted that is good news because a year ago if they would have asked, she did not think that there would be such a rosy picture with the sales tax.

8. CONSENT CALENDAR

M/S/C (Gregory/Molina) to approve the following Consent Calendar items.

Steve DeBaun, Legal Counsel, stated per the Campaign Contribution form that was submitted, (Best Best and Krieger, LLP) BB&K's contract is on Agenda Item 8G," *Recurring Contracts for Fiscal Year 2021/22*", there was a campaign contribution that was given to Commissioner Jeffries and he would recommend that Commissioner Jeffries abstain on that agenda item or at least related to the BB&K contract.

Commissioner Jeffries abstained on the BB&K contract for Agenda item 8G.

8A. APPROVAL OF MINUTES – MAY 12, 2021

8B. APPROPRIATIONS LIMIT FY 2021/22

Adopt Resolution No. 21-010 "*Resolution of the Riverside County Transportation Commission Establishing the Annual Appropriations Limit*", for Fiscal Year 2021/22.

8C. QUARTERLY FINANCIAL STATEMENTS

Receive and file the Quarterly Financial Statements for the nine months ended March 31, 2021.

8D. QUARTERLY INVESTMENT REPORT

Receive and file the Quarterly Investment Report for the quarter ended March 31, 2021.

8E. QUARTERLY SALES TAX ANALYSIS

Receive and file the sales tax analysis for Quarter 4, 2020 (4Q 2020).

8F. FEDERAL TRANSIT ADMINISTRATION PROPOSED TRIENNIAL OVERALL DISADVANTAGED BUSINESS ENTERPRISE GOAL FOR FEDERAL FISCAL YEARS 2022-2024

- 1) Approve 11 percent as the Commission's Federal Transit Administration (FTA) proposed triennial overall Disadvantaged Business Enterprise (DBE) race-neutral goal for Federal Fiscal Years (FFY) 2022-24 for the period October 1, 2021 to September 30, 2024; and
- 2) Adopt Resolution No. 21-007, "*Resolution of the Riverside County Transportation Commission Adopting Its Triennial Overall Disadvantaged*

Business Enterprise Program Goal (49 CFR Part 26) as it Applies to Funding Received Directly from the Federal Transit Administration”.

8G. RECURRING CONTRACTS FOR FISCAL YEAR 2021/22

- 1) Approve the single-year recurring contracts in an amount not to exceed \$15,679,516 for Fiscal Year (FY) 2021/22;
- 2) Approve the recurring multi-year contracts for specialized services on long-term projects in an amount not to exceed \$1,373,967 in FY 2021/22 and \$2,801,989 in FYs 2022/23 – 2025/26; and
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission.

8H. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, JANUARY-MARCH 2021

Receive and file the Quarterly Public Engagement Metrics Report for January-March 2021.

8I. STATE AND FEDERAL LEGISLATIVE UPDATE

Receive and file an update on state and federal legislation.

8J. 91 EXPRESS LANES MONTHLY STATUS REPORTS

Receive and file the 91 Express Lanes Monthly Reports for the three months from January to March 2021.

8K. AMENDMENTS TO ON CALL PURCHASE AGREEMENTS FOR 6C TRANSPONDERS

- 1) Approve the amendments to the following 6C transponder provider agreements for an additional four years with no additional cost authorization:
 - a) Agreement No. 18-31-094-01, Amendment No. 1 to Agreement No. 18-31-094-00, with Kapsch TrafficCom USA, Inc.; and
 - b) Agreement No. 18-31-161-02, Amendment No. 2 to Agreement No. 18-31-161-00, with Neology, Inc.;
- 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 purchase orders awarded to the contractors under the terms of the agreements.

8L. READOPTED AND REAFFIRMED THE 15 EXPRESS LANES TOLL POLICY GOALS AND TOLL POLICIES

Adopt Resolution No. 21-012, *“Resolution of the Riverside County Transportation Commission Reaffirming and Readopting the Amended and Restated Interstate 15 Express Lanes Toll Policy Goals and Toll Policies and Ratifying Actions in the Furtherance of the Policy”*.

8M. STATE ROUTE 71/STATE ROUTE 91 INTERCHANGE IMPROVEMENT PROJECT FOR CONSTRUCTION MANAGEMENT SERVICES, CONSTRUCTION AND MAINTENANCE, AND COOPERATIVE AGREEMENTS

- 1) Award Agreement No. 21-31-012-00 to Falcon Engineering Services to provide construction management (CM), materials testing, construction surveying and environmental monitoring services for the State Route (SR) 71/SR-91 (71/91) interchange improvement project (Project) in the amount of \$16,756,467, plus a contingency amount of \$1,443,533, for a total amount not to exceed \$18,200,000;
- 2) Approve Agreement No. 21-31-091-00 for the Project construction and maintenance (C&M) agreement with BNSF Railway in the amount of \$1,957,727, plus a contingency amount of \$195,773, for a total amount not to exceed \$2,153,500;
- 3) Approve Agreement No. 21-31-067-00, a cooperative agreement between the Commission and Caltrans, that defines the roles and responsibilities for Project construction at no cost to the Commission;
- 4) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreements on behalf of the Commission; and
- 5) Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for these services.

8N. AMENDMENT TO COOPERATIVE AGREEMENT WITH THE CITY OF PERRIS AND AMENDMENT TO AGREEMENT WITH T.Y. LIN INTERNATIONAL FOR THE INTERSTATE 215/PLACENTIA AVENUE INTERCHANGE PROJECT

- 1) Approve Agreement No. 16-31-066-06, Amendment No. 6 to Agreement No. 16-31-066-00, with T.Y. Lin International (T.Y. Lin) for design support during construction of the Interstate 215/Placentia Avenue Interchange project (Project) in the amount of \$257,285, plus a contingency amount of \$25,728, for an additional amount of \$283,013, and a total amount not to exceed \$5,454,198;
- 2) Approve Agreement No. 19-31-044-01, Amendment No. 1 to Agreement No. 19-31-044-00, with the city of Perris (City) for storm drain improvements on Placentia Avenue and street and signal improvements at the Placentia Avenue and Indian Avenue intersection for the Project for an

additional Commission contribution of \$1,081,157 and a total Commission contribution not to exceed \$1,231,157;

- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission; and
- 4) Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for the design support services.

80. POLICY UPDATE ON THE USE OF STATE TRANSIT ASSISTANCE FUNDING BY OPERATORS

Adopt Resolution No. 21-011, *"Resolution of the Riverside County Transportation Commission Regarding the Policy for Use of State Transit Assistance Funding by Transit Operators"*.

8P. ADOPTION OF RESOLUTION NO. 21-009 TO BECOME THE ACCESS FUND ADMINISTRATOR FOR THE TRANSPORTATION NETWORK COMPANIES ACCESS FOR ALL PROGRAM

- 1) Adopt Resolution No. 21-009, *"A Resolution of the Riverside County Transportation Commission Authorizing the Execution of the Certification to Serve as the Local Access Fund Administrator (LAFA) for the Access for All Program for the County of Riverside"*; and
- 2) Authorize the Executive Director or designee, pursuant to legal counsel review, to execute agreements and/or documents related to the Transportation Network Companies (TNC) Access for All program on behalf of the Commission.

8Q. AMENDMENT TO CITY OF BANNING'S FISCAL YEAR 2020/21 SHORT RANGE TRANSIT PLAN

- 1) Approve an amendment to the city of Banning's (City) FY 2020/21 Short Range Transit Plan (SRTP) to reflect the operating shortfalls in FY 2019/20 and FY 2020/21 and increase the Local Transportation Fund (LTF) operating allocation in the net amount of \$597,039;
- 2) Approve the reprogramming of \$134,213 of State Transit Assistance (STA) from capital assistance to operating assistance for the City for FY 2019/20 operating expenses;
- 3) Approve the reprogramming of \$135,000 of LTF from the Comprehensive Operational Analysis (COA) capital assistance to operating assistance for FY 2020/21 operating expenses;
- 4) Approve an additional FY 2020/21 LTF allocation of \$217,039 to the City for FY 2019/20 operating expenses; and

- 5) Approve an additional FY 2020/21 LTF allocation of \$380,000 to the City for FY 2020/21 operating expenses.

8R. AMENDMENT TO RIVERSIDE TRANSIT AGENCY'S FISCAL YEAR 2020/21 SHORT RANGE TRANSIT PLAN

- 1) Amend the Riverside Transit Agency's (RTA) Fiscal Year (FY) 2020/21 Short-Range Transit Plan (SRTP) to include the Meals on Wheels program in the Operating Budget; and
- 2) Approve an allocation of \$175,000 of 2009 Measure A Western County specialized transit funding for the Meals on Wheels program.

8S. FISCAL YEAR 2021/22 SHORT RANGE TRANSIT PLAN UPDATES AND TRANSIT FUNDING ALLOCATIONS

- 1) Approve the Fiscal Years 2021/22 – FY 2023/24 Draft Short Range Transit Plans (SRTPs) for the cities of Banning (Banning), Beaumont (Beaumont), Corona (Corona), and Riverside; Palo Verde Valley Transit Agency (PVVTA); Riverside Transit Agency (RTA); SunLine Transit Agency (SunLine); and the Commission's FY 2021/22 – 2025/26 SRTP for the Rail and Vanpool Programs;
- 2) Approve Fiscal Year 2021/22 Transit Operator Funding Allocations of 2009 Measure A, Local Transportation Funds (LTF), State Transit Assistance (STA), and State of Good Repair (SGR) for Banning, Beaumont, Corona, and Riverside; PVVTA; RTA; SunLine; and the Commission's Rail and Vanpool Programs aggregating \$107,217,986;
- 3) Adopt Resolution No. 21-008, *"Resolution of the Riverside County Transportation Commission to Allocate Local Transportation Funds and State Transit Assistance Funds For the Fiscal Year 2021/22"*; and
- 4) Direct staff to add the federally funded and regionally significant projects into the Federal Transportation Improvement Program (FTIP).

8T. FISCAL YEARS 2021/22 – 2025/26 MEASURE A FIVE-YEAR CAPITAL IMPROVEMENT PLANS FOR THE LOCAL STREETS AND ROADS PROGRAM

Approve the Fiscal Years 2021/22 – 2025/26 Measure A Five-Year Capital Improvement Plans (CIP) for Local Streets and Roads (LSR) as submitted by the participating agencies.

8U. FISCAL YEAR 2021/22 MEASURE A COMMUTER ASSISTANCE BUSPOOL SUBSIDY FUNDING CONTINUATION REQUEST

- 1) Authorize payment of the \$2,350/month maximum subsidy per buspool for the period July 1, 2021 to June 30, 2022, to the existing Riverside I buspool; and
- 2) Require subsidy recipients to meet monthly buspool reporting requirements as supporting documentation to receive payments.

9. APPROVAL OF METROLINK OPERATING AND CAPITAL SUBSIDIES FOR FISCAL YEAR 2021/22 AND RELATED MEMORANDUM OF UNDERSTANDING

Sheldon Peterson, Rail Manager, expressed appreciation to RCTC's Metrolink Board Representatives that have done a fantastic job during a very challenging year. He then presented the annual Metrolink Budget update, highlighting the following areas: RCTC & Metrolink; FY 21 highlights; ridership decline by Metrolink Line; COVID-19 recap; ridership recovery scenarios December 2020 update; FY 22 highlight goals; and financial impact.

Commissioner Hoffman expressed appreciation for the optimism on getting the ridership back up and expressed caution that everything he reads says it is going to be slow for people to go back to their offices. He suggested when these budgets are being done that it may not be done in 12 months, it may be a prolonged time as people get back on their trains heading from Riverside County to Orange County and Los Angeles County as this new normal and they should look at this as a long-term investment.

Commissioner Berkson stated as one of the Metrolink representatives for RCTC he wanted to provide some thoughts on this issue with Metrolink. He explained the idea in concept of Metrolink is to get vehicles off the road and reduce emissions and they do that very well with the new Tier 4 Locomotives. There are 40 units total that have been delivered and are now at Metrolink, the last unit should be in revenue service in the next month or two. Commissioner Berkson stated Metrolink almost daily looks at the number of passengers on every train and there is a new part of the App that allows people to see how many people are on a train to decide if they want to ride that train or wait for another one. The hardest challenge aside from the pandemic this last year was the unfortunate news that Stephanie Wiggins, Metrolink's CEO, left Metrolink as well as the Board Secretary and moved on to LA Metro. He explained as Sheldon Peterson mentioned, they are in the application process for Metrolink's new CEO and the beginning of July there will be a closed session meeting for interviews of the top contenders. Commissioner Berkson expressed hopefully they can find somebody that will be able to carry the torch of Ms. Wiggins, as she made major changes in her year and a half. He wanted to bring up these points to let everybody know that does not have all that insight that the four representatives representing RCTC as Metrolink Board Members have.

Commissioner Lisa Middleton concurred with Commissioner Berkson's comments and stated as a new alternate to the Metrolink Board she expressed appreciation to Commissioners Berkson and Spiegel who are RCTC's voting representatives and they have been outstanding in their representation of the County. She referred to Commissioner Hoffman's comment about raising the issue of how long it is going to take before individuals start returning to the workplace and the kind of numbers that were historic and stated the future of rail in Southern California needs to be not solely linked to transportation of individuals to and from work. They need to start thinking about how they use the rail network as an opportunity for individuals to be used when they are recreating and going to various events and suggested that their system today should be set up in the way that they need to do to be able to be a transportation network that gets people from Riverside County to Orange, Los Angeles, and San Diego Counties and in the other directions as well that people go to on the weekends. Commissioner Middleton referred to the traffic in Corona and stated how much of that traffic could be improved if more individuals could ride the train to the beaches and other events they are going to.

Commissioner Speake expressed appreciation for the money that RCTC is putting into this as it is very important and noted just based on the vehicle miles traveled (VMT) and the way SB 743 is going to affect transportation agencies and the counties in California in how they build projects. He referred to Commissioners Berkson's and Middleton's comments and stated light rail is the future and they need to push hard to identify where to find funding, put these plans in place, and in places they do not currently have it. He stated Commissioner Middleton made a great point about how many cars they can get off the road and he always goes back to talking to one of the transportation engineers that told him that each lane of traffic on the freeway holds about 2,200 cars an hour before it breaks down. Commissioner Speake noted if they start allocating those 2,200 people onto trains, they are going to need more trains and have more trains in places that they do not currently have them. He explained I-15 has received a lot of attention lately and in discussions with Caltrans Headquarters with the VMT folks and the representatives' office for SB 743 telling them that having to mitigate large amount of mitigation millions and millions of VMT on I-15 is literally almost impossible. He stated if they were going to build just an additional general-purpose lane or the proposed southern extension that was going to go all the way to Temecula there is anywhere from 250 million to 300 million VMT. He stated the person he was speaking to at the time said well where is the public transportation and he replied if he wants to go to Temecula he has to get in his car as there are no choices, there is no bus or train, and in fact they have an idea but there is no plan. He suggested at the way the state and the federal government are moving on infrastructure they need to have something to expand upon what they are doing. Commissioner Speake expressed they have done great things so far, the history RCTC has with LA Metro and working together with them, they need find ways to expand those kinds of systems. He concurred with Commissioner Hoffman that it will take some time, but it is going to come back. He stated having this conversation with the state as well, when are they going to start telling people that the freeways are not going to get better. He stated as Anne Mayer noted many times, they cannot build their way out of this and

suggested the public needs to realize that it is not going to get better and they need to have other options whether it is living where you work, working where you live, and looking at public transportation. He expressed they are not going to see additional large-scale improvements, general purpose lanes, or toll lanes and try to figure out what the VMT mitigation is going to be as they have an uphill battle and the sooner they can get ahead of this and try to find ways to plan and then find money the better it is going to be for everyone.

Commissioner Jeff Hewitt stated he is the biggest skeptic here on anything rail obviously with what happened with COVID-19 they were starting to get a few riders, but then it really went back. He explained being in Chicago this last weekend, he rode the L from O'hare to downtown, there were 17 stops, and he bought a \$5.00 ticket as Uber would have cost \$70.00 and taken longer due to the congestion on the freeway. He concurred with Commissioner Middleton's comments and stated they need to look at more than just commuters going into work and look at all the opportunities not just in Coachella Valley, but all over Southern California. Also, connecting to airports, the ports, and everything else better than they already do. He realizes Chicago Transit Authority is a little bit different than LA Metro or Metrolink, but he sees some hope and he had a really good experience, but they need to work on getting the real skeptics like him.

Commissioner Russell Betts stated to make the rail attractive for people they have to know that they can get where they are going to go once they have gotten on the train and gotten off it, for example to a store and to do it easily. He explained spending 10 years in China, and he drove maybe 1,200 miles in a car during that time and everywhere he went it was by a taxi or a train, every method of transportation possible. He even had gone 90 miles from the city of Wushe down to Shanghai to buy a computer and he explained how simple it was by taking a taxi, a train, a bus, and the subway to get his computer and it was all because he knew he could make that trip. He suggested as they start to look at rail, they have to look at not just getting somebody from Desert Hot Springs to Corona, but from Corona to their actual destination that they want to go and if they do not put that piece of puzzle in place the public will say they need their car. He concurred with Commissioner Middleton's comments that they cannot just rely on it for work they have to start relying on it for these other purposes if very important.

Marven Norman expressed appreciation for having the ability to comment, he concurred with several of the Commissioners' comments, and stated it is good that RCTC is standing strong with Metrolink. As it has been noted the train has to move to be more reliable and accessible for people and he is aware that RCTC is working on several projects to improve that. He mentioned Metrolink's Southern California Optimized Rail Expansion (SCORE) program, which will also if it is fully funded and implemented move forward in that direction by putting up trains that is a half hour frequency on some lines in Riverside County were in 15 minute frequencies and at that rate it gets to be a useful system and people will not have to look at a schedule because they know there is going to be a train coming up every few minutes. The other thing it will take and there is research showing

that when people have access to the train especially at the ends by biking and walking and other micro mobility options when those options are easy in many cases it is as fast as driving. He is aware RCTC has their traffic relief plan from last year and looked at some of those bike projects and RCTC is working on the Santa Ana River Trail but suggested making more of an effort with Metrolink to develop a first mile last mile plan that focuses on getting people an easy trip down to the train station. He stated in previous years RCTC had several studies on expanding rail service down to Temecula both down the I-15 and I-215 corridors and both of those are also potential alignments for the California high-speed rail (HSR). He suggested given that those are potential alignments it would be useful to start getting the professional authority to move the planning efforts for phase 2 forward so that if RCTC is making investments in those corridors it can be investments that are going to be enhanced by HSR.

Commissioner Molina stated in the city of Calimesa another council member and herself have for the last five years been taking it upon themselves just to what everybody is saying it is all about connections. She explained they take and offer trainings to individuals, they travel with them to the transportation hubs, teach them how to use their smart phone, how to load Apps, how to check when their train or bus is coming, and how to keep an additional charger for their phone. Some of the Metrolink trains have charging centers and some of them do not, the bathrooms are clean, they actually show them how to make connections and using the bus system, and how to get back. Commissioner Molina stated going in one direction there are all the cost savings of going from bus to Metrolink, to Metro rail and even the downtown buses that go in the same direction they go to all the little cultural communities in L.A., to Dodger games, the music center, and then how to get back. The city of Calimesa just lost the transportation line through their city so they will just have to amend indicating where the bus lines are that connect to the hubs, but it is something that is simple and if they manage their time, it is an option not to take a car. She asked if anybody wants to have information on what they do she can provide it but it works, and it is getting people out of their car and into mass transportation.

Anne Mayer stated this is a terrific conversation and that is why staff wanted to bring this as discussion item to this Commission. She congratulated and expressed how proud they are of Stephanie Wiggins for becoming the Chief Executive Officer of LA Metro, it is a huge accomplishment. Ms. Wiggins is now leading one of the largest transportation agencies in the country and they are always proud of their RCTC alumnus Stephanie Wiggins. She explained Ms. Wiggins and the Metrolink Board did such a great job over the past year of managing through this crisis as it was mentioned it is going to take a couple of years to come back, but there is a concentrated effort not only amongst the Metrolink staff but also the staff from the member agencies who do everything they can to get Metrolink back on track and to bring riders back in a way they feel safe. Also, to ensure to continue to provide transportation options for people. Ms. Mayer stated everything the Commissioners and Mr. Norman have said about the future of rail is really important and they are currently updating the Rail Strategic Plan and will bring it back to the Commission at the end of this year for further discussion. As always in Riverside County rail and

expansion of rail whether it is about the expansion out to Hemet-San Jacinto, which RCTC bought all that right of way a couple of decades ago, or it is out to the I-15 and I-215 corridors, or out to the Coachella Valley there has always been keen interest in it. It is simply a matter of money and it can be done, and they are positioned well, the Coachella Valley-San Geronimo Pass Rail study that is out now they could not be at a more perfect point in time in terms of seeking funding for the next phases of that. The Metrolink Capital program called SCORE which has additional capital investments will really make a difference, but there is the operating money needed too. There are a lot of plans in place and the timing seems to be looking good for future investments of other people's money, but expressed it is really a matter of where they can make strategic investments and how can they try to make sure that rail service is a viable option for the residents of Riverside County whether it be for commuting or for personal use. It is exciting because now it the time to start having conversations about rail and they will have to be really aggressive and really engaged in conversations about rail funding at both the state and federal level.

Chair Harnik stated undoubtedly this is going take a shift in thinking, if they keep doing the same things it is not going to take on the popularity as it has. She concurred with what Commissioner Molina had said about introducing people to the process and providing them with a level of comfort.

At this time, Commissioner Jeremy Smith left the meeting.

M/S/C (Reed/Benoit) to:

- 1) Receive and file a report on highlights from the Southern California Regional Rail Authority's (SCRRA) services;**
- 2) Approve the Fiscal Year 2021/22 SCRRA operating and capital budget, which results in an operating subsidy of \$21,474,584 and capital subsidy of \$4,293,459 for the Commission; and**
- 3) Authorize the Executive Director to finalize and execute Memorandum of Understanding (MOU) No. 21-25-093-00 with SCRRA regarding annual funding, including subrecipient matters related to pass-through of federal funding.**

At this time, Commissioner Jeffries left the meeting.

10. FISCAL YEAR 2021/22 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 (SB 821) CALL FOR PROJECTS – PROJECT RECOMMENDATIONS

Jenny Chan, Planning and Programming Manager, provided an overview for the FY 2021/22 Transportation Development Act Article 3 Call for Projects and then a map was displayed that shows the locations of the 15 projects being recommended.

M/S/C (Zimmerman/Fitzpatrick) to approve the Fiscal Year 2021/22 Transportation Development Act Article 3 Bicycle and Pedestrian Facilities program (SB 821) recommended project allocations in the amount of \$4,327,472.

11. ITEM(S) PULLED FROM CONSENT CALENDAR FOR DISCUSSION

There were no items pulled from the Consent Calendar.

12. COMMISSIONERS/EXECUTIVE DIRECTOR'S REPORT

12A. Commissioner Speake expressed that himself on behalf of his colleagues, the city of Corona they do not condone and completely condemn any threats of violence in any way and they are always looking for solutions, which needs to be conveyed to the Commission and staff. He referred to Council Member Steiner's comments and reiterated that frustrations with the tolling exit at Cajalco and the associated chaos has reached a fever pitch as the Commissioners heard. There are backups on the I-15 regularly backed up for about two miles usually between the Magnolia and Ontario exits. The commute time usually begins around 4:00 p.m. and it ends around 7:00 p.m. with associated back up on city streets as commuters from the south try to get home. He stated the new condition with the toll lanes going through the commuter time begins at 3:00 p.m. and it frequently extends passed 8:00 p.m. Monday through Friday with backup going regularly back to the SR-91 interchange. Lately, as Council Member Steiner noted they are now seeing insane amounts of traffic on the weekends but with the added bonus they also have a pretty large toll. He explained this was not expected as it was brought up at the last Commission meeting RCTC built half a project because of funding and the traffic modeling showed this shift in bottleneck would get shifted back to Cajalco just as the partially built SR-91 Project, those issues now are being slowly corrected with the budget the Commission just adopted. He stated lots of projects will help fill those gaps with just a couple things outstanding, the eastbound SR-91 between SR-241 and SR-71 and the improvements that will be east of I-15 on SR-91. He expressed appreciation to the Commissioners for continuing to invest in the corridor not as a representative for the city of Corona, but as a Commissioner for all RCTC and a commuter and a resident that wants to see the mobility of Western Riverside County work for everyone. The \$2 billion invested in these corridors was not for the city of Corona it is for the region as these two corridors bring billions and billions of dollars in salaries and revenues to Riverside County, not just Corona. He had requested city staff to work on getting some videos and heat maps together to show how the issues they have on I-15 have impacted city streets and some solutions. He stated being solution oriented back before he was elected with a small group of people. He understands these questions cannot be addressed today and asked about the toll policy is there a limit on how high the tolls can go on the southbound I-15, and how is RCTC

communicating this to the public. He used an \$11.00 toll or a \$7.00 toll between Ontario and Cajalco as an example and asked what people understand that to mean. Commissioner Speake noted bringing this up in past meetings about a potential bill on the truth in tolling that tells people how much money they are going to save, how much money they are going to spend, how much time they are saving and be honest with people. He stated as part of the SR-91 Project there was a discussion about what level could tolls rise in order to divert people out of the toll lanes and he thought it was around \$3.00 to \$4.00 per mile that once it hit that range it did not matter anymore people were going to go into the toll lanes regardless of the price, and they have certainly exceeded that on the I-15. He requested to discuss placing a limit on the tolls in this section as he does not want to eliminate them as they are part of the toll policy and they should have those but find a way to limit those. He expressed they have created this with the project that they built, and they need to find a way that they can still capture revenue to push these projects forward but at the same time be honest with people. One of the questions he asked Anne Mayer before was have they compared the travel times and heat maps of pre-project opening to what was projected in the original traffic study and it is not the same and it would be good to share this information with the public. He noted it goes back to Chair Harnik's comments about communicating these facts as they are important. They know that this project was extensively modeled, they have this data, and they need to share it, but he knows they did not study what the impacts would be to city and county streets in this area. Commissioner Speake stated Commissioners Jeffries, Spiegel, and himself receive a lot of calls and the more information they can give them the better. He suggested he will engage people on social media to lower the temperature and provide those facts of what RCTC is doing. He is aware that RCTC and staff is working very diligently on finding some alternative striping plans and finding some way to mitigate this. He asked about the status of the I-15 Corridor Operations project, how soon, what can they do, what are the sticky points, is there a legislative fix to exempt this project to get this to move forward. He tells people it is funded, it is in planning, it was approved last year, but the big question is when. He would prefer to find a way to show that they are pushing this forward as fast as they can and whatever options that they can. As part of the I-15 Ad Hoc Committee he had asked for a future conversation about discussing the rail fixes that they are talking about as the world is changing, they need to change and be nimble and be able to identify how to best find money at the state and federal level. He suggested to push some of these alternative projects to take advantage of what SB 743 has given them and what federal transportation bills that are coming down the pike and the way the federal government are looking at greenhouse gas emissions, and how they handle and mitigation those. He reiterated they need to be honest to people and tell them that the toll lanes are a temporary fix unless people change their behavior, getting on alternative transportation or finding work closer to home it is not going to get better. He stated working with Riverside County EDA and the city to try to find some pilot

projects to do some recruiting although that is not part of this Commission, however the economic development portion of getting people to work where they live will lessen the impacts on transportation and they still should be a part of the discussion. Lastly, he had sent an email to the I-15 Ad Hoc Committee Members that the city of Corona back in 2019 adopted a resolution and RCTC took this forward to Caltrans to address the operational lane drop issues on the I-15 and he expressed appreciation to Michael Beauchamp, Caltrans District 8 and Caltrans for taking that forward and studying it and agreeing that there were issues and there were things that can be done as part of the SHOPP project and there was a corridor operations study they did back in 2020. He asked for help from the I-15 Ad Hoc Committee Members and RCTC to help push this forward to make it become a project. Caltrans has identified it as a need but without having a project they cannot find funding and the state has put \$2 billion into the SHOPP program for this coming fiscal year. The sooner they can identify this as a project and get Caltrans to help fund this project and he is not suggesting that RCTC fund this because the \$2 billion and soon to be \$2.5 billion that the taxpayers in Riverside County have paid for improvements in this area is enough and it is time for the state and some others to pitch in to get these things done.

Commissioner Hoffman concurred with Commissioner Speake's comments as he too heard Council Member Steiner's comments about Corona and his fellow council members to the south of Norco as he is aware of the traffic issues. He noted on Sunday for example it took him an hour to drive on the I-15 to go 18 miles south from Norco to Indian Truck Trail and that bottleneck that they have created and the short-tempered drivers getting off those routes it makes it even worse. It took him two and a half hours to drive to Temecula on Friday and he left mid-day or late morning, so it is a mess. He does not agree with trying to change the toll, but they do need to make some corrections and some adjustments to it, because it is not done. He noted in the budget RCTC plans on getting \$21 million in funds from that for next year's budget from the I-15 toll and those monies they need to pay for their expenses, but he concurred with Commissioner Speake at what cost. These people are upset his folks in his community are upset because of the delays trying to get up and down I-15 and suggested they need to think about their transportation methods and how to get there. He grew up in Riverside County and in the 1950's there was 200,000 people in Riverside County today there is over 2.5 million people. He expressed they have created this mess essentially making things grow fast so now they have to pay for that and if it means putting trains in or some sort of a rail system, they are behind it and it should have been years ago.

Commissioner Steven Hernandez noted it seems like this is the time where everybody is asking for a project and he clarified that they have a lot of priorities as well in the east end and it is important that they balance their priorities. Every single one of their areas needs things and their communities are frustrated and

asking to get it fixed and they have waited patiently. He stated certainly Corona has gotten over \$2 billion worth of project improvements and there are a lot of areas as well that need them, how they balance things, look at how to create more equity throughout their county, and not necessarily ship people out of the county but keep them in is what he is interested in discussing.

12B. Anne Mayer announced:

- Last Friday the House Transportation and Infrastructure Committee Chair Peter DeFazio released his five-year \$547 billion Surface Transportation Reauthorization bill called the Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America Act). The act directs federal investments in roads, bridges, transit, and rail. Included in the bill language is increasing the competitiveness of grade separations for federal funding, ensuring RCTC and other self-help counties in California are eligible to compete for new grant funding programs. There were a lot of ideas and suggestions being made today all of which will require a great deal of money so RCTC needs every penny they can get from as many of the other sources as possible, because RCTC does not have a budget for that.
- Previously they had reported to the Commission that they have been advocating for earmark funding and submitted federal earmark requests totaling \$50.5 million and on Monday they found out that two of their requests were added to the INVEST Act. \$20 million for the I-15 Next project, which is the extension of the express lanes north and a partnership project with the County of San Bernardino that was submitted by Representative Mark Takano; and \$3 million for the I-15 Corridor Operations project that was submitted by Congressman Ken Calvert. There are still several steps to go before this funding is approved but they are one step closer and are very appreciative that these projects made it into the first draft of the INVEST Act. She provided the other three Riverside County projects and the dollar amounts. She congratulated the teams that worked hard to help get these projects in the first draft and their goal is to try to make sure that money stays in the Act all the way to the end until it gets authorized.

12C. Chair Harnik expressed believing that there is not anyone who participates in these meetings who condones any violence or anger, but as leaders it is incumbent upon them that they have to be honest with their communities. They have to encourage calm

and civility so they can get to the solutions. She stated they all come to this meeting to do their best work representing for all of their communities and she expressed appreciation for their time and contributions today.

13. ADJOURNMENT

There being no further business for consideration by the Riverside County Transportation Commission, Chair Harnik adjourned the meeting at 11:18 a.m. The next Commission meeting is scheduled to be held at 9:30 a.m., Wednesday, July 14, 2021, via Zoom.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Lisa Mobley', with a long horizontal flourish extending to the right.

Lisa Mobley
Clerk of the Board

AGENDA ITEM 6B

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Budget and Implementation Committee David Knudsen, Interim External Affairs Director
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	State and Federal Legislative Update

BUDGET AND IMPLEMENTATION COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to receive and file an update on state and federal legislation.

DISCUSSION:

State Update

On June 14, 2021, the State Legislature passed a \$267 billion state budget, meeting the constitutionally mandated timeline but still needing to work with Governor Newsom on a final budget deal to determine program impacts and the final specific allocations for many budget items. The California Constitution requires that lawmakers pass a budget by June 15, 2021 or face pay suspensions. The Legislature can continue negotiating with the Governor through the July 1 start of the fiscal year.

The transportation elements in the budget—passed by legislators along party lines—in many ways reflect priorities in Governor’s budget proposal, including:

- \$1 billion to deliver critical projects for completion by 2028 for the Olympic Games.
- \$1 billion for transit and rail projects statewide that improve rail and transit connectivity between state and regional/local services.
- \$500 million to advance projects that increase active transportation.
- \$500 million to support critical safety improvements throughout the state.
- \$2 billion in special funds and federal funds for streets, roads, and highway projects.
- \$400 million for a State and Local Transportation Climate Adaptation program.

The Governor unveiled his revised budget proposal of \$267.8 billion on May 14, 2021, which was an increase from his initial \$227 billion proposal in January. This proposed spending level was a result of the unprecedented \$75.7 billion surplus and \$27 billion in federal relief approved in March.

Federal Update

House Surface Transportation Reauthorization Bill in Key Committee

On June 10, 2021 the House Transportation and Infrastructure (T&I) Committee passed its version of the surface transportation reauthorization legislation, the INVEST in America Act. RCTC was successful in ensuring the inclusion of language in this year's version of the legislation that makes RCTC eligible to compete for discretionary grants in areas such as carbon reduction, resiliency, and freight movement and mitigation.

In addition to the proposed eligibility language being included in the bill, there are also two earmarks included at the request of RCTC:

- \$20 million for the I-15 NEXT project, submitted by Representative Mark Takano
- \$3 million for I-15 Corridor Operations Project, submitted by Representative Ken Calvert

The full House of Representatives is scheduled to consider the legislation the week of June 28, 2021.

The Senate Commerce, Science and Transportation (Commerce) Committee released its surface transportation reauthorization bill in mid-June. Recall that there are three Committees in the Senate with jurisdiction over surface transportation policy. The Senate Commerce Committee handles safety, commuter rail, and Amtrak policy and funding issues. RCTC is closely monitoring this legislation for grant program funding opportunities.

RCTC legislative affairs staff is working with Representative Dr. Raul Ruiz's office on legislative language that may help ensure eligibility for discretionary grant funding to advance the Coachella Valley-San Geronio Pass Rail Corridor project.

Infrastructure Package Negotiations

The Biden Administration continues to negotiate with the Senate as it relates to a broad infrastructure package. Discussions have shifted to a group of 10 bipartisan Senators. While few details of any specific proposals have been made public, the goal is to develop a bipartisan infrastructure package that can be advanced through the regular legislative process.

H.R. 972 – The Western Riverside County Wildlife Refuge Bill

On February 12, 2021, Representative Ken Calvert introduced H.R. 972, a bill to establish the Western Riverside County Wildlife Refuge. With Representative Mark Takano as an original cosponsor of the bill, this bipartisan legislation creates the federal government's framework to meet its obligations under the Multiple Species Habitat Conservation Plan (MSHCP) Implementing Agreement.

This legislation would:

- Establish the boundary for a new wildlife refuge;
- Allow for the immediate inclusion of non-federal conservation lands that have already been acquired to meet the terms of the MSHCP;
- Provide certainty for development of the transportation infrastructure required to meet the future needs of southern California;
- Create new public access and enhance recreation for the entire region; and
- Create a mechanism for federal agencies to inventory lands within the Refuge established by this legislation to determine their suitability for inclusion.

The federal government was a principal partner in establishing the MSHCP and agreed to acquire one-sixth of the Plan's wildlife reserve acres. A wildlife refuge will enhance the partnership with the federal government to meet and fulfill the shared vision of aligning environmental conservation, infrastructure, and economic growth in western Riverside County. By establishing the Wildlife Refuge, H.R. 972 will enable the U.S. Fish and Wildlife Service to fulfill its obligation as a partner in the MSHCP.

Chair Jan Harnik signed a letter supporting H.R. 972 on June 11, 2021, based on the Commission's 2021 adopted State and Federal Legislative Platform.

Supporting this legislation is in alignment with the adopted 2021 State and Federal Legislative Platform, including:

Environment

- Support efforts or initiatives that expedite the approval of Habitat Conservation Plans or Special Area Management Plans for transportation projects.

On June 15, 2021, Chair Harnik authored with the Western Riverside County Regional Conservation Authority Chair Natasha Johnson and Representative Ken Calvert a Press-Enterprise Op-Ed, which communicated the importance of establishing a wildlife refuge in Western Riverside County and its contribution to transportation infrastructure development in the region.

Attachments:

- 1) Legislative Matrix
- 2) H.R. 972 Support Letter
- 3) Western Riverside County Wildlife Refuge Press-Enterprise Op-Ed

RIVERSIDE COUNTY TRANSPORTATION COMMISSION - POSITIONS ON STATE AND FEDERAL LEGISLATION – JUNE 2021

Legislation/ Author	Description	Bill Status	Position	Date of Board Adoption
AB 1499 (Daly)	Removes the January 1, 2024 sunset date for Department of Transportation and regional transportation agencies to use the design-build procurement method for transportation projects in California.	Referred to Assembly Transportation Committee June 16, 2021	<i>SUPPORT</i>	April 14, 2021
SB 623 (Newman)	Clarifies existing law to ensure toll operators statewide can improve service to customers and enforce toll policies while increasing privacy protections for the use of personally identifiable information (PII).	Hearing canceled at the request of author April 26, 2021	<i>SUPPORT</i> <i>Staff action based on platform</i>	April 5, 2021
SB261 (Allen)	This bill would require that the sustainable communities strategy be developed to additionally achieve greenhouse gas emission reduction targets for the automobile and light truck sector for 2045 and 2050 and vehicle miles traveled reduction targets for 2035, 2045, and 2050 established by the board. The bill would make various conforming changes to integrate those additional targets into regional transportation plans.	Senate Transportation Committee - hearing postponed by committee. April 27, 2021	<i>OPPOSE</i>	May 12, 2021
Federal				
HR 972 (Calvert)	This bill establishes the Western Riverside County Wildlife Refuge which would provide certainty for development of the transportation infrastructure required to meet the future needs of southern California.	Referred to the Subcommittee on Water, Oceans, and Wildlife March 8, 2021	<i>SUPPORT</i> <i>Staff action based on platform</i>	June 11, 2021



4080 Lemon St. 3rd Fl. Riverside, CA 92501
 Mailing Address: P.O. Box 12008 Riverside, CA 92502-2208
 951.787.7141 • rctc.org

June 11, 2021

The Honorable Ken Calvert
 U.S. House of Representatives
 2205 Rayburn House Office Building
 Washington, DC 20515

Re: Support H.R. 972

Dear Representative Calvert:

The Riverside County Transportation Commission (RCTC) supports H.R. 972, which establishes the Western Riverside County Wildlife Refuge (Wildlife Refuge). In January 2021, RCTC became the managing agency for the Western Riverside County Regional Conservation Authority (RCA). The RCA was formed with the establishment of the western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), a 500,000-acre wildlife preserve that provides habitat for 146 species of plants and animals, in 2004. H.R. 972 is a welcome and critical addition to our land acquisition efforts to complete the MSHCP.

As one of the nation's largest habitat conservation plans, the MSHCP strengthens the sustainability and quality of life in western Riverside County by providing a streamlined process that permits development projects, while protecting natural resources and improving air quality. The MSHCP provides Endangered Species Act coverage under a single permit for critical wildlife areas, which helps accelerate the construction of freeway and road projects. The MSHCP also helps to expedite commercial, industrial, and residential development to support population and economic growth in our region.

A wildlife refuge in western Riverside County will enhance our partnership with the federal government to meet and fulfill the shared vision of aligning environmental conservation, infrastructure, and economic growth. By establishing the Wildlife Refuge, H.R. 972 will enable the U.S. Fish and Wildlife Service to fulfill its obligation as a partner in the MSHCP.

Thank you for your leadership in sponsoring this bill. Should you have any questions, please reach out to Anne Mayer, Executive Director, at (951) 787-7141.

Sincerely,

A handwritten signature in blue ink that reads "Jan Harnik".

Jan Harnik
 Chair

CC: The Honorable Dianne Feinstein, United States Senate
 The Honorable Alex Padilla, United States Senate

Conserve habitat in order to streamline infrastructure

By Ken Calvert, Jan Harnik and Natasha Johnson

Fixing bridges, alleviating traffic, addressing the housing shortage and protecting the environment may seem like conflicting priorities.

In the same breath the state and federal governments are promoting unprecedented investments in infrastructure, while setting ambitious goals to reduce emissions and conserve our open space.

These goals and policies can often work against each other, but they don't have to.

What if we told you that there is a way for open space conservation to spur infrastructure and real estate development and that it is already happening in western Riverside County?

The federal government limits species and habitat displacement from real estate and infrastructure development projects through the enforcement of the Endangered Species Act (ESA). Typically, when projects might impact any listed species, the federal government must step in on a project-by-project basis to permit the development. Well, Riverside County is home to dozens of these animals while also one of the fastest-growing regions in the United States.

You can probably imagine how costly and time consuming the federal permitting process became for crucial infrastructure projects. But in 2004, Riverside County and 18 cities joined together as partners with the federal government to put an end to this cycle and develop the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

Administered by the Western Riverside County Regional Conservation Authority (RCA) and managed by the Riverside County Transportation Commission (RCTC), the MSHCP funds land acquisition, habitat management, and species monitoring.

Now, when the RCTC, the county, cities or homebuilders need to build infrastructure that moves our region forward, we have a plan.

Everyone has skin in the game — the federal government, the state of California,



SCNG FILE PHOTO

A view of Bonanza Springs in the Mojave Trails National Monument in 2017. Conserving these habitats may help spur infrastructure.

local agencies such as RCA, RCTC, and cities, as well as homebuilders.

As long as our community keeps special habitat areas set aside, the federal government no longer needs to micro-manage every single project; instead they are partners in our region's growth. But with this plan comes a responsibility to purchase and set aside those habitat areas.

This wildlife preserve will total 500,000 acres running throughout western Riverside County and protect 146 plant and animal species. Almost 350,000 acres were already managed for conservation by the government and the RCA has already acquired over 63,000 acres.

The MSHCP has accelerated the development of countless projects since its inception in 2004, building vibrant communities, creating jobs, and saving millions of dollars for taxpayers and homebuilders alike. Thanks to HCPs, habitat conservation is inextricably linked to infrastructure development and is the key to our continued growth as a region, state, and nation.

We still have a long way to go to realize the promise of the MSHCP, and we are working with the federal government to get there.

That is why we developed H.R. 972, the Wildlife Refuge Conservation and Recreation

for the Community Act.

Introduced on Feb. 11, this legislation would create a wildlife refuge in the MSHCP area for the benefit of public access and sustainable economic growth throughout Riverside County.

As Congress considers an infrastructure bill we are working together with our fellow Californians in the House and Senate to get this legislation across the finish line. The legislation already enjoys the support of Rep. Mark Takano, D-Riverside, who is an original cosponsor and partner in this effort.

The growing bipartisan consensus is that we must include H.R. 972 in the infrastructure package to protect our region's species, preserve our open space, and grow our regional economy. Investing further in HCPs will foster a balance of continued growth and prosperity in communities nationwide with environmental sustainability. Sometimes, it is possible to have it both ways.

We have a once in a lifetime opportunity to set our community on a sustainable path toward economic growth and prosperity in perpetuity. Let's get to work.

Ken Calvert represents the 42nd Congressional District. Jan Harnik is mayor pro tem of Palm Desert. Natasha Johnson is a member of the Lake Elsinore City Council.

AGENDA ITEM 6C

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee Jillian Guizado, Planning and Programming Director
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	County of Riverside Funding Request for Construction of Jurupa Road Grade Separation Project

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Approve programming \$25 million of 2009 Measure A Western County Regional Arterial (MARA) funds for the city of Jurupa Valley's Jurupa Road Grade Separation project;
- 2) Approve Agreement No. 21-72-121-00 between the Commission and the County of Riverside (County) as the lead agency for the programming of \$25 million of MARA for the construction phase of the Jurupa Road Grade Separation project; and
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement.

BACKGROUND INFORMATION:

The Commission's 2017 Companion Study to the 2012 Grade Separation Priority Update Study identifies three priority grade separations on critical urban freight corridors: McKinley Road (Corona), Jurupa Road (Jurupa Valley), and Third Street (Riverside). At the time, the Jurupa Road grade separation had no funding identified. A few months after the 2017 Companion Study was completed, the California State Legislature passed Senate Bill (SB) 132, providing \$108.4 million to deliver the Jurupa Road Grade Separation project. SB 132 includes a statutory provision that the funds must be encumbered by June 30, 2023.

The Commission has a history of providing discretionary funding to priority grade separation projects in the county. In 2001, the Commission approved a funding commitment to priority grade separation projects in Riverside County by providing a 10 percent local share match to the California Public Utilities Commission grade separation funding program. In 2007, the Commission committed to providing 25% of federal formula funds to priority grade separation projects. The Commission also approved Alameda Corridor East grade separation projects as eligible projects for 2009 Measure A Western County Economic Development funds. In the same

year, Proposition 1B was approved by California voters which included a program to improve trade corridors which offered grade separation project funding.

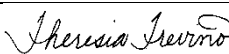
DISCUSSION:

The County is the lead agency on the Jurupa Road Grade Separation project for the city of Jurupa Valley. Since SB 132's passage in 2017, it has been working to deliver the project. Coordination with the Union Pacific Railroad has been challenging, particularly over the past 15 months during the COVID-19 pandemic. To keep the project moving forward, the County developed a phased approach to construction which allowed it to advertise the construction contract while still finalizing the design and right of way. On May 19, 2021, the County opened construction bids. The low bid is favorable and very close to the engineer's estimate. Once the construction cost became known, the County developed an updated project cost estimate which indicates a funding shortfall of \$25,000,000.

On June 16, 2021, the County submitted a letter (Attachment 2) to the Commission regarding the shortfall and requested financial assistance to fully fund the project. Commission staff conducted an analysis of available fund types and determined that the only fund type eligible and available given the various project details and circumstances is MARA. Staff recommends programming \$25 million of available MARA funds to fully fund the Jurupa Road Grade Separation project and entering into agreement 21-72-121-00 for purposes of providing funding for the project on a reimbursable basis.

FISCAL IMPACT:

The County will prioritize expenditure of the SB 132 funds, after which any additional funding needed to complete the project, up to \$25 million, would be paid for with available MARA funds on a reimbursable basis. The Commission will retain any cost savings on the project.

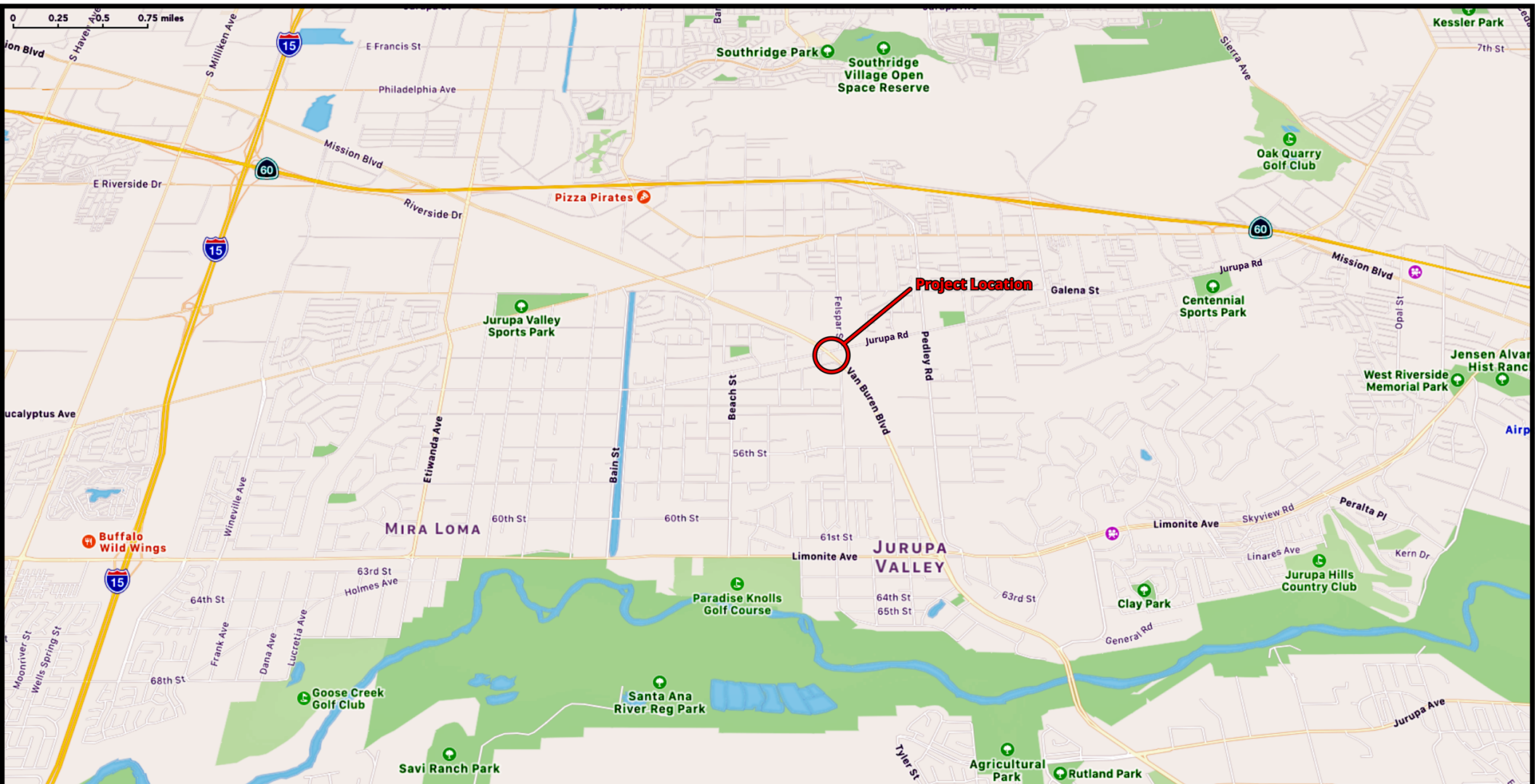
Financial Information					
In Fiscal Year Budget:	N/A	Year:	FY 2022/23	Amount:	\$25,000,000
Source of Funds:	2009 Measure A Western County Regional Arterial funds			Budget Adjustment:	N/A
GL/Project Accounting No.:	663041 81301 00000 0000 266 31 81301				
Fiscal Procedures Approved:				Date:	06/17/2021

Attachments:

- 1) Project Location Map
- 2) June 16, 2021 Letter from County of Riverside

*Approved by the Western Riverside County Programs and Projects Committee on
June 28, 2021*

In Favor: 11 Abstain: 1 No: 0





Mark Lancaster
Director of Transportation

COUNTY OF RIVERSIDE

TRANSPORTATION AND LAND MANAGEMENT AGENCY

ATTACHMENT 2

Mojahed Salama, P.E.
Deputy for Transportation/Capital Projects
Richard Lantis, P.L.S.
*Deputy for Transportation/Planning and
Development*

Transportation Department

June 16, 2021

Ms. Anne Mayer
Executive Director
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501

Subject: Jurupa Road Grade Separation Additional Funds Request

Dear Ms. Mayer:

The Jurupa Road Grade Separation project was allocated \$108.4 million for the design, right of way, and construction phases by the Governor and State Legislators through Senate Bill Number 132 (SB 132) in April 2017. The County of Riverside has received bids for the Jurupa grade Separation Project. Based on the lowest responsive and responsible bid received and the estimated costs for the other project phases, the total estimated project cost is \$133.4 million.

The purpose of this letter is to seek additional funds to cover the difference between the allocated funds and the total estimated project costs in the amount of \$25 million. Due to the complexities of this project, unforeseen costs were incurred in the design, right of way and construction phases of the project. Such costs include the design of a pump station to address drainage for the proposed roadway underpass, addressing the additional design requirements requested by Union Pacific Railroad Company (UPRR), and the increased costs to acquire the Right of Way necessary to accommodate the improvements. Furthermore, the initial construction and construction management costs have increased from the original estimated budget.

Shown below are the new estimated project costs:

Total Project Cost:

Design Phase	\$10,381,000
Right of Way	\$31,000,000
Construction	\$78,019,000
Construction Management	<u>\$14,000,000</u>
Total Cost	\$133,400,000

3525 14th St., · Riverside, CA 92501 · (951) 955-6800
P.O. Box 1090 · Riverside, CA 92502-1090 · FAX (951) 955-3164

Current Funding

SB 132	\$108,400,000
--------	---------------

Total Shortfall

Total Project Cost	\$133,400,000
Current funding	<u>\$108,400,000</u>
Total Shortfall	\$25,000,000

The Jurupa Road at grade crossing over the UPRR tracks has been identified as a high priority grade separation project as a result of the rapid increase in train traffic carrying goods coming through the Port of Los Angeles and Long Beach. Constructing this grade separation will improve vehicular traffic circulation, safety, and will provide uninterrupted and efficient access for motorists, residents, businesses, pedestrians and emergency vehicles in the area. Additionally, the project will enhance the operational characteristics (i.e. speed, efficiency, and reliability) of freight and passenger trains through the County of Riverside by eliminating conflicts between railroad operations and vehicular traffic.

This project is in the City of Jurupa Valley (City). The City requested that the County serve as the lead agency given our project delivery expertise. Therefore, the County does not have the ability or resources to commit local funds for this project. Furthermore, the City is not able to commit local funds for this much needed project.

The County of Riverside will continue to limit the cost overruns by doing the following:

- Closely monitoring construction costs
- Closely monitoring the Construction Schedule
- Monitoring the negotiation of any right of way settlements for the remaining properties that have not been settled
- Coordinating closely with all stakeholders to prevent delays in the project.

Thank you in advance for your consideration of this request for additional funds to cover the unexpected expenses for the Jurupa Grade Separation Project. If you should have any questions, please contact me at (951) 955-6747 or mlancaster@rivco.org.

Regards,



Mark Lancaster, PE
Director of Transportation

cc: Mojahed Salama, P.E.
Khalid Nasim, P.E.
Cesar Tolentino, P.E.

AGENDA ITEM 6D

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee Jenny Chan, Planning and Programming Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Agreement for Transit-Oriented Communities Strategic Plan

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Approve Agreement No. 21-65-043-00 with Stantec Consulting Services, Inc. to develop a transit-oriented communities strategic plan for an 18-month base period with two additional six-month optional terms in an amount of \$924,674, plus a contingency amount of \$25,326, for a total amount not to exceed \$950,000;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement, including option terms, on behalf of the Commission; and
- 3) Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for these services.

BACKGROUND INFORMATION:

In June 2020, the Federal Transit Administration awarded the Commission \$700,000 in grant funding, with a \$250,000 local match commitment, to develop the Transit-Oriented Communities Strategic Plan (TOC Strategic Plan) as part of the Fiscal Year 2019 Pilot Program for Transit-Oriented Development Planning grant program. The grant enables the Commission to work with community members, private developers and staff from the cities of Perris, Moreno Valley, Riverside, and Corona and the March Joint Powers Authority (March JPA) to create a strategic plan for transit-oriented development (TOD) within the five-mile radius of the eight 91/Perris Valley Line Metrolink stations in Riverside County. The TOC Strategic Plan seeks to reduce or eliminate impediments to TOD by identifying regulatory actions and funding strategies to facilitate TOCs. The plan will provide a regional planning framework that builds upon existing regional or local jurisdictions' TOD-friendly planning efforts and provide guidance to accelerate public and private investment within the five-mile radius of each station. The goals of the plan are to support local economic development, increase Metrolink ridership, and decrease auto trips which improves local and regional traffic congestion.

DISCUSSION:

Key activities to be completed during the study include:

- Prepare a Commuter Rail TOD Best Practices Memo specific to the Inland Empire. The memo will provide case studies and lessons learned regarding TOD projects, including recent housing developments at Riverside-La Sierra, Riverside Downtown, and Corona-North Main stations.
- Develop station area profiles summarizing the existing conditions for the eight Metrolink stations. Profiles will include information such as: existing planning and development policy, land use, zoning, socio-economic trends, existing mobility options, and real estate market conditions.
- Implement a robust multi-lingual public engagement plan to collect community and stakeholder feedback.
- Evaluate and define station typology that is sensitive to community character and needs and market conditions. Develop policy recommendations surrounding zoning, density, housing, and first/last mile connections.
- Identify short-, mid- and long-range actions that will remove development barriers and promote TOD and define the roles and responsibilities for the Commission, cities, and March JPA.
- Update the Commission's Joint Development Guidelines based on findings from the TOC Strategic Plan.

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 a TOC Strategic Plan as set forth under the terms of Request for Proposals (RFP) No. 21-65-043-00.

RFP No. 21-65-043-00 for the TOC Strategic Plan was released by staff on March 18, 2021. The RFP was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Utilizing PlanetBids, emails were sent to 437 firms, 58 of which are located in Riverside County. Through the PlanetBids site, 53 firms downloaded the RFP and 3 of these firms are located in Riverside County. Staff responded to all questions submitted by potential proposers prior to the April 6, 2021 clarification deadline date. Seven firms – Dudek (Encinitas), Gruen Associates (Los Angeles), Hatch Associates Consultants, Inc. (Pittsburgh, PA), HDR Engineering, Inc. (Riverside), Perkins & Will (San Francisco), Stantec Consulting Services, Inc. (Los Angeles), and SWA (Laguna Beach) – submitted responsive proposals prior to the 2:00 p.m. submittal deadline on April 27, 2021. Utilizing the evaluation criteria set forth in the RFP, all firms were evaluated and scored by an evaluation committee comprised of Commission, Riverside Transit Agency and city of Corona staff.

Based on the evaluation committee's assessment of the written proposals and pursuant to the terms of the RFP, the evaluation committee shortlisted and invited three firms to the interview phase of the evaluation and selection process. Interviews of the shortlisted firms – HDR Engineering, Inc., Perkins & Will, and Stantec Consulting Services, Inc. – were conducted on May 26, 2021.

As a result of the completion of the evaluation process, the evaluation committee recommends contract award to Stantec Consulting Services, Inc. to develop the TOC Strategic Plan for an 18-month base period with two additional six-month optional terms to extend the agreement, 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
Stantec Consulting Services, Inc.	\$899,105	1
HDR Engineering, Inc.	\$903,247	2
Perkins & Will	\$901,634	3
Gruen Associates	\$790,963	4
Dudek	\$878,532	5
Hatch Associates Consultants, Inc.	\$892,074	6
SWA	\$906,009	7

The RFP issued by the Commission only intended to solicit public feedback through the establishment of a community advisory committee. However, Stantec's proposal included additional outreach events for the greater community at large in a virtual environment. In light of the recent lifting of various health orders related to COVID-19, staff determined that a hybrid approach providing for both in person and virtual community outreach events would be the most accessible and beneficial for the project. To accommodate the revised approach for outreach, additional scope and budget were added to this task in negotiating the final agreement, including an optional outreach task.

Accordingly, staff recommends the award of an agreement for the TOC Strategic Plan for an 18-month base period with two additional 6-month optional terms to Stantec Consulting Services, Inc. for a total amount of \$924,674, plus a contingency amount of \$25,326, for a total amount not to exceed \$950,000. Contingency is recommended as part of this contract to provide flexibility to add minor additional scope that was not identified in the agreement. The Commission's standard form professional services agreement will be entered into with Stantec Consulting Services, 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, including option terms and contingency work for the TOC Strategic Plan.

Next Steps

Upon completion of the key activities previously listed, Commission staff will return to the Commission with a presentation of the completed TOC Strategic Plan. The presentation will include a description of the preferred TOC typology for each station as vetted by the community and stakeholders. Alongside the preferred TOC typology, staff will highlight the necessary policy changes that the Commission, cities, and March JPA would need to consider and adopt to achieve the preferred TOC typology.

FISCAL IMPACT:

This project has a budget of \$950,000 for up to a thirty-month period. Funding for this project is comprised of a \$700,000 grant from FTA. Local match of \$250,000 is funded from State Transportation Improvement Program Planning, Programming and Monitoring (STIP PPM) funds.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$598,720 \$351,280
Source of Funds:	FTA FY 2019 Pilot Program for Transit-Oriented Development Planning and STIP PPM funds			Budget Adjustment:	No N/A
GL/Project Accounting No.:	002326 81501 00000 0000 106 65 81501				
Fiscal Procedures Approved:	<i>Theresa Iuvino</i>			Date:	06/18/2021

Attachment: Draft Agreement No. 21-65-043-00 with Stantec Consulting Services, Inc.

<i>Approved by the Western Riverside County Programs and Projects Committee on June 28, 2021</i>					
In Favor:	12	Abstain:	0	No:	0

**PROFESSIONAL SERVICES AGREEMENT
FOR
TRANSIT-ORIENTED COMMUNITIES STRATEGIC PLAN
DEVELOPMENT PROFESSIONAL CONSULTING SERVICES
(FTA FUNDED)
WITH STANTEC CONSULTING SERVICES, INC.**

Parties and Date.

This Agreement is made and entered into this ____ day of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and **STANTEC CONSULTING SERVICES, 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 professional services under this Agreement in support of development of the Transit-Oriented Communities Strategic Plan (the "Project") may be funds from the Federal Transit Administration ("FTA").

E. Consultant desires to perform and assume responsibility for the provision of certain professional planning, zoning, and outreach services for development of the Project, as required by the Commission on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing the foregoing services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

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 planning, zoning, and outreach services for development of the Transit-Oriented Communities Strategic Plan ("Services"). The Services are more fully set forth 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. Term.

2.1 This Agreement shall commence on the date first set forth above and shall continue in effect for eighteen months (18) months ("Term"). The Commission shall have the option, in its sole discretion, to extend the Term for two (2) additional six (6) months periods, with prior written notice to the Consultant.

2.2 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.

2.3 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.

3. 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.

4. Consultant's Representative. Consultant hereby designates **Adam Maleitzke** 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.

5. 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: Adam Maleitzke, Project Manager; Andrew Irvine, Principal-In-Charge; Rhonda Bell, Existing Conditions Lead; Craig Sklenar, Station Area Visioning and TOC Strategies Lead; Craig Lewis, Implementation Lead.

6. 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.

7. 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.

8. Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the schedule for the Services set forth in Exhibit "B" ("Schedule of Services"). 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.

8.1 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.

8.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, 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.

8.3 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.

9. Delay in Performance.

9.1 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.

9.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 9.1, 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.

9.3 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.

10. 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 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. Fees and Payment.

15.1 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 overhead rates included in the attached Exhibit "C" shall be fixed for the term of this Agreement, and shall not be subject to adjustment, unless required by the applicable funding source. The total compensation shall not exceed **Nine Hundred Twenty-Four Thousand Six Hundred Seventy-Four Dollars (\$924,674)** without written approval of Commission's Executive Director ("Total Compensation"). Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

15.2 Any payments to Consultant for travel and subsistence expenses must be authorized in writing by Commission, and 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.

15.3 When milestone cost estimates are included in Exhibit "C" Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

15.4 Payments shall be made monthly in arrears based on Services provided and allowable incurred costs. If Consultant fails to submit the required deliverable items according to the Schedule of Services, Commission shall have the right to delay the applicable payment or terminate this Agreement in accordance with the termination provisions of this Agreement.

15.5 No payment shall be made prior to approval of any Services, nor for any Services performed prior to approval of this Agreement.

15.6 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

15.7 Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Contract Administrator.

15.8 All subcontracts in excess of \$25,000 shall contain the above provisions.

16. Disputes.

16.1 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.

16.2 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.

16.3 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.

17. Termination.

17.1 Commission reserves the right to terminate this Agreement for any or no reason, in whole or in part, upon written notice to Consultant stating the effective date of termination.

17.2 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.

17.3 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

17.4 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.

17.5 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.

17.6 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.

17.7 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.

17.8 Consultant may not terminate this Agreement except for cause.

18. Cost Principles and Administrative Requirements.

18.1 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.

18.2 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.

18.3 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.

18.4 All subcontracts in excess of \$25,000 shall contain the above provisions.

19. 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.

20. Audit Review Procedures.

20.1 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.

20.2 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.

20.3 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.

21. Subcontracting.

21.1 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.

21.2 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.

21.3 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by Commission.

21.4 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.

21.5 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).

21.6 Exhibit "C" 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. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

22. Equipment Purchase

22.1 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.

22.2 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.

22.3 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.

22.4 All subcontracts in excess \$25,000 shall contain the above provisions.

23. Labor Code Requirements.

23.1 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.

23.2 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.

23.3 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.

23.4 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.

24. Ownership of Materials/Confidentiality.

24.1 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.

24.2 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.

24.3 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.

24.4 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.

25. 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. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Consultant's obligations as set forth in this Section 28 shall survive expiration or termination of this Agreement.

26. Insurance.

26.1 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.

26.2 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 Liability limits of \$1,000,000 per accident.

26.3 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.

26.4 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.

26.5 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 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.

26.6 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.

26.7 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.

26.8 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.

26.9 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.

26.10 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.

27. 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.

28. 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 4220.1F.

(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.

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 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.

29.3 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.

29.4 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.

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 Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

29.6 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 "G", 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 be included in all Consultant subcontracts which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

29.7 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 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.

33.2. 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.

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:

Stantec Consulting Services, Inc.
801 S. Figueroa Street, Ste. 300
Los Angeles, CA 90017
Attn: Adam Maleitzke

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. Provisions Applicable When State Funds or Federal Funds Are Involved. Since funding for the Services shall be provided, in whole or in part, from the FTA, Consultant shall also fully and adequately comply with the provisions included in Exhibit "E" (FTA Requirements) attached hereto and incorporated herein by reference.

42. 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.

43. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

44. 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.

45. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

46. 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.

47. 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.

48. 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.

49. 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.

50. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

51. 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
FOR
TRANSIT-ORIENTED COMMUNITIES STRATEGIC PLAN
DEVELOPMENT PROFESSIONAL CONSULTING SERVICES
(FTA FUNDED)
WITH STANTEC CONSULTING SERVICES, INC.**

IN WITNESS WHEREOF, this Agreement was executed on the date first written above.

<p>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</p> <p>By: _____ Anne Mayer, Executive Director</p> <p><i>Approved as to Form:</i></p> <p>By: _____ Best, Best & Krieger LLP General Counsel</p>	<p>CONSULTANT STANTEC CONSULTING SERVICES, INC.</p> <p>By: _____ Signature</p> <p>_____ Name</p> <p>_____ Title</p> <p>ATTEST:</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"
STATEMENT OF SERVICES

DRAFT

WORK PLAN

Task 1—Project Management

1.1 PROJECT MANAGEMENT + QUALITY ASSURANCE

Our reputation is built around integrity and a commitment to doing things right. This commitment shapes everything we do from our health and safety culture to our professional excellence in project work, to our responsibilities on projects within our communities.

Stantec's Project Management (PM) Framework contains a mandatory list of ten tasks to be complied with on all projects or contracts as required by our ISO9001:2008 registered Quality Management System. Specifically, the PM Framework mandates the following quality assurance processes be completed for all projects or contract assignments:

The Project Manager and 'professionals-of-record' (or 'professionals with responsible charge') are to conduct and document in writing a final quality assurance review of final documents prior to issuance. Where applicable, conduct multi-disciplinary coordination reviews between disciplines and sub-consultants. Keep completed and signed-off checklists, document sets, etc., in project files.

Final documents must have an independent review conducted and signed by the independent reviewer prior to issuance. This practice guide provides additional guidance on the steps and documentation required to comply with these requirements.

Stantec will work with RCTC to incorporate these protocols into a Project Management Plan, as well as the project charter, schedule, potential issues and mitigation strategies, project management meetings, and communication protocols.

1.2 DATA REQUEST MEMORANDUM

Stantec will issue a data request memorandum for discussion during the kickoff meeting. We have found that one of the major challenges for a project is not collecting data early enough in the process to be able to quickly develop the existing conditions analysis. We have access to a wide variety of regional and national data sources, but we will need to supplement our analysis with parcel data, ridership data, existing plans, policies and ordinances, existing first/last mile infrastructure, traffic counts, and information on RCTC-owned properties, among others. We anticipate working with RCTC to disseminate the request to key partners, including Metrolink, SCAG, corridor jurisdictions and others as needed.

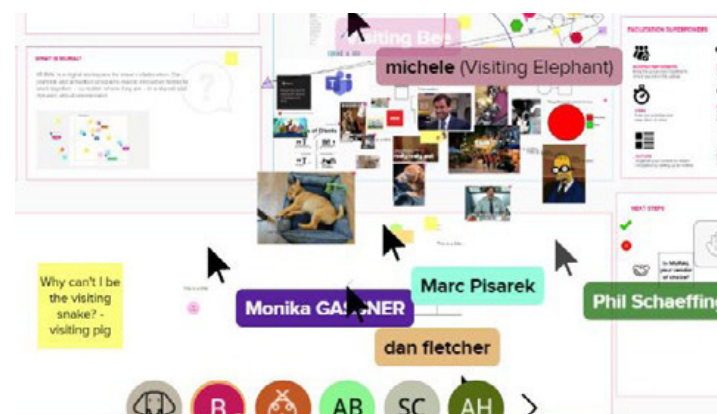
1.3 KICK-OFF MEETING

Upon contract execution, the Stantec team will schedule a call to plan for the kickoff meeting. Topics to be discussed include meeting participants, agenda, branding and outreach strategy, and information requests such as the Data Request Memorandum. The kickoff meeting will be held either virtually using Mural, an interactive collaboration platform, or in-person, depending on State and local COVID-19 health regulations at the time. Stantec will prepare meeting agendas, materials, and follow up shortly after the kickoff meeting with meeting notes.

1.4 MONTHLY COORDINATION MEETINGS, INVOICING, + PROGRESS REPORTS

We will work with RCTC to schedule monthly project management and coordination meetings to discuss completed and upcoming milestones and address project issues. We propose a total of 18 monthly coordination calls, half of which will be held in-person. In-person meetings will be scheduled during days when other in-person events are held, such as the Development Advisory Committee and Community Advisory Committee. Agendas and meeting minutes will be prepared by Stantec before and after each meeting.

Prior to the coordination meetings, Stantec will issue monthly invoices per the schedule identified in the executed contract, along with a comprehensive progress report that details progress towards meeting key milestones, solutions to address problems that may arise during the project, a preview of near-term milestones, and other items.



For progress meetings and other virtual engagement, stantec will utilize mural, an intuitive tool we have used successfully for other projects to promote collaboration and brainstorming.

Task 2—Existing Conditions

2.1 STATION AREA PROFILES

Stantec and its key team members HR&A and KPA have all worked on recent projects for RCTC and in Riverside County, with a focus on cultivating transit-oriented communities and improving mobility. Recent projects including the SCAG HQTa program, which included a station area plan for the Downtown Riverside station that was developed in 2018 by project manager Adam Maleitzke, demonstrate our on-the-ground knowledge of the challenges facing Riverside County as RCTC and local jurisdictions seek to accommodate anticipated growth in a way that improves livability, affordability, and offers a variety of amenities to residents and workers.

Through our work, we have observed a number of key differences among the eight 91 Line/Perris Valley stations that will be evaluated through the TOC Strategic Plan. We will work with RCTC to build upon our team's collective understanding of these issues to identify challenges including land use and regulatory barriers to TOC, historic low-density, auto-oriented development patterns, gaps in the pedestrian and bicyclist network, and current economic disincentives to creating transit-oriented communities. Given our existing base of knowledge, the Stantec team can quickly and efficiently conduct a “deep-dive” into these issues that will inform public outreach and messaging and the development of the TOC typologies.

For each station area, we will prepare in-depth memoranda to understand current conditions along the corridor, organized around the topics of land use and TOC, mobility, infrastructure, and public realm. With this information, we will prepare a SWOT or barriers and opportunities analysis to identify each station

area's strengths and weaknesses, as well as readiness for transit-oriented communities. The memoranda will be summarized in a series of eight (8) concise, yet highly illustrative station area profiles using high-quality maps, imagery, graphics, tables, and other visual devices. The goal is to provide an easily-understood snapshot of each station area that can be clearly communicated to the general public during virtual and in-person engagement sessions. Memoranda may be appended to the station profiles, and ultimately the Strategic Plan, to allow stakeholders to explore issues in further detail if they so choose.

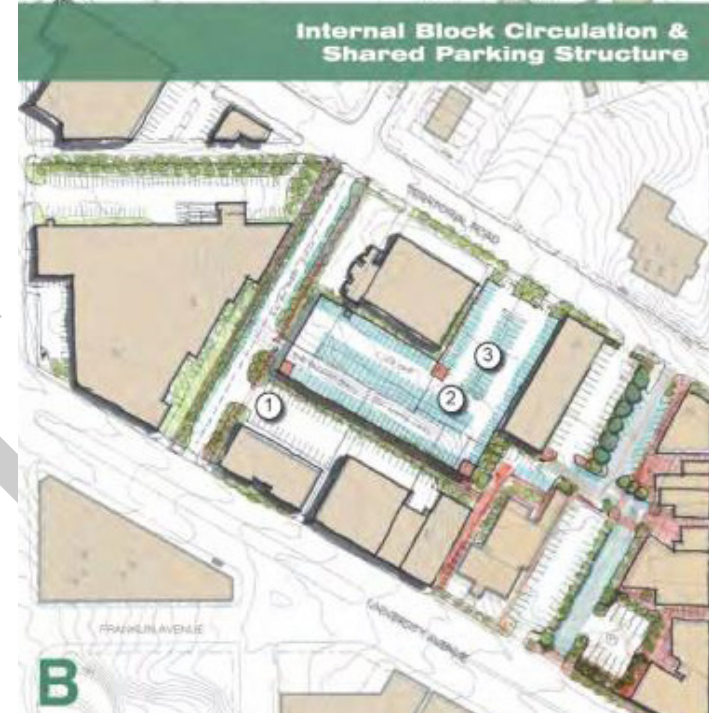
Stantec will work with RCTC and the TAC to develop the format, topics, and content of the final station area profiles, but we anticipate the following sections will be included:

1. Station Summary
2. Planning and Policy
3. Precedents and Best Practices
4. Land Use and TOC
5. Socio-Economic Profile
6. Mobility
7. Infrastructure
8. Public Realm
9. SWOT Analysis

More information on the content of the station area profiles is described below.

2.1.1 LAND USE + TOC

Land use and regulatory provisions are often a significant barrier for the development of TOCs. Existing plans and policies often include policies that mandate high parking requirements, propose low-density building envelopes and auto-oriented uses, and

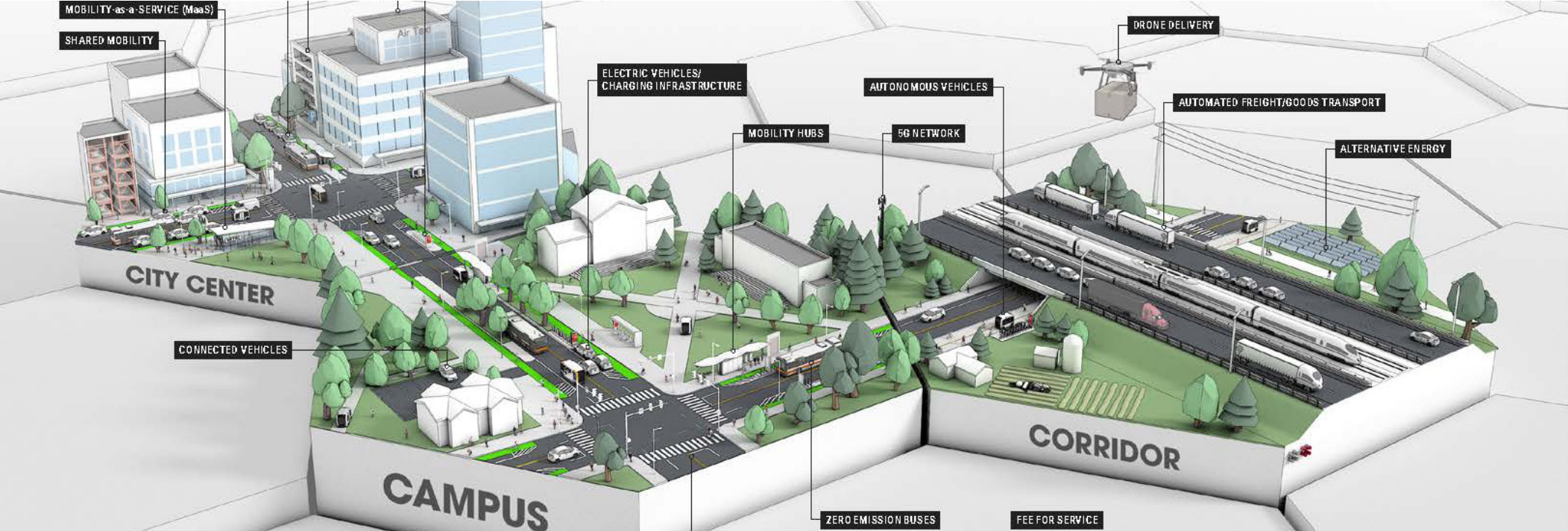


LRT station area parking, stormwater, and public realm concepts by Adam Maleitzke, prior to joining Stantec.

artificially limit the amount of development that is permitted on a particular site. Upon receipt of information solicited through the data request memorandum, Stantec will evaluate General Plans, Specific Plans, zoning ordinances, GIS information, and other reports and data.

Specific topics that will be explored include:

- Major Activity Centers
- Existing Land Use and Zoning
- Existing policies related to land use, mobility, and infrastructure
- Development Patterns and Typical Building Products
- Character and form
- Density and Massing
- Parking



Stantec's Smart Mobility team develops context-specific solutions to promote walking, cycling, and the use of new technologies

2.1.2 MOBILITY, INFRASTRUCTURE, AND PUBLIC REALM

Along the 91/Perris Valley Line Corridors, there is a strong desire for transit not only to spur development, but to create those centers that a community can organize itself around. At its best, transit orients; it provides a center around which people and places congregate. With high quality and visible transit coming—now is the opportunity to leverage how transit's orientation will create connected places that balances the needs of current residents, new development opportunity, and continued economic vitality. Successful TOD stations extend well into the community. While transit provides mobility for people and access to places, it is the stations that are the front door. Transit historically connects neighborhood centers and concentrations of destinations. These neighborhood centers then MUST be self-sustaining from a mobility perspective, functioning as the

multimodal center of each sub-community, while directly connecting them to other corridor cities and the greater Los Angeles region.

For this effort, the Stantec team will develop multimodal connectivity plans for the Station areas. These will ensure that stations are linked to the surrounding neighborhood and adjacent transportation network in seamless ways. To accomplish this, our team will review ongoing design work and examine existing desire lines and connectivity by mode at each station areas.

As part of initial data collection, we will capture all relevant existing transportation and public realm assets as well as look at existing plans, proposed network improvements and development already underway. We will organize the latest transportation observations and data relevant to the project's goals, including:

- Pedestrian connections showing where people can comfortably walk or bike to the station today and to high-ridership bus stop locations
- Safety data showing concentrations of crashes using readily-available data
- Experiential data showing where potential barriers such as long or vacant blocks, poorly lit areas or traffic counts change along the corridor and its cross streets
- Crossing bus service, stops and ridership, including amenities
- Bicycle connections and parking showing regional paths and local on-street facilities, as well as bicycle share or large bicycle parking facilities
- How well-utilized is on-(and off-) street parking—particularly the lots owned by RCTC, and is there a potential to use that space for something else?

- Travel forecast data from RCTC's travel demand model (RivTAM/RivCOM)
- Existing parks and open space
- Physical conditions of key mobility corridors
- General character and condition of building stock
- Others, as identified by RCTC and the committees

Our team will collect and map this information for each station area level to help inform the process. We believe in the importance of moving this information out of the conventional language of data and analysis and into a broader discussion of transportation and integration opportunities and trade-offs. From this, we will perform a gap analysis to identify which station areas lack sufficient connectivity and where that may hamper development.

Defined station access typologies will inform this analysis. The “area of influence” of stations will vary based on local land use, area density, existing and potential connectivity, gaps, barriers and other factors. This connectivity is the glue that holds the transit and land use factors together to create a more balanced and accessible place at each station maximizing benefits of each.

2.1.3 SOCIO-ECONOMIC PROFILE AND REAL ESTATE MARKET SCAN

Based on previous work experience in the cities of Riverside, Corona, and other municipalities, Stantec team member HR&A is familiar with real estate markets throughout the Inland Empire. HR&A will conduct a real estate market scan for sub-market areas that will encompass the entirety of the 8 station areas referenced in the RFP. An analysis of larger sub-markets that surround station areas is useful for

understanding the market forces, trends, and conditions that will influence the development potential within the station areas. Further, other real estate development activity that occurs within a sub-market is likely to compete with any station area developments for prospective users, tenants, or homeowners. Using proprietary data sources, such as CoStar and REIS, HR&A will evaluate each sub-market area's current performance of key land uses, including multi-family residential, retail, industrial, and office uses. Findings will be synthesized to highlight the relative performance of each key land use as a comparison with each of the other sub-market areas.

To develop an “on-the-ground” understanding of real estate market performance, opportunities, and challenges, HR&A will conduct up to twenty (20) targeted, one-on-one interviews with local businesses (or business organizations), community organizations, developers, and brokers.

To begin understanding the most pertinent opportunities and constraints of each station area, HR&A will provide a high-level summary of key demographic, socioeconomic, and real estate market indicators for an area encompassing a half-mile radius of each of the eight (8) station areas. Indicators to be evaluated include median household income, residential owner/renter split, age, average home price, jobs per resident, and others. HR&A will also disaggregate metrics to better understand displacement risks and the economic inclusion by race. Finally, HR&A summarize lessons learned in an analysis of each station area's strengths, weaknesses, opportunities, and threats. Stantec will work with HR&A to incorporate the summary into the overall station area profile.

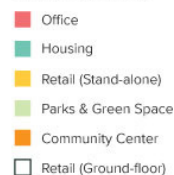
2.2 BEST PRACTICES REPORT

Stantec and HR&A regularly review transit-oriented community and transit-oriented development best practices across Southern California and the US. We have explored the challenges that arise when developing TOD projects in the Inland Empire through our work on the SCAG/SBCTA ARRIVE Corridor and SCAG HQT Analysis projects. For the HQT Analysis project, our project manager Adam Maleitzke and Judith Taylor of HR&A collectively developed in-depth profiles of commuter station areas throughout the US and Canada, as well as transit-oriented development profiles of dozens of built projects. Each profile includes critical metrics and information such as floor-area ratio (FAR), number of units and square footage of commercial retail and office space, parking provided, innovative mobility solutions, public amenities, and partnerships and key funding sources. Paired with desktop research, transit agency outreach, and developer interviews, we will develop a memorandum that will provide up to five (5) case studies and a summary of lessons learned that will cover elements like zoning, multimodal standards, affordable housing, gentrification mitigation, innovative financing, first/last mile connections, value capture strategies, and development of opportunity zones. The carefully-selected case studies will be tailored to the current conditions of the Inland Empire as identified through the development of station area profiles. In addition to the broader case studies, the memo will further include an analysis of TOD effectiveness of recent housing developments at Riverside-La Sierra, Riverside-Downtown and Corona-North Main areas.

2.3 RCTC JOINT DEVELOPMENT POLICY REVIEW

HR&A is supporting LA Metro, the Orange County Transportation Authority, and the Santa Clara Valley Transportation Authority in their creation and implementation of Joint Development policies. Building on this expertise, HR&A will consult external and internal (HR&A) resources to scan precedent joint development guidelines and effective partnership approaches from transportation or other public agencies for public- private development projects. The HR&A team will conduct desktop research and interviews with peer transit agencies for a selected set of precedents. Three precedents will be selected, with agreement from RCTC. The precedent research screening criteria will particularly focus on 1) the relevance of peer transit agency portfolio sites and real estate market conditions to RCTC; 2) the motivation/needs for the public agency to engage private developer partner(s) (i.e. value maximization, community benefits, capacity augmentation, etc.); and 3) specific examples of effective joint development policies and development partnership models applied at specific precedent sites, with the goal to provide the best practices for RCTC to develop portfolio- wide Joint Development Guidelines. Precedent research will include an evaluation of peer transit agencies' joint development policies, with particular attention to their approach to stakeholder coordination, crafting site-specific objectives, and developer outreach processes. Best practices will also include a thorough review, and outreach addressing FTA expectations and goals around joint development to ensure RCTC's overall joint development policies and objectives position RCTC for maximum FTA support. The lessons learned will directly inform recommendation for RCTC Joint Development Guidelines in Task 5.2.

Land Use Map



Open Space



Land use map and public realm plan prepared for the Northland Needham Street Master Plan, which successfully converts an aging suburban strip mall into walkable, transit-supportive development.

Task 3—Public Engagement

Stantec team member Katherine Padilla Associates (KPA) will leverage their deep experience working with communities in Riverside County, including RCTC and local jurisdictions, to facilitate a robust and targeted community and stakeholder outreach process. Our team's approach is based on the twin pillars of authentic stakeholder engagement combined with social marketing principles. We hold, that in working with RCTC, it is the Stantec team's responsibility to first and foremost determine the needs, wants and unique interests of communities surrounding each of the eight station areas and to deliver solutions that preserve the best of the communities and enhances their well-being, while allowing the benefits of TOC strategies to take root and flourish. Our approach emphasizes two-way communication: 1) we conduct analysis and provide information about challenges, possibilities, opportunities and 2) most importantly, we listen and provide space for all participants to share

their opinions. Relevant projects that KPA has helped advance through strategic community relations include:

- RCTC Strategic Assessment
- Metro East San Fernando Valley Transit Corridor, which began as an AA followed by EIS/EIR
- Metro East San Fernando Valley Light Rail Project First-Last Mile Plan
- Metro Transit Supportive Communities Toolkit
- LA County Transit Oriented District Toolkit, which involved the community East LA as a pilot study
- Metro East San Fernando Valley Transit Corridor, which began as an AA followed by EIS/EIR
- Metro East San Fernando Valley Light Rail Project First-Last Mile Plan
- Metro Transit Supportive Communities Toolkit
- LA County Transit Oriented District Toolkit, which involved the East LA community as a pilot study

- LA County Lambert Road Station First-Last Mile Plan (for the proposed L Line)
- LA County Norwalk Blvd Station First Last Mile Plan (for the proposed L Line)
- RCTC Strategic Assessment

KPA's diverse team has extensive experience working with community members from all walks of life, from elected officials to people whose life experience may not include civic engagement. We offer bilingual staff to ensure all public notices and outreach will be provided in both English and culturally sensitive Spanish, and other languages as needed. Staff can provide translation of all aspects of project reports, meeting materials, social media and presentations. Our ability to communicate fluidly in Spanish and English, and visually through compelling graphic design, will be helpful especially for facilitating productive Community Advisory Committee (CAC) meetings and community engagement. Lately, we have successfully conducted a series of virtual stakeholder group interviews in Spanish for the SCAG Wilmington Freight Mitigation Study.

In terms of establishing and facilitating the Technical Advisory Committee (TAC) and Developers Advisory Committee (DAC), our team will draw on our understanding of how issues of land use, funding, and other policies can influence TOC, ATP and first/last mile planning. We use advanced facilitation and mediation skills to develop innovative solutions and avoid potential blind spots. We blend fresh ideas with time-tested expertise in consensus building and conflict resolution to strategically resolve complex, multi-stakeholder, multi-agency challenges.

Even when in-person meetings are deemed safe, we expect to continue to provide online meetings to allow



Design workshop for the county of Los Angeles TOD Design Guidelines project in East LA, facilitated by team member KPA and project manager Adam Maleitzke, prior to joining Stantec.

stakeholders to engage on projects in the way that's most convenient for them and will encourage high participation in every TAC, DAC, and CAC meeting. Stantec has the capability to develop a rich, interactive platform for virtual open houses, which will supplement the in-person workshops and stakeholder meetings that will be held as State and local COVID-19 regulations permit. Stantec's virtual engagement platform has been used notably for planning projects throughout the United States and Canada, including Lebanon, TN, modeled after in-person meetings through project boards, interactive surveys, pre-recorded videos, and other graphically-rich content. As needed, we will take a hybrid approach that will enable community members to attend meetings in community centers with large screens set up for viewing, especially for those with no computer access in their homes. We will meet community members where they're at, allow for feedback loops at key project points and provide equitable solutions for public

engagement, including in-person community workshops when possible.

TASK 3.1 PREPARE A COMMUNITY ENGAGEMENT PLAN

KPA will develop a Community Engagement Plan tailored for each of the eight station areas to engage stakeholders in the planning process. We will begin by conducting a stakeholder analysis for each of the transit areas, identifying potential DAC and CAC members and other key stakeholders as well as targeted engagement strategies. Outreach and engagement materials will be developed in English, in Spanish and other languages as needed. We will submit a Draft Plan for review and comment, and Final Plan for staff approval, prior to implementation.

3.2 TECHNICAL ADVISORY COMMITTEE (TAC)

Stantec and KPA will assist RCTC to form (1) Technical Advisory Committee drawn from each of the affected cities and relevant agencies, including the JPA, to provide input on land use policies required for a comprehensive TOC corridor approach. In its advisory role, the TAC would also receive and consider DAC and CAC input. For the purposes of this budget, it is assumed that four (4) TAC meetings will be held.

3.3 DEVELOPER ADVISORY COMMITTEE (DAC)

Stantec and KPA will assist RCTC to form two (2) Developer Advisory Committees, divided into two regions, to advise and provide perspectives on current barriers, proposed policy changes and financial incentives. We will also assist with organizing meetings, distributing meeting notifications, assisting with agendas and presentation. KPA staff will attend the meetings and provide meeting minutes. For the purposes of this budget, it is assumed that two (2) of two DACs meetings will be held, and that they will be virtual. Assume there will be four (2) meetings total.

3.4 COMMUNITY ADVISORY COMMITTEES

Stantec and KPA will work with RCTC staff to establish four (4) Community Advisory Committees grouped by geographic areas to explore issues and opportunities for the eight station areas. KPA will assist the project team in recruiting members, including producing invitation letters/emails, with background info about the Strategic Plan and its objectives as well as roles and responsibilities of the CAC. For example, for the CAC to provide input most successfully we may suggest that two underlying principles be understood. The first is that the CAC is not intended to be group decision-makers who reach consensus, rather they are



Virtual open house using the 3D Vista Platform.

a forum to deepen understanding of the issues and to grasp the context and implications of choices; and secondly, that the value of technical knowledge be recognized and respected in the process. We further suggest that the roles and responsibilities of the CAC may include: Provide input to staff, technical team, and the TAC; represent their communities' interests as much as possible; provide accurate information to other stakeholders; seek balance between community vision and values with technical challenges and economic constraints. For the purposes of this budget, it is assumed that there will be three (3) meetings of each of the four (4) CAC groups for twelve (12) meetings total.

TASK 3.5 HYBRID OPEN HOUSE

To gather input from the community-at-large, with the team, Stantec will plan and host one in-person (1) Open House to gather input from each of the eight

project areas. The Open House will offer break-out sessions/on-line spaces for each of the eight areas. Attendees will have the opportunity to learn about the shared TOC goals, as well as provide input into their unique communities' challenges and opportunities. KPA will develop positive, culturally sensitive branding and key messages to emphasize benefits that matter to the communities. KPA will take guidance from the CACs to develop a shared vision and unique aspects that we can promote in our messaging. As a leave-behind for those who are not able to attend the live virtual open house, Stantec will post interactive boards to our online 3D Vista Platform. One (1) 3D Vista open house will be posted following the facilitated virtual open house meeting.

3.6 IN-PERSON DESIGN WORKSHOPS OR "HYBRID" WORKSHOPS

When safe, with the team, KPA will plan and organize three (3) in-person design workshops—one for each

major section of the corridor—to be held in local community gathering spaces. It is assumed the content will be the same at all three meetings. These meetings can also be held as a “hybrid,” with large screens set up within a public space, such as local community center, to provide convenient virtual workshops while accommodating those who do not have computer access in their homes. Additionally, up to three (3) 3D Vista open house platforms will be developed (see Task 3.5 for more information); one platform will be developed for each major section of the corridor. This will allow participants to engage with the in-person design workshop content on their own.

KPA will work with CAC members and local advocacy groups to publicize the TOC Strategic Plan and engage CBOs to increase participation in workshops. KPA recently established a model of CBO partnership with two community-based organizations in our landmark project, the Metro East San Fernando Valley Light Rail Project, EIS/EIR and First-Last Mile Plan.

3.7 POP-UP EVENTS

Following the first hybrid open house event, Stantec and KPA will organize and staff two (2) pop-up events at local festivals, fairs, or other public events as determined by RCTC and its community partners. Staff will provide bi-lingual (English/Spanish) translation and will answer questions about the vision, goals, and process. Visitors will be invited to complete an online survey, which will be developed by Stantec and KPA using SurveyMonkey or a similar service.

3.8 MAILERS + COLLATERAL MATERIALS

KPA will develop distinctive branding, images, tagline, key messages to support the social marketing aspects necessary to build community understanding of the

TOC Strategic Plan and why it matters. We will create bi-lingual mailers and collateral materials, and provide bi-lingual, English/Spanish text, and other languages as needed, and graphic design of eight (8) mailers and two (2) fact sheets, especially to be distributed electronically. All materials will be submitted for approval prior to distribution.

3.9 SOCIAL MEDIA, WEBSITE, + PR

KPA will provide draft and final versions of up to six (6) press releases (6), four (4) op-eds, and up to 50 social media messages in English and Spanish. As directed, KPA will work with RCTC’s Public Information Director to determine distribution protocol. KPA will then distribute as directed. KPA will contact 30 community-based organizations and cities to ask for their assistance in posting the messages to their websites, social media sites, and other channels of distribution. KPA will develop a distinctive project webpage, assumed to link to RCTC’s website, and will provide content for up to eight (8) pages. KPA will also purchase advertising for social media posts.

3.10 FINAL OUTREACH SUMMARY

KPA will provide a written summary of all engagement activities and the community input provided, key themes and implications, as well as photos of events.

3.99 OPTIONAL TASK: SECOND HYBRID OPEN HOUSE

Upon authorization to proceed by RCTC, Stantec and KPA will host a second hybrid open house following the release of the Preferred TOC Typology. See Task 3.5 for additional information on the activities included with this optional event.



Our design charrettes build community support. Project manager Adam Maleitzke (here); Implementation lead, Craig Lewis (top middle)

Task 4—Visioning

4.1 VISION, GOALS, + OBJECTIVES (MEMO)

In collaboration with RCTC and the committees, the Stantec team will develop a vision statement, goals and objectives that would apply corridor-wide. As with all planning strategies a vision statement is meant to be broad, aspirational and succinct, with goals and objectives providing actions and key performance indicators. Goals and Objectives for this project might include station area specific direction based on unique parameters.

Development of these important visioning elements will be formed during the existing conditions and kickoff conversation phases of the project. The agreement to the vision, goals and objectives by RCTC and the committees will be key to overall visioning process, as they will serve as our guideposts and every aspect will be evaluated as to how the decisions made



are meeting or supporting the vision, goals and objectives.

4.2 TOC ALTERNATIVES

The Stantec team will develop alternatives for each station area that are rooted in station profiles, best practices, and a comprehensive engagement program. The alternatives will be vetted by RCTC, local jurisdictions, the advisory committees, and the public through the virtual and in-person outreach events described in Task 3. We firmly believe that in order to catalyze transit-oriented communities along the corridor, key stakeholders and the community need to review complete, succinct, graphically rich, and technically sound alternatives for each station area that will empower them to envision a new development paradigm.

For each station area, we will develop up to two (2)

typology alternatives, generally reflecting lower and higher- housing and job intensity development scenarios. Key supporting infrastructure will be identified at a conceptual level to support each vision, including utility and street upgrades, parking facilities and mobility hubs, public realm improvements, and amenities. Each alternative will include a high-level summary as well as a list of the impacts in order to evaluate trade-offs and understand preferences. Once the alternatives have been developed, Stantec will work with KPA to engage the public through virtual and in-person open houses, surveys, pop-up events, and other outreach activities.

4.3 READINESS REVIEW

Based on our experience in the Inland Empire, Stantec and HR&A understand that urban models of development may not work in all station areas. Here, as in other projects, we look to encourage typologies

that support transit ridership and are appropriate to creating active, energetic environments that reflect their communities. Financial feasibility analysis will help identify the market appropriate scale and type of development, as well as any required development incentives needed to catalyze this activity.

To help inform the readiness review, HR&A will prepare “back of the envelope” corridor-wide pro forma residual land value analyses for up to five prototypical development concepts, selected in partnership with city staff and the Project Team. “Residual land value” is what a developer could theoretically afford to pay for land or a historic structure and earn a market-responsive return on investment from development. The analysis will include: estimated development costs including hard and soft development costs, developer profit and financing, key revenue components, including rents, sale prices and operating expenses. We will compare residual value estimates to prevailing

land values for the various land uses to determine feasibility thresholds at each of the eight (8) station areas. Understanding that real estate market appetite and community desires may diverge, HR&A will test a concise set of development program sensitivities to establish a common ground and/or set of trade-offs to achieve a set of financially feasible near-term development scenarios that achieve community desires.

4.4 PREFERRED TOC TYPOLOGY + RECOMMENDATIONS

The final phase of the project will result in a set of station area vision plans—one unified vision for each of the eight (8) stations along the 91 and Perris Valley Metrolink corridors. The vision plans will be combined into a corridor-wide document. Each individual station area plan will be largely graphic and will be no more than 30 pages in length; additional information, including technical memoranda, will be contained in the appendix. Each plan will include at least the following:

- A vision for each station area
- Recommended land uses, mobility strategies, and first-last mile improvement projects
- Specific recommendations and for city-initiated zoning changes
- Recommendations and prioritization for pedestrian safety and other first/last mile connectivity projects
- Identification of key redevelopment sites and potential redevelopment strategy for at least one site in each station area (see Task 4.3—readiness review).
- Recommendations for other public investments, such as public space, streetscape, art, and more

- Urban design vision and recommendations to support transit-oriented development and placemaking opportunities that help create vibrant walkable places to live and work
- Goals and specific actions for ensuring housing affordability
- Specific actions for supporting existing businesses and adding jobs along the corridor
- Preparation of key conceptual design plans and street sections for roadways and infrastructure projects that can be used as the basis for grant applications

Stantec will also, at a rough order of magnitude (ROM) level, provide an assessment of each station area plan, evaluating economic feasibility, ridership potential, job and population growth, GHG and VMT impacts, and other key metrics identified by RCTC and its partners.

Task 5—Implementation

5.1 TOC POLICY FRAMEWORK

From our extensive experience with all phases of the development process, including zoning, permitting and entitlements, and conceptual design through to construction of TOD projects, the Stantec team understands how to craft tailored implementation strategies that will catalyze context-specific and market-sensitive solutions throughout the corridor. For each station area typology developed in Stantec and HR&A will identify opportunities for and determine the relative priority of various actions and considerations that would help corridor cities leverage the transformative potential of this major transit infrastructure investment. For stations that currently contain thriving high value, job-creating industrial uses



Burlington Great Streets, Burlington VT

strategies will likely focus on opportunities to maintain these uses while integrating them with other transit-supportive land uses. For others with already successful regional destinations, the strategies will likely focus on opportunities to enhance connectivity to these destinations, extending the economic benefit of TOD to a wider geography. This will provide a framework for RCTC, individual municipalities, and other relevant stakeholders and community members to understand recommended implementation actions for each station area, while maintaining a corridor-wide perspective on how local actions will relate to corridor-wide goals.

Stantec will work with RCTC to develop an outline for the Implementation Plan. At a minimum, we anticipate the plan will include policies, plans and initiatives, partnerships, major development opportunities, phasing, ROM cost estimates (for infrastructure and public realm projects), and funding and financing strategies. We anticipate that the following key topics will be covered in the Implementation Plan, along with



Bridge Street Corridor Plan, Dublin, OH

examples of potential recommendations that could be proposed for each station area:

STRATEGIES BY DISCIPLINE

FISCAL SUSTAINABILITY AND IMPLEMENTATION

- Fiscal sustainability considerations
- Identifying financing strategies including local fees, value capture, and other public financing tools
- Governance opportunities and policy considerations

LAND USE + ECONOMIC DEVELOPMENT

- Affordable housing preservation, protection, and creation policies
- Affordable housing preservation, protection, and creation policies
- Equitable economic and workforce development strategies that mitigate displacement
- Attracting green jobs and industries that could

reduce pollution

- Transit-supportive strategies that reduce the need for car-ownership
- Model zoning codes and policies to promote transit-supportive development patterns
- General Plan and Specific Plan updates

PUBLIC REALM AND URBAN DESIGN

- Streetscape improvements and corridor greening projects
- Parks and open space projects
- Development of design guidelines

INFRASTRUCTURE

- Key roadways to be upgraded
- Wet and dry utility improvements

MOBILITY STRATEGIES

- Improvements to key existing corridors and new complete street improvement projects to facilitate pedestrian and bicyclist activity
- Smart Mobility solutions including micro-mobility (scooter- and bike-share), transportation-network companies (TNC) and services such as Uber and Lyft, autonomous personal vehicles and public shuttles
- The Stantec team has a library of code updates and parking management best practices that incent shared parking, right-size parking ratios, and parking use by time of day. We will use these tools to create a set of planning-level parking policy recommendations for the Activity Centers.



Graphically-rich summary of proposed street, public realm, and infrastructure projects proposed for the downtown riverside station area, with complete street and TOD best practices.

5.2 UPDATE TO RCTC JOINT DEVELOPMENT GUIDELINES

Building from precedent research in Task 2.2, Stantec team member HR&A will utilize Developer Advisory Committee meetings to conduct preliminary market sounding, review potential joint development disposition and partnership strategies, and obtain candid input. Using this input, HR&A will develop specific Joint Development Strategy recommendations related to:

- Requirements related to development program, parking, and community benefits
- Phasing of development and related infrastructure components
- Entitlements approach and alignment with local jurisdiction policies
- Roles and responsibilities of RCTC, private developer, and other stakeholders

- Funding sources or mechanisms for plan components
- Disposition strategy and transaction framework
- Developer selection approach
- Key developer selection parameters
- Allocation of responsibility financing, designing, and construction of the development plan's components such as new or relocated transit facilities, access roadways, or traffic improvements.

5.3 DRAFT + FINAL TRANSIT ORIENTED COMMUNITIES STRATEGIC PLAN

We propose an additive approach to this project, whereby the station area profiles, TOC typologies, best practices, and other previous work become part of a concise and compelling TOC Strategic Plan (Plan). Curated content from past final deliverables will be

rolled up into the final plan, creating great efficiencies and allowing the Stantec team to develop thoughtful, comprehensive, and innovative solutions over the 18-month performance period.

We are committed to high-quality graphics and graphic design principles, and our skilled design team will present complex information, strategies, and plans in a way that is informative, visionary, and easy to follow. We recognize that the Plan will be used by a wide variety of stakeholders, and we want to ensure that developers, residents and businesses, and elected and appointed officials alike are able to implement the plan over the next several years.

Working with RCTC and the Technical Advisory Committee, our team will develop an outline and sample report templates for review and concurrence. Project branding, including layout, color, fonts, and graphics, will be carried into the Plan for consistency. We anticipate that the Plan may be organized into roughly 7 major sections, which could include:

1. Executive Summary
2. Station Area Profiles
3. Public Engagement Summary
4. Corridor-Wide TOC Vision
5. Station Area TOC Typologies
6. Implementation and Policy Framework Plan
7. Appendices

We will deliver a draft of the Plan to RCTC by month 16, with ample time for RCTC and its partners to review and provide comments. These comments will be diligently tracked by the Stantec team and incorporated into a Final TOC Strategic Plan.

EXHIBIT "B"

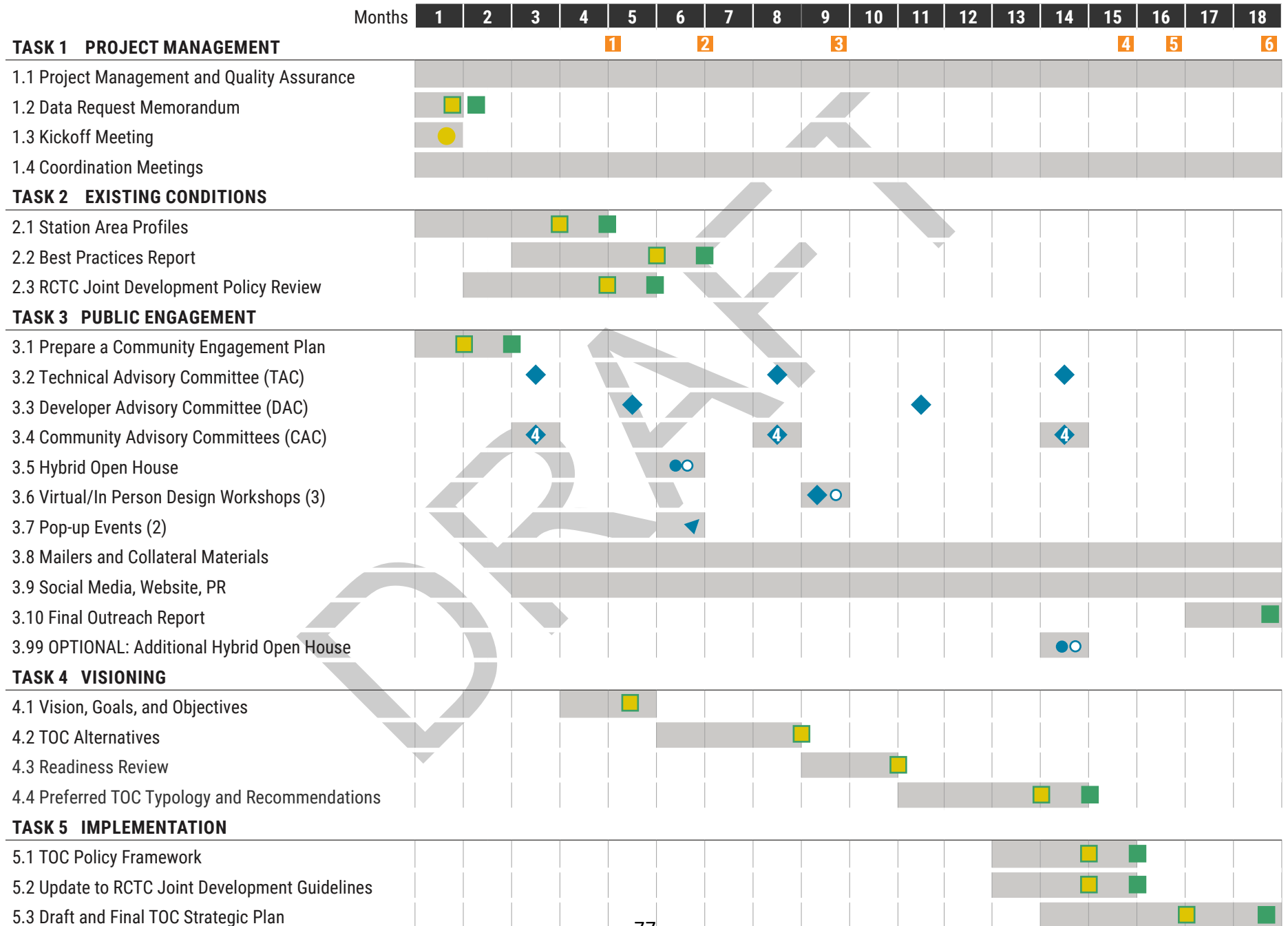
SCHEDULE OF SERVICES

DRAFT

→ SCHEDULE

LEGEND

- Task Duration
- Hybrid Open House
- Other Outreach Event
- Draft deliverable
- Project kickoff
- # Milestone 1-6
- 3D Vista Open House
- Pop Up Event
- Final Deliverable



**EXHIBIT “C”
COMPENSATION AND PAYMENT**

DRAFT

EXHIBIT "C"

COMPENSATION SUMMARY¹

FIRM	PROJECT TASKS/ROLE	COST
Prime Consultant:		
Stantec	Project Management	587,792.00
Sub Consultants:		
KPA	Public Engagement	107,445.00
HR&A Advisors	Economic Development	204,773.00
SUBTOTAL		900,010.00
OTHER DIRECT COSTS		24,664.00
TOTAL COSTS		\$ 924,674.00

FISCAL YEAR	PROJECT	COST
FY 2021/22	Task 1, 2, 3, 4	586,612.79
FY 2022/23	Task 1, 3, 4, 5	313,847.21
SUBTOTAL		900,460.00
OTHER DIRECT COSTS		24,214.00
TOTAL COSTS		\$ 924,674.00

¹ 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 "D"

FTA REQUIREMENTS

DRAFT

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.

(b) Enforcement for non-compliance. Consultant agrees that FTA and RCTC may take enforcement action for non-compliance with the CDC Mask Order, 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.

. 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.

EXHIBIT "E"
DISCLOSURE OF LOBBYING ACTIVITIES

DRAFT

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: <input checked="" type="checkbox"/> N/A a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: <input checked="" type="checkbox"/> N/A a. bid/offer/application b. initial award c. post-award	3. Report Type: <input checked="" type="checkbox"/> N/A a. initial b. material change For Material Change Only: year _____ quarter _____ date of last report _____
---	--	---

4. Name and Address of Reporting Entity <input checked="" type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known 6. Federal Department/Agency: N/A 8. Federal Action Number, if known: N/A 10. Name and Address of Lobby Entity (If individual, last name, first name, MI) N/A (attach Continuation Sheet(s) if necessary)	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: N/A Congressional District, if known 7. Federal Program Name/Description: N/A CFDA Number, if applicable N/A 9. Award Amount, if known: N/A 11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) N/A (attach Continuation Sheet(s) if necessary)
--	---

12. Amount of Payment (check all that apply) \$ 0 <input type="checkbox"/> actual <input type="checkbox"/> planned 13. Form of Payment (check all that apply): N/A <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____ None. Stantec does not engage in lobbying activities.
---	--

15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12:

(attach Continuation Sheet(s) if necessary)

16. Continuation Sheet(s) attached:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
--	---

17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: <u>Andrew Irvine</u>	Signature: _____
Print Name: <u>Andrew Irvine, AAILA, LEED AP</u>	Print Name: _____
Title: <u>Senior Principal</u>	Title: _____
Telephone No.: <u>(303) 575-8603</u>	Date: <u>4/27/2021</u>

Authorized for Local Reproduction
Standard Form - LLL

HR&A Advisors, Inc. does not participating in Federal Lobbying activities.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: _____	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
13. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12: (attach Continuation Sheet(s) if necessary)		
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>		
17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature: _____ Print Name: Judith Taylor Title: Partner, HR&A Advisors, Inc. Telephone No.: 310-882-0356 Date: 4/14/2021		Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: <input checked="" type="checkbox"/> N/A a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: <input checked="" type="checkbox"/> N/A a. bid/offer/application b. initial award c. post-award	3. Report Type: <input checked="" type="checkbox"/> N/A a. initial b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: TBD Congressional District, if known	
6. Federal Department/Agency: TBD	7. Federal Program Name/Description: TBD CFDA Number, if applicable: TBD	
8. Federal Action Number, if known: TBD	9. Award Amount, if known: TBD	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI) TBD (attach Continuation Sheet(s) if necessary)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) TBD (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ 0 _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
13. Form of Payment (check all that apply): N/A <input checked="" type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12: (attach Continuation Sheet(s) if necessary)		
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature: <u>Katherine Padilla Otanez</u> Print Name: <u>Katherine Padilla Otanez</u> Title: <u>President</u> Telephone No.: <u>626-818-3324</u> Date: <u>4-23-21</u>		Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

AGENDA ITEM 6E

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee David Thomas, Interim Toll Program Director
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Construction and Maintenance Agreement with BNSF Railway for Interstate 15/State Route 91 Express Lanes Connector Project

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Approve Agreement No. 21-31-098-00 with BNSF Railway (BNSF) for a construction and maintenance (C&M) agreement, including property acquisition, for the Interstate 15/State Route 91 Express Lanes Connector Project (15/91 ELC) in the amount of \$1,988,607, plus a contingency amount of \$104,470, for a total amount not to exceed \$2,093,077;
- 2) Authorize the Executive Director, pursuant to legal counsel review, to finalize negotiations with BNSF and execute the agreement on behalf of the Commission; and
- 3) Authorize the Executive Director or designee to approve the use of the contingency amount as may be required by the 15/91 ELC.

BACKGROUND INFORMATION:

The 15/91 ELC will provide tolled express lanes connectors between the existing 91 Express Lanes and the future 15 Express Lanes to the north of SR-91 (Figure 1: Vicinity Map).

The 15/91 ELC involves adding:

- 1) A single-lane tolled express lane connector from the eastbound 91 Express Lanes to the future northbound 15 Express Lanes that would extend in the median of I-15 in the vicinity of the Hidden Valley Parkway interchange; and
- 2) A single-lane tolled express lane connector from the future southbound 15 Express Lanes that would extend from the median of I-15 in the vicinity of the Hidden Valley Parkway interchange and connect to the westbound 91 Express Lanes.

In addition, operational improvements are proposed to eastbound SR-91 consisting of extending the single-lane of the eastbound 91 Express Lanes and adding one general purpose lane through the 15/91 interchange.



Figure 1: 15/91 Express Lanes Connector Project Vicinity Map

DISCUSSION:

At the March 11, 2020 meeting, the Commission approved Agreement No. 19-31-074-00 with Myers-Rados Joint Venture (MRJV) as the design-build contractor to design and construct the 15/91 ELC. Over the past year MRJV has been developing the design plans including new bridge structures crossing the BNSF right of way in the vicinity of the Porphyry Yard at the 15/91 interchange.

The 15/91 ELC will require a C&M agreement with BNSF to allow the new bridge structures to be constructed in BNSF's right of way in the Porphyry Yard area at the I-15/SR-91 interchange as part of the 15/91 ELC. The C&M agreement will include payment for flagging and plan review costs by BNSF and the cost for temporary and permanent easements required for the 15/91 ELC. Staff and BNSF estimated and negotiated costs totaling \$1,988,607 for these elements, and staff proposes a \$104,470 contingency amount for a total authorization of \$2,093,077. The Commission would pay actual costs where the values are estimated.

Staff recommends the Commission authorize the Executive Director to finalize negotiations with BNSF, execute the C&M agreement on behalf of the Commission, and authorize the Executive Director or designee to approve the use of the contingency amounts as may be required by the 15/91 ELC.

FISCAL IMPACT:

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23	Amount:	\$1,605,000 \$488,077
Source of Funds:	SB 132 funds and 91 Express Lanes Toll Revenue			Budget Adjustment:	No N/A
GL/Project Accounting No.:	003039 81402 00000 0000 605 31 81402			\$1,309,854	
	003039 81304 00104 0000 605 31 81301			\$783,223	
Fiscal Procedures Approved:	<i>Theresa Irujo</i>			Date:	06/17/2021

Attachment: Agreement 21-31-098-00 (Draft)

*Approved by the Western Riverside County Programs and Projects Committee on
June 28, 2021*

In Favor: 12 Abstain: 0 No: 0

WEST PORPHYRY OVERHEAD
CONSTRUCTION and MAINTENANCE AGREEMENT

08-RIV-91 PM 6.93
BNSF Agreement No. BF-XXXXXXX
STATE Contract No. XXXXXX
EA 08-XXXXXX
RCTC Agreement No. 21-31-098-00
STATE Br. No. 56-0446
U.S. D.O.T. No. 026522X
San Bernardino Subdivision
LS 7602
MP 23.43

This Agreement ("**Agreement**"), is executed to be effective as of _____ ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**BNSF**"), the **STATE OF CALIFORNIA, acting through the Department of Transportation, hereinafter referred to as ("STATE")**, and the Riverside County Transportation Commission hereinafter referred to as ("RCTC"), a public entity of the State of California, **hereinafter referred to as ("Parties")**.

RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the City of Corona, County of Riverside, State of California, hereinafter referred to as ("**Rail Corridor**");

WHEREAS, under STATE Records, the West Porphyry Overhead is also called the Temescal Bridge and Overhead. For the purpose of this Agreement, these two names are interchangeable and may be referred to hereinafter as West Porphyry Overhead or Temescal Overhead;

WHEREAS, BNSF's predecessor in interest, The Atchison, Topeka and Santa Fe Railway Company and STATE entered into an Agreement dated June 15, 1959, carried in BNSF's records as BNSF Secretary's Contract No. CL-63822, ("**Original Agreement**") which provided for STATE's construction of the West Porphyry Overhead (Temescal Bridge and Overhead) STATE Br. No. 56-0446, DOT No. 026522X, ("**OVERHEAD**") over the Rail Corridor;

WHEREAS, the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("**DISTRICT**") was added as a party to the Original Agreement by supplement dated July 23, 1985, providing for STATE's widening of the OVERHEAD over the Rail Corridor, the construction of the

Temescal Flood Control Channel (**"CHANNEL"**) across the Rail Corridor, and the replacement of BNSF's Br. 23.5, (**"STRUCTURE"**) over the CHANNEL;

WHEREAS, a supplement to the Original Agreement dated July 11, 2014, provided for RCTC's widening of the OVERHEAD over the Rail Corridor to allow for the extension of the existing tolled express lanes on STATE Route 91 between the Riverside/Orange County line and Interstate Highway I-15 South (**"SR-91 Corridor Improvement Project"**);

WHEREAS, BNSF and DISTRICT entered into a separate Ownership and Maintenance Agreement covering the ownership and maintenance responsibilities for the CHANNEL and STRUCTURE;

WHEREAS, BNSF, STATE and DISTRICT entered into a separate Termination Agreement providing for the cancellation and termination of the Original Agreement, as supplemented, effective upon completion of the construction of the SR-91 Corridor Improvement Project's modification of the OVERHEAD;

This Agreement shall provide for the invoicing of the costs of the railroad work to be performed by BNSF and the reimbursement to BNSF, by RCTC, of such costs in connection with the modification of all four of the overpasses which are part of the SR-91 Corridor Improvement Project;

WHEREAS, RCTC and STATE desire to proceed with construction involving the modification of the OVERHEAD providing for its partial demolition, widening, construction of express lanes, and new ramp connections to Interstate Highway I-15 North to accommodate the Interstate Highway I-15/SR-91 Express Lane Connector Project (**"I-15/SR-91 Express Lane Connector Project"**);

WHEREAS, RCTC will fund the cost to design and construct the I-15 Express Lane Connector Project using a design build contractor (**"Contractor"**);

WHEREAS, STATE is the owner of STATE Route 91, Interstate Highway I-15 and the STATE Highway System;

WHEREAS, RCTC and STATE have entered into Cooperative Agreement No. 08-1679 dated September 21, 2018, permitting RCTC to acquire property on behalf of STATE and to design and construct the I-15/SR-91 Express Lane Connector Project;

WHEREAS, upon completion and acceptance of the I-15/SR-91 Express Lane Connector Project by STATE, STATE will thereafter own and maintain all highway improvements made by RCTC under this Agreement;

WHEREAS, pursuant to this Agreement, RCTC will acquire from BNSF a Temporary Construction License; and

WHEREAS, pursuant to this Agreement, RCTC will acquire a permanent easement (**"Easement"**), on behalf of the STATE, as required for the I-15/SR-91 Express Lane Connector Project .

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I) SCOPE OF WORK

1. The term "**Project**" as used herein includes any and all work related to the construction of the proposed I-15/SR-91 Express Lane Connector Project widening of the West Porphyry Overhead (I-15 North) State Br. No. 56-0446 (hereinafter referred to as the "**Structure**"), more particularly described on the Exhibit A attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation, right of way acquisition, construction management. Additionally, temporary controls during construction must be in compliance with Section 8A.08, "Temporary Traffic Control Zones" of the California Manual of Uniform Traffic Control Devices ("CAMUTCD").

ARTICLE II) BNSF OBLIGATIONS

In consideration of the covenants of RCTC and STATE set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. Upon RCTC payment to BNSF of an administrative fee in the sum of **Two Thousand Five Hundred and No/100 Dollars (\$2,500)**, together with the Temporary Construction License Fee in the sum of **XXXXXXXXXXXXXXX** and No/100 Dollars **(\$XXX,XXX)**, BNSF hereby grants to RCTC, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Project across or upon the portion of BNSF's right-of-way described further on Exhibit A-1, as described further in the Legal Descriptions, Exhibit G and as shown on Parcel Maps Exhibit G1, attached to this Agreement, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said right-of-way for the Rail Corridor;

- (b) Construct, operate, maintain, renew and/or relocate upon said right-of-way, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with the RCTC's construction of the Project;
- (c) Otherwise use or operate the right-of-way as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with STATE's use of the East Corona Overhead; and
- (d) Require RCTC or its contractor to execute a Temporary Construction Crossing Agreement, for any temporary crossing requested to aid in the construction of this Project.

The term of the Temporary Construction License shall begin on the date that the Contractor issues a Notice to Commence Construction at the start of flagging services and ends on the earlier of (i) substantial completion of the Project, or (ii) **Thirty (30) months** following the Notice to Commence Construction. The Temporary Construction License and related rights to be given by BNSF to RCTC shall be without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words therein contained. The Temporary Construction License shall be for the construction of the Project and for no other purpose. In the event STATE or RCTC is evicted by anyone owning, or claiming title to or any interest in said Rail Corridor, BNSF will not be liable to STATE or RCTC for any damages, losses or any expenses of any nature whatsoever. BNSF shall not grant similar rights to others, subsequent to the date of this Agreement, that impair or interfere with the rights granted to RCTC pursuant to the Temporary Construction License.

Upon RCTC payment to BNSF of the additional sum of **XXXXXXXXXXXX** and No/100 Dollars (**\$XX,XXX**), such payment to be made within thirty (30) days of issuing the Notice to Proceed pursuant to Article III, Section 16 of this Agreement, and provided further that RCTC is in compliance with the term and conditions of this Agreement, BNSF will grant to State, its successors and assigns, an easement (hereinafter called, the "Easement") to enter upon and use that portion of BNSF's right-of-way as is necessary to use and maintain the Structure, substantially in the form of Exhibit B attached to this Agreement. If RCTC fails to pay BNSF within the thirty day time period set forth in the preceding sentence, BNSF may stop construction of the Project until full payment is received by BNSF.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of RCTC, which approval will not be unreasonably withheld. Construction of the Project must include the following railroad work by BNSF:

- a) Procurement of materials, equipment and supplies necessary for the railroad work;

- b) Preliminary engineering, design, and contract preparation;
- (c) Furnishing of flagging services during construction of the Project as required and set forth in further detail on Exhibit C;
- (d) Furnishing engineering and inspection as required in connection with the construction of the Project;
- (e) Providing a contract project coordinator, at RCTC's expense, to serve as a project manager for the Project;

3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements.

4. RCTC agrees to reimburse BNSF for work of an emergency nature caused by RCTC or RCTC's contractor in connection with the Project which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF with notification provided to RCTC as soon as practicable and RCTC agrees to fully reimburse BNSF for all such emergency work.

5. BNSF may charge RCTC for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.

6. During the construction of the Project, BNSF will send RCTC progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. RCTC must reimburse BNSF for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Project, BNSF will send RCTC a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this section and Article IV, Section 7 herein, RCTC must pay the final invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any unposted payments received by the month's end. Finance charges will be noted on invoices sent to RCTC under this section. **For purposes of computing the time limits prescribed by Section 911.2 of the California Government Code for the presentment of a claim against the RCTC the cause of action for failure to reimburse BNSF for the costs of the Railroad work performed by it pursuant**

to this Agreement shall be deemed to have accrued one hundred and eighty (180) days after the date of receipt of the final invoice.

ARTICLE III) RCTC OBLIGATIONS

In consideration of the covenants of STATE and BNSF set forth herein and the faithful performance thereof, RCTC agrees as follows:

1. RCTC must furnish to BNSF and STATE plans and specifications for the Project. One digital set of said plans (reduced size 11" x 17"), together with one digital copy of calculations, and one digital copy of specifications in **English Units**, must be submitted to BNSF and STATE for approval prior to commencement of any construction. BNSF will give RCTC final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF's final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet the subjective standards of BNSF, and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building codes.
2. RCTC must make application to the California Public Utility Commission ("**Commission**") for an order authorizing construction of the Project and will furnish the Commission plans of the proposed construction, approved by BNSF and STATE, together with a copy of this Agreement.
3. RCTC must obtain all other required permits and approvals for the construction of the project.
4. RCTC must provide for and maintain minimum vertical and horizontal clearances, as required in Exhibit C and as approved by BNSF as part of the plans and specifications for the Project. Prior to execution of this Agreement RCTC shall have provided to BNSF exact minimum vertical and horizontal clearances for the Project, and such Final Clearances must have been previously approved by BNSF and attached hereto and incorporated herein as Exhibit A ("Final Clearances"). RCTC shall not deviate from the Final Clearances agreed to prior to this Agreement without the prior written approval of BNSF.
5. RCTC must acquire all rights of way necessary for the construction of the Project.
6. RCTC must make any and all arrangements, in compliance with BNSF's Utility Accommodation Manual (<http://www.bnsf.com/communities/fags/pdf/utility.pdf>), for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political

subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project..

7. RCTC must construct the Project as shown on the attached Exhibit A and do all work (“RCTC’s Work”) provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF hereunder. RCTC must furnish all labor, materials, tools and equipment for the performance of RCTC Work. The principal elements of RCTC Work are as follows:

- (a) Preliminary and final Engineering;
- (b) Design and the construction of the OVERHEAD;
- (c) Construction of required retaining walls;
- (d) Repairing the scouring of the head of banks by storm water runoff from the highway surface above at the south abutment for the existing structure and installation of slope paving;
- (e) Providing of suitable drainage, both temporary and permanent, and correct the drainage that is currently flowing to BNSF’s property so that no highway drainage is directed to BNSF’s Rail Corridor;
- (f) All other necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF’s Rail Corridor;
- (g) Application of the DOT No. 026595H and the CPUC No. 002B-22.90-A signage in conspicuous locations on the EXPRESS LANE OVERHEAD;
- (h) Removal of the sleeves for any CID Piles to a depth of five feet below ground surface; and
- (i) Job site cleanup within Project area including removal of all construction materials, all temporary track embankment not being reused by BNSF, all ballast not reclaimed by BNSF, concrete debris, surplus soil, refuse, disturbed contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF

8. RCTC’s Work must be performed by RCTC or RCTC’s contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

9. RCTC must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, RCTC must require its contractor(s) to notify BNSF’s Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

10. RCTC or its contractor(s) must submit one (1) digital copy of any plans (including one set of calculations in **English Units**) for proposed shoring, falsework or cribbing to be used over, under, or adjacent to BNSF's tracks to BNSF's Project Engineer for approval. The shoring, falsework or cribbing used by RCTC contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies. If necessary, RCTC must submit for approval one (1) copy of a professionally engineered demolition plan, as set forth in Exhibit H, with applicable calculations to BNSF's Project Engineer. The existing East Corona Overhead will not be removed until BNSF approves RCTC's demolition plan in writing.

11. RCTC must include the following provisions in any contract with its contractor(s) performing work on said Project:

- (a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or right-of-way. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The Contractor will be responsible for contacting BNSF's Engineering Representative, Signal Representative and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The Contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The Contractor must also use all reasonable methods when working in the BNSF right-of-way or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
- (b) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.
- (c) Failure to mark or identify these Lines will be sufficient cause for BNSF's engineering representative to stop construction at no cost to the or BNSF until these items are completed.
- (d) In addition to the liability terms contained elsewhere in this Agreement, The Contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Provider, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Provider, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's right-of-way, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's right-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a

customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY THE CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

12. RCTC must require compliance with the obligations set forth in this agreement, including Exhibit C and Exhibit C-1, and incorporate in each prime contract for construction of the Project, or the specifications therefor (i) the provisions set forth in Article III and IV; and (ii) the provisions set forth in Exhibit C, Exhibit C-I, and Exhibit F attached hereto and by reference made a part hereof.

13. Except as otherwise provided below in this Section 13, all construction work performed hereunder by RCTC for the Project will be pursuant to a contract or contracts to be let by RCTC, and all such contracts must include the following:

- (a) All work performed under such contract or contracts within the limits of BNSF's right-of-way must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;
- (b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
- (c) No work will be commenced within BNSF's right-of-way until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF an agreement in the form of Exhibit C-I, and (ii) delivered to and secured BNSF's approval of the required insurance; and
- (d) To facilitate scheduling for the Project, RCTC shall have its contractor give BNSF's representative 8 weeks advance notice of the proposed times and dates for work windows. BNSF and RCTC contractor will establish mutually agreeable work windows for the Project. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.
- (e) The plans and specifications for the Project must be in compliance with the Bridge Requirements set forth on Exhibit F, attached to this Agreement and incorporated herein.

14. RCTC must advise the appropriate BNSF Manager of Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, RCTC must notify BNSF's Manager of Public Projects, in writing, of the date on which RCTC and/or its Contractor will meet with BNSF for the purpose of making final inspection of the Project.

15. TO THE FULLEST EXTENT PERMITTED BY LAW, RCTC HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS STATE AND BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF RCTC, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE RCTC, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF RCTC, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) RCTC'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT GRANTED TO RCTC PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO RCTC PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) RCTC'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RIGHT-OF-WAY, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE STRUCTURE BY RCTC, OR (VII) AN ACT OR OMISSION OF RCTC OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY RCTC WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF STATE OR BNSF.

16. RCTC must give BNSF's Manager of Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from RCTC.

ARTICLE IV - STATE OBLIGATIONS

In consideration of the covenants of BNSF and RCTC herein contained and the faithful performance thereof, STATE agrees:

1. To permit RCTC to act as the responsible lead to design and construct the Project.
2. Upon completion, STATE will own and maintain, at its sole cost and expense, the STRUCTURE, the highway approaches, and appurtenances thereto, lighting, drainage and any access roadway to BNSF gates installed pursuant to this Agreement.
3. State must provide BNSF with any and all necessary permits and maintain roadway traffic controls, at no cost to BNSF, whenever requested by BNSF to allow BNSF to inspect the Structure.
4. STATE must, at STATE's sole cost and expense, keep the STRUCTURE painted and free from graffiti;
5. STATE must maintain the DOT No. 026522X and CPUC No. 002B-22.90-A signage in legible condition in the conspicuous locations on the STRUCTURE where applied by RCTC during construction;
6. It is understood by STATE that the right to install utilities for highway purposes is restricted to the placement of underground utilities beneath BNSF's tracks located a minimum of fifty (50) feet from abutments, piers, piles, or footings with the exception that upon BNSF's prior approval BNSF will permit selected utilities to be installed closer to the abutments, piers, piles, footings. Under no circumstances will utilities be allowed to hang from the STRUCTURE. All utility crossings within the limits of BNSF's Rail Corridor will be covered by separate agreements between BNSF and each of the owners of the utilities.
7. It is expressly understood that the Easement grants the State or RCTC acting on behalf of the State, the right to install, upgrade, replace, and maintain State-owned utilities on, above or within the structure so long as the utilities are used exclusively for highway purposes. These utilities do not require a separate permit or license agreement from BNSF.
8. STATE must keep the STRUCTURE and surrounding areas clean and free from birds, pigeons, scavengers, vermin, creatures and other animals; and
9. In conformance with and limited to the applicable effect of California Laws insofar as the indemnity and insurance provisions set forth in any of the preceding sections or any rider, amendment or addendum hereto, STATE is self-insured. If STATE performs (i) alterations or

modifications to the STRUCTURE, or (ii) any maintenance or other work on the STRUCTURE with heavy tools, equipment or machinery at ground surface level, horizontally within 25'-0" of the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the STRUCTURE vertically above the top of the rail, then STATE shall provide BNSF defense and indemnification at least equal to the defense, indemnification and insurance provisions contained in the current Exhibit C-1 at the time alterations or modifications to the STRUCTURE are undertaken, in accordance with California Government Code section 14662.5. Nothing herein shall be deemed to insure BNSF against its sole negligence or willful misconduct. Notwithstanding the foregoing, STATE agrees not to commence such alterations, modifications, maintenance, or other work to the STRUCTURE with day labor, until such time as (i) BNSF has procured, at STATE's sole cost and expense, a Railroad Protective Liability insurance policy naming BNSF as the insured, as required by the current Exhibit C-1, and (ii) STATE has reimbursed BNSF for the costs to obtain the Railroad Protective Liability insurance policy.

10. Subject to the restrictions imposed by Article V, Section 11 below, STATE must notify and obtain prior authorization from BNSF's Manager Public Projects to perform (i) inspection that requires access to BNSF rights of way, (ii) alterations or modifications to the STRUCTURE, or (iii) any maintenance or other work on, over or under the STRUCTURE before entering BNSF's Rail Corridor or for work located a minimum distance of 25'-0" measured horizontally from the centerline of the nearest track or a greater distance specified by BNSF's Manager Public Projects and must comply with the obligations set forth in Exhibit C, Exhibit C-1 and Exhibit F, as the same may be revised from time to time. In the event any of the work to be done on behalf of STATE upon BNSF's Rail Corridor is to be done by a contractor, STATE will be responsible for its contractor(s) compliance with such obligations.

11. PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 14662.5, STATE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS BNSF FROM, AND TO REPAIR OR PAY FOR ANY DAMAGE PROXIMATELY CAUSED BY REASON OF THE USES AUTHORIZED BY THIS AGREEMENT AND THE EASEMENTS PERTAINING TO THE STRUCTURE.

ARTICLE (V) JOINT OBLIGATIONS

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications. BNSF will notify RCTC of potential impacts to Project at the time said impacts are known, subject to the provisions of Article II, Section 5.

2. The work hereunder must be done in accordance with the Bridge Requirements set forth on Exhibit F and the detailed plans and specifications approved by BNSF.

3. RCTC must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations of either (BNSF or its related railroads) or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) RCTC (or any of its contractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) RCTC (or any of its contractors), in BNSF's opinion, prosecutes the Project work in a manner that is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) RCTC fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by RCTC or its contractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until proof of additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

David Thomas

Toll Program Director
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
4080 Lemon Street, 3rd Floor
Riverside, CA 92502-2208
Office: (951) 778-7958
Fax (951) 787-7920
dthomas@rctc.org

5. RCTC must supervise and inspect the operations of all RCTC contractors to ensure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of BNSF. If BNSF determines that proper supervision and inspection are not being performed by RCTC personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating right-of-way). Construction of the Project will not proceed until RCTC corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify for appropriate corrective action.

6. Pursuant to this section and Article II, Section 6 herein, RCTC must reimburse BNSF in full for the actual costs of all work performed by BNSF under this Agreement (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes), less BNSF's Share as set forth in Article IV, Section 6 herein. BNSF's Share must be paid upon completion of the Project.

7. In any action brought under this Agreement, the prevailing Party shall be entitled to recover its actual costs and attorney's fees pursuant to California Civil Code Section 1717, as well as other litigation costs, including expert witness fees. The prevailing Party shall also be entitled to recover all actual attorneys' fees and litigation costs incurred in connection with the enforcement of a judgment arising from such action or proceeding.

8. All expenses detailed in statements sent to RCTC pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Title 23 U.S. Code, Title 23 Code of Federal Regulations, and the Federal-Aid Policy Guide, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement.

9. The parties mutually agree that neither construction activities for the Project, nor future maintenance of the Structure once completed, will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

10. Subject to the restrictions imposed by Article IV, Section 9 above, the construction of the Project will not commence until RCTC gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference D.O.T. Crossing No. 026595H and must state the time that construction activities will begin.

11. In addition to the terms and conditions set forth elsewhere in this Agreement, including, but not limited to, the terms and conditions stated in Exhibit F, BNSF and RCTC agree to the following terms upon completion of construction of the Project:

- (a) BNSF will continue to own and maintain, at its sole cost and expense, its roadbed, track, railroad drainage, and all other railroad facilities, however, nothing herein contained shall relieve STATE of any liability it would otherwise have with respect to

damage caused to the STRUCTURE by negligent act or omission of STATE or its employees;

- (b) In the event emergency repairs to the Structure appear necessary due to an earthquake, fire, flood, damage from vehicular impacts or other emergent situations, BNSF will immediately notify STATE of the need. Should emergency repairs become necessary, with prior notice to STATE, or the situation results in any materials causing an infringement upon or violate the minimum clearances described in Exhibit C, BNSF may remove the materials by any methods that would not cause damage to or in any way jeopardize the structural integrity of the bridge deck, superstructure, or substructure. Notification of such action must be communicated to the STATE's district bridge maintenance superintendent or his delegate as soon as practically possible.
- (c) It is expressly understood that the Easement grants the State or RCTC acting on behalf of the State, the right to install, upgrade, replace, and maintain State-owned utilities on, above or within the structure so long as the utilities are used exclusively for highway purposes. These utilities do not require a separate permit or license agreement from BNSF.

12. RCTC must provide one set of as built plans (prepared in **English Units**) to BNSF and to STATE, as well as one set of as built CAD drawings of the Structure and identifying the software used for the CAD drawings. The "as built plans" must comply with the Bridge Requirements set forth on **Exhibit F** and depict all information in BNSF engineering stationing and mile post pluses. The "as built plans" must also include plan and profile, structural bridge drawings and specifications, and drainage plans. All improvements and facilities must be shown.

13. Subject to the restrictions imposed by Article IV, Section 9 above and in accordance with the requirements of Article III, Section 9 above, State must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's right-of-way for **INSPECTION OR MAINTENANCE** purposes, and the BNSF Manager of Public Projects will determine if flagging is required. If the construction work hereunder is contracted, State must require its prime contractor(s) to comply with the obligations set forth in **Exhibit C** and **Exhibit C-1**, as the same may be revised from time to time. State will be responsible for its contractor(s) compliance with such obligations.

14. In the event that BNSF shall deem it necessary or desirable in the future, in the performance of its duty as a common carrier, to raise or lower the grade or change the alignment of its tracks or to lay additional track or tracks or to build other facilities in connection with the operation of its railroad, BNSF shall, at its expense, have full right to make such changes or additions, provided such changes or additions do not change or alter the Structure herein proposed to be constructed and provided further, however, that should it become necessary or desirable in the future to change, alter, widen or reconstruct the Structure to accommodate railroad projects, the cost of such work, including any cost incidental to alteration of railroad or highway facilities made necessary by the alteration of the Structure

shall be the sole responsibility of BNSF unless BNSF and State mutually agree to divide the cost in such shares as may be mutually agreed to by them.

15. State may, at State's sole expense, alter or reconstruct the highway components of the Structure if necessary or desirable, due to traffic conditions or pedestrian or other recreational traffic, provided, however, that any such alteration or reconstruction must receive BNSF's prior written approval as evidenced by either a supplement to this Agreement, or execution of a new agreement that provides for the termination of this Agreement. Furthermore, any alteration or reconstruction of the highway components of the Structure will be covered by a Commission Order.

16. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto, as well as the State of California and the Federal Highway Administration, for a period of one (1) year from the date of the final BNSF invoice under this Agreement.

17. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

18. In the event construction of the Project does not commence within (3) years of the Effective Date, this Agreement will become null and void.

19. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

20. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

21. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein) is the full and complete agreement between BNSF and RCTC with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

22. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF:

Manager of Public Projects
Kate Kalinosky
740 E. Carnegie Drive
San Bernardino, CA 92408

Email: kate.kalinosky@bnsf.com

RCTC:

Michael Blomquist
Toll Program Director
4080 Lemon Street, 3rd Floor
Riverside, CA 92502-2208
Office: (951) 778-1098
Fax (951) 787-7920
Email: mblomquist@rctc.org

STATE:

Department of Transportation
Tiaira T. Moering, Chief
Office of Railroads and Utilities Relocation
Division of Right of Way & Land Surveys
1120 N Street
Sacramento, CA 95814-5690
Office: (916) 654-6553
Email: tiaira.moering@dot.ca.gov

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

BNSF RAILWAY COMPANY

By: _____

Kate Kalinosky
Manager Public Projects

WITNESS:_____

RCTC's signature page follows on the next page.

RCTC

By: _____

Printed Name: _____

Title: _____

WITNESS: _____

STATE's signature page follows on the next page.

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

By: _____

TIAIRA T. MOERING

Title: Chief, Office of Railroads & Utility Relocations
Division of Right of Way and Land Surveys

APPROVAL TO FORM:

Attorney

RECOMMENDED FOR APPROVAL

TERESA McNAMARA

Railroad Coordinator

Division of Right of Way and Land Surveys

Summary of Exhibits

EXHIBIT	TITLE
A	Plans and Profile Sheets of Project
B	Easement Deed
C	Contractor Requirements
C-1	Agreement Between BNSF Railway Company and the Contractor
D	BNSF Cost Estimate
E	Plans and Specifications Approval Letter
F	BNSF Bridge Requirements
G	Legal Description
G-1	Parcel Map
H	BNSF's Instructions for the Preparation of Demolition Plans

Exhibit A

[Insert drawing of the Project and/or Structure]

EASEMENT AGREEMENT

FOR EB and WB Temescal Wash Overhead

(Overpass Agreement)

THIS EASEMENT AGREEMENT FOR _____ ("Easement Agreement") is made and entered into as of the ____ day of _____ 2021 ("Effective Date"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("Grantor"), and RIVERSIDE COUNTY TRANSPORTATION COMMISSION, a public entity ("Grantee").

A. Grantor owns or controls certain real property situated at or near the vicinity of Corona, County of Riverside, State of California, at Mile Post 23.43, [Project # BF 10012943], as described or depicted on Exhibit "A-1" attached hereto and made a part hereof (the "Premises").

B. Grantor and Grantee have entered into that certain Overpass Agreement dated as of _____ concerning improvements on or near the Premises (the "Overpass Agreement").

C. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).

D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1 Granting of Easement.

- 1.1 Easement Purpose. The "Easement Purpose" shall be for the purposes set forth in the OVERPASS Agreement. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "Improvements" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the OVERPASS Agreement.
- 1.2 Grant. Grantor does hereby grant unto Grantee a non-exclusive easement ("Easement") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions,

covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "**Laws**"). Grantor may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the OVERPASS Agreement.

1.3 Reservations by Grantor. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:

- (a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "**Lines**") upon, over, under or across the Premises;
- (b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and
- (c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

Section 2 Term of Easement. The term of the Easement, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual. The term of this Easement, unless sooner terminated under provisions of this Easement Agreement, shall expire on the date that is _____ after the Effective Date.

Section 3 No Warranty of Any Conditions of the Premises. Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH

PROPERTY TO ITS INTENDED USES. GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

Section 4 Nature of Grantor's Interest in the Premises. GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND GRANTEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE. In case of the eviction of Grantee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Grantor of the affected rail corridor, Grantor shall not be liable to refund Grantee any compensation paid hereunder.

Section 5 Improvements. Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in order to verify

their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

Section 6 Taxes and Recording Fees. Grantee shall pay when due any taxes, assessments or other charges (collectively, "**Taxes**") levied or assessed upon the Improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Grantor or the Premises that are attributable to the Improvements. Grantee agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the Memorandum of Easement. In the event of Grantee's failure to do so, if Grantor shall become obligated to do so, Grantee shall be liable for all costs, expenses and judgments to or against Grantor, including all of Grantor's legal fees and expenses.

Section 7 Environmental.

7.1 Compliance with Environmental Laws. Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "**Environmental Laws**"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.

7.2 Notice of Release. Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.

7.3 Remediation of Release. In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or

otherwise cure such release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

7.4 Preventative Measures. Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.

7.5 Evidence of Compliance. Grantee agrees periodically to furnish Grantor with proof satisfactory to Grantor that Grantee is in compliance with this **Section 7**. Should Grantee not comply fully with the above-stated obligations of this **Section 7**, notwithstanding anything contained in any other provision hereof, Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice of termination upon Grantee. Upon termination, Grantee shall remove the Improvements and restore the Premises as provided in **Section 9**.

Section 8 Default and Termination.

8.1 Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

8.2 Abandonment. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

8.3 Effect of Termination or Expiration. Neither termination nor expiration will

release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 9**.

8.4 Non-exclusive Remedies. The remedies set forth in this **Section 8** shall be in addition to, and not in limitation of, any other remedies that Grantor may have under the OVERPASS Agreement, at law or in equity.

Section 9 Surrender of Premises.

9.1 Removal of Improvements and Restoration. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform **the following**:

- (h) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;
- (i) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;
- (j) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and
- (k) leave the Premises in the condition which existed as of the Effective Date.

9.2 Limited License for Entry. If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.

Section 10 Liens. Grantee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Grantee on the Premises or attributable to Taxes that are the responsibility of Grantee

pursuant to **Section 6**. Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 10** or any other section of this Easement Agreement.

Section 11 Tax Exchange. Grantor may assign its rights (but not its obligations) under this Easement Agreement to Goldfinch Exchange Company LLC, an exchange intermediary, in order for Grantor to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, Grantor shall provide Grantee with a Notice of Assignment, attached as Exhibit C, and Grantee shall execute an acknowledgement of receipt of such notice.

Section 12 Notices. Any notice required or permitted to be given hereunder by one party to the other shall be delivered in the manner set forth in the OVERPASS Agreement. Notices to Grantor under this Easement shall be delivered to the following address: BNSF Railway Company, Real Estate Department, 2500 Lou Menk Drive, Ft. Worth, TX 76131, Attn: Permits, or such other address as Grantor may from time to time direct by notice to Grantee.

Section 13 Recordation. It is understood and agreed that this Easement Agreement shall not be in recordable form and shall not be placed on public record and any such recording shall be a breach of this Easement Agreement. Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as Exhibit "B-1" (the "**Memorandum of Easement**") subject to changes required, if any, to conform such form to local recording requirements. [IF LEGAL DESCRIPTION IS NOT AVAILABLE USE THE FOLLOWING IN PLACE OF THE PRIOR SENTENCE: As of the Effective Date, a legal description of the Premises is not available. Grantee and Grantor shall work together in good faith to establish the legal description for the Premises. Once Grantor and Grantee have approved the legal description, Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as Exhibit "B-1" (the "**Memorandum of Easement**").] The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located. If a Memorandum of Easement is not executed by the parties and recorded as described above within 30 days of the Effective Date, Grantor shall have the right to terminate this Easement Agreement upon notice to Grantee.

Section 14 Miscellaneous.

14.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the State of **California** without regard to conflicts of law provisions.

14.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and

provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.

14.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.

14.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

14.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

14.6 Time is of the essence for the performance of this Easement Agreement.

Section 15 Administrative Fee.

15.1 Grantee acknowledges that a material consideration for this agreement, without which it would not be made, is the agreement between Grantee and Grantor, that the Grantee shall pay upon return of this Agreement signed by Grantee to Grantor's Broker a processing fee in the amount of **\$2,500.00** over and above the agreed upon Acquisition Price. Said fee shall be made payable to BNSF Railway Company by a separate check.

[Signature page follows]

Witness the execution of this Easement Agreement as of the date first set forth above.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware
corporation

By: _____
Name: _____
Title: _____

GRANTEE:

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION,
a Public Entity

By: _____
Name: Anne Mayer
Title: Executive Director

EXHIBIT "A-1"

Premises

EXHIBIT "B-1"

Memorandum of Easement

THIS MEMORANDUM OF EASEMENT is hereby executed this ____ day of _____, 2021, by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and RIVERSIDE COUNTY TRANSPORTATION COMMISSION, a Public Entity ("**Grantee**"), whose address for purposes of this instrument is 4080 Lemon Street, 3rd Floor, Riverside, CA 92501, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

WITNESSETH:

WHEREAS, Grantor owns or controls certain real property situated in Riverside County, California as described on Exhibit "A-1" attached hereto and incorporated herein by reference (the "**Premises**");

WHEREAS, Grantor and Grantee entered into an Easement Agreement, dated _____ (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

WHEREAS, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement over and across the Premises.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual. Provisions regulating the use and purposes to which the Easement shall be limited, are set forth in detail in the Easement Agreement and Grantor and Grantee agree to abide by the terms of the Easement Agreement.

All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement or this Memorandum of Easement, the Easement Agreement shall control.

[Signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Memorandum of Easement to as of the date and year first above written.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____

Name: _____

Title: _____

GRANTEE:

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____

Name: Anne Mayer

Title: Executive Director

STATE OF _____

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on the ____ day of _____, 20__, by _____ (name) as _____ (title) of BNSF RAILWAY COMPANY, a Delaware corporation.

Notary Public

(Seal)

My appointment expires:_____

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20__, by
_____(name) as _____(title) of
_____, a _____.

Notary Public

(Seal)

My appointment expires:_____

EXHIBIT "C"

CONTRACTOR REQUIREMENTS

1.01 General:

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as "**Railway**" where work is over or under on or adjacent to Railway property and/or right-of-way, hereafter referred to as "Railway Property", during the construction of

- **1.01.02** The Contractor must execute and deliver to the Railway duplicate copies of the Exhibit "C-1" Agreement, in the form attached hereto, obligating the Contractor to provide and maintain in full force and effect the insurance called for under Section 3 of said Exhibit "C-1". Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.
- **1.01.03** The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railway Property.
- **1.01.04** The Contractor's right to enter Railway's Property is subject to the absolute right of Railway to cause the Contractor's work on Railway's Property to cease if, in the opinion of Railway, Contractor's activities create a hazard to Railway's Property, employees, and/or operations. Railway will have the right to stop construction work on the STRUCTURE if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the STRUCTURE work in a manner contrary to the plans and specifications approved by Railway; (ii) Contractor (or any of its subcontractors), in Railway's opinion, prosecutes the STRUCTURE work in a manner which is hazardous to Railway property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the STRUCTURE; or (iv) Contractor fails to pay Railway for the Temporary Construction License or the Easement. The work stoppage will continue until all necessary actions are taken by Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer or until additional insurance has been delivered to and accepted by Railway. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, Railway may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop construction work on the STRUCTURE, Railway agrees to immediately notify the following individual in writing:

- **1.01.05** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. The Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under this Agreement.
- **1.01.06** The Contractor must notify **(Agency)** at _____ and Railway's Manager Public Projects, telephone number (____) _____ at least thirty (30) calendar days before commencing any work on Railway Property. Contractor's notification to Railway must refer to Railway's file _____.
- **1.01.07** For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twentyfive (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance of Way Association (previously known as American Railway Engineering Association) Coopers E80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin work until notified by the Railway that plans have been approved. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.
- **1.01.08** Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event his work is delayed by the Railway.

1.02 Contractor Safety Orientation

- **1.02.01 No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor**

Safety Orientation, found on the web site www.BNSFContractor.com. The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety Orientation through internet sessions before any work is performed on the STRUCTURE. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative.

1.03 Railway Requirements

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the Agency.
- **1.03.02** The Contractor must notify the Railway's Division Engineer _____ at (_____) _____ and provide blasting plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway's Property.
- **1.03.03** The Contractor must abide by the following temporary clearances during construction:
 - 15'-0" Horizontally from centerline of nearest track
 - 21'-6" Vertically above top of rail
 - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
 - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
 - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to 20,000 volts
 - 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts
- **1.03.04** Upon completion of construction, the following clearances shall be maintained:
 - --' Horizontally from centerline of nearest track
 - _-' Vertically above top of rail
- **1.03.05** Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to the **(Agency)** and must not be undertaken until approved in writing by the Railway, and until the **(Agency)** has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.
- **1.03.06** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for

protection of Railway operations. The cost of tell-tales or protective devices will be borne by the Agency.

- **1.03.07** The details of construction affecting the Railway's Property and tracks not included in the contract plans must be submitted to the Railway by **(Agency)** for approval before work is undertaken and this work must not be undertaken until approved by the Railway.
- **1.03.08** At other than public road crossings, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway. The Contractor must obtain a "Temporary Construction Crossing Agreement" from the Railway prior to moving his equipment or materials across the Railways tracks. The temporary crossing must be gated and locked at all times when not required for use by the Contractor. The temporary crossing for use of the Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.
- **1.03.09** Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the **Railway's Resource Operations Center at 1(800) 832-5452**, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.
- **1.03.10** The Contractor upon completion of the work covered by this contract, must promptly remove from the Railway's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Property to be left in a condition acceptable to the Railway's representative.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan:

- **1.04.01** Each Contractor that will perform work within 25 feet of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site www.BNSFContractor.com, which will be made available to Railway prior to commencement of any work on Railway Property. During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.
- **1.04.02** Contractor shall have a background investigation performed on all of its employees, subcontractors and agents who will be performing any services for Railroad under this Agreement which are determined by Railroad in its sole discretion **a)** to be on Railroad's property, or **b)** that require access to Railroad Critical Infrastructure, Railroad Critical

Information Systems, Railroad's Employees, Hazardous Materials on Railroad's property or is being transported by or otherwise in the custody of Railroad, or Freight in Transit involving Railroad.

The required background screening shall at a minimum meet the rail industry background screening criteria defined by the e-RAILSAFE Program as outlined at www.everifile.com, in addition to any other applicable regulatory requirements.

Contractor shall obtain written consent from all its employees, subcontractors or agents screened in compliance with the e-RAILSAFE Program to participate in the Program on their behalf and to release completed background information to Railroad's designee. Contractor shall be subject to periodic audit to ensure compliance.

Contractor subject to the e-RAILSAFE Program hereunder shall not permit any of its employees, subcontractors or agents to perform services hereunder who are not first approved under e-RAILSAFE Program standards. Railroad shall have the right to deny entry onto its premises or access as described in this section above to any of Contractor's employees, subcontractors or agents who do not display the authorized identification badge issued by a background screening service meeting the standards set forth in the e-RAILSAFE Program, or who in Railroad's opinion, which may not be unreasonable, may pose a threat to the safety or security of Railroad's operations, assets or personnel.

Contractors shall be responsible for ensuring that its employees, subcontractors and agents are United States citizens or legally working in the United States under a lawful and appropriate work VISA or other work authorization.

1.05 Railway Flagger Services:

- **1.05.01** The Contractor must give Railway's **Roadmaster (telephone _____)** a minimum of thirty (30) calendar days advance notice when flagging services will be required so that the Roadmaster can make appropriate arrangements (i.e., bulletin the flagger's position). If flagging services are scheduled in advance by the Contractor and it is subsequently determined by the parties hereto that such services are no longer necessary, the Contractor must give the Roadmaster five (5) working days advance notice so that appropriate arrangements can be made to abolish the position pursuant to union requirements.
- **1.05.02** Unless determined otherwise by Railway's Project Representative, Railway flagger will be required and furnished when Contractor's work activities are located over, under and/or within twentyfive (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:
 - **1.05.02a** When, upon inspection by Railway's Representative, other conditions warrant.

- **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.
- **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.
- **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
- **1.05.02e** Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.
- **1.05.03** Flagging services will be performed by qualified Railway flaggers.
 - **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by the Railways Representative.
 - **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.
 - **1.05.03c** The cost of flagger services provided by the Railway will be borne by **(Agency)**. The estimated cost for one (1) flagger is approximately between \$800.00-\$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**
 - **1.05.03d** The average train traffic on this route is _____ freight trains per 24-hour period at a timetable speed _____ MPH and _____ passenger trains at a timetable speed of _____ MPH.

1.06 Contractor General Safety Requirements

- **1.06.01** Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations.

- **1.06.02** Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).
- **1.06.03** Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.
- **1.06.04** When Contractor employees are required to work on the Railway Property after normal working hours or on weekends, the Railway's representative in charge of the project must be notified. A minimum of two employees must be present at all times.
- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Property by that employee will be denied.
- **1.06.06** Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the Railway's Resource Operations Center at 1(800) 832-5452. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job site.
- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway's Property.
- **1.06.08** All personnel protective equipment (PPE) used on Railway Property must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, www.BNSFContractor.com, however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats; c) safety shoe with: hardened toes, above the ankle lace-up and a defined heel; and d) high visibility retroreflective work wear. The Railway's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**
- **1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS,**

MACHINERY OR EQUIPMENT CLOSER THAN 25'0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S REPRESENTATIVE.

- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Property must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)
- **1.06.11** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.
- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000 KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.

1.07 Excavation:

- **1.07.01** Before excavating, the Contractor must determine whether any underground pipe lines, electric wires, or cables, including fiber optic cable systems are present and located within the STRUCTURE work area. The Contractor must determine whether excavation on Railway's Property could cause damage to buried cables resulting in delay to Railway traffic and disruption of service to users. Delays and disruptions to service may cause business interruptions involving loss of revenue and profits. Before commencing excavation, the Contractor must contact **BNSF's Field Engineering Representative (_____)**. All underground and overhead wires will be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. **It is the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.**
- **1.07.02** The Contractor must cease all work and notify the Railway immediately before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.
- **1.07.03** All excavations must be conducted in compliance with applicable OSHA

regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.

- **1.07.04** Any excavations, holes or trenches on the Railway's Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

1.08 Hazardous Waste, Substances and Material Reporting:

- **1.08.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor must immediately: (a) notify the Railway's Resource Operations Center at 1(800) 832-5452, of such discovery: (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties: and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release.

1.09 Personal Injury Reporting

- **1.09.01** The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway's Property must be reported immediately (by phone mail if unable to contact in person) to the Railway's representative in charge of the project. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1(817) 352-7595 and to the Railway's Project Representative no later than the close of shift on the date of the injury.

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

(If injuries are in connection with rail equipment accident/incident, highway rail grade crossing accident or automobile accident, ensure that appropriate information is obtained, forms completed and that data entry personnel are aware that injuries relate to that specific event.)

Injured Person Type:

☐ Passenger on train (C)

☐ Non-employee (N)
(i.e., emp of another railroad, or, non-BNSF emp involved in vehicle accident, including company vehicles)

☐ Contractor/safety sensitive (F)

☐ Contractor/non-safety sensitive (G)

☐ Volunteer/safety sensitive (H)

☐ Volunteer/other non-safety sensitive (I)

☐ Non-trespasser (D) - to include highway users involved in highway rail grade crossing accidents who did not go around or through gates

☐ Trespasser (E) - to include highway users involved in highway rail grade crossing accidents who went around or through gates

☐ Non-trespasser (J) - Off railroad property

If train involved, Train ID:

Transmit attached information to Accident/Incident Reporting Center by:

Fax 1-817-352-7595

or by Phone 1-800-697-6736

or email to: Accident-Reporting.Center@BNSF.com

Officer Providing Information:

(Name)

(Employee No.)

(Phone #)

**REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS AND PROTECTED FROM
DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490**

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IT IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

1. Accident City/St: _____		2. Date: _____		Time: _____	
County: _____ (if non BNSF location)		3. Temperature: _____		4. Weather: _____	
Mile Post / Line Segment: _____					
5. Driver's License No (and state) or other ID: _____			SSN (required): _____		
6. Name (last, first, mi): _____					
7. Address: _____		City: _____	St: _____	Zip: _____	
8. Date of Birth: _____		and/or Age: _____ (if available)		Gender: _____	
Phone Number: _____		Employer: _____			
9. Injury: _____ (i.e., Laceration, etc.)		10. Body Part: _____ (i.e., Hand, etc.)			
11. Description of Accident (To include location, action, result, etc.): _____ _____ _____					
12. Treatment: <input type="checkbox"/> First Aid Only <input type="checkbox"/> Required Medical Treatment <input type="checkbox"/> Other Medical Treatment _____					
13. Dr. Name: _____		Date: _____			
14. Dr. Address: Street: _____ City: _____ St: _____ Zip: _____					
15. Hospital Name: _____					
16. Hospital Address: Street: _____ City: _____ St: _____ Zip: _____					
17. Diagnosis: _____					

REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS
AND PROTECTED FROM DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490

EXHIBIT "C-1"

Agreement Between
BNSF RAILWAY COMPANY
and the
CONTRACTOR

Railway File: _____

Agency Project: _____

<%Contractor.LegalName%> [Insert contractor's legal name here](hereinafter called "Contractor"), has entered into an agreement (hereinafter called "Agreement") dated _____, 201_, with **BNSF RAILWAY COMPANY** for the performance of certain work in connection with the following project: _____
Performance of such work will necessarily require Contractor to enter **BNSF RAILWAY COMPANY** (hereinafter called "Railway") right of way and property (hereinafter called "Railway Property"). The Agreement provides that no work will be commenced within Railway Property until the Contractor employed in connection with said work for **BNSF RAILWAY COMPANY** (i) executes and delivers to Railway an Agreement in the form hereof, and (ii) provides insurance of the coverage and limits specified in such Agreement and Section 3 herein. If this Agreement is executed by a party who is not the Owner, General Partner, President or Vice President of Contractor, Contractor must furnish evidence to Railway certifying that the signatory is empowered to execute this Agreement on behalf of Contractor.

Accordingly, in consideration of Railway granting permission to Contractor to enter upon Railway Property and as an inducement for such entry, Contractor, effective on the date of the Agreement, has agreed and does hereby agree with Railway as follows:

1) RELEASE OF LIABILITY AND INDEMNITY

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's property or right-of-way. **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF RAILWAY.**

THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all claims made against Railway, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railway to the fullest extent permitted by applicable law. **THROUGH THIS AGREEMENT THE PARTIES EXPRESSLY INTEND FOR CONTRACTOR TO INDEMNIFY RAILWAY FOR RAILWAY'S ACTS OF NEGLIGENCE.**

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

2) TERM

This Agreement is effective from the date of the Agreement until (i) the completion of the project set forth herein, and (ii) full and complete payment to Railway of any and all sums or other amounts owing and due hereunder.

3) INSURANCE

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limit to the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to Railway.
- ◆ Additional insured endorsement in favor of and acceptable to Railway.
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to ***Railway*** employees.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy with regard to the work being performed under this agreement.

B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- ◆ Bodily injury and property damage
- ◆ Any and all vehicles owned, used or hired

The policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- ◆ Waiver of subrogation in favor of and acceptable to Railway.
- ◆ Additional insured endorsement in favor of and acceptable to Railway.
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:

- ◆ Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- ◆ Waiver of subrogation in favor of and acceptable to Railway.

A. Railroad Protective Liability insurance naming only the **Railway** as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy Must be issued on a standard ISO form CG 00 35 12 04 and include the following:

- ◆ Endorsed to include the Pollution Exclusion Amendment
- ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
- ◆ Endorsed to remove any exclusion for punitive damages.
- ◆ No other endorsements restricting coverage may be added.
- ◆ The original policy must be provided to the **Railway** prior to performing any work or services under this Agreement
- ◆ Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in

any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate (if available) in Railway's Blanket Railroad Protective Liability Insurance Policy.

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.

Contractor agrees to waive its right of recovery against **Railway** for all claims and suits against **Railway**. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against **Railway** for all claims and suits. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against **Railway** for loss of its owned or leased property or property under Contractor's care, custody or control.

Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Contractor is not allowed to self-insure without the prior written consent of **Railway**. If granted by **Railway**, any self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all **Railway** liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing services, Contractor shall furnish to **Railway** an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments. The certificate should be directed to the following address:

BNSF Railway Company
c/o CertFocus
P.O. Box 140528
Kansas City, MO 64114
Toll Free: 877-576-2378
Fax number: 817-840-7487
Email: BNSF@certfocus.com
www.certfocus.com

Contractor shall notify **Railway** in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration.

Any insurance policy shall be written by a reputable insurance company acceptable to **Railway** or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Contractor hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this Agreement. Annually Contractor agrees to provide evidence of such coverage as required hereunder.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement.

Not more frequently than once every five years, **Railway** may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain insurance coverage(s) as set forth herein, naming **Railway** as an additional insured, and shall require that the subcontractor shall release, defend and indemnify **Railway** to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify **Railway** herein.

Failure to provide evidence as required by this section shall entitle, but not require, **Railway** to terminate this Agreement immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by **Railway** shall not be limited by the amount of the required insurance coverage.

In the event of a claim or lawsuit involving **Railway** arising out of this agreement, Contractor will make available any required policy covering such claim or lawsuit.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Contractor. Therefore, these provisions shall be enforceable and Contractor shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

For purposes of this section, **Railway** shall mean “Burlington Northern Santa Fe LLC”, “BNSF Railway Company” and the subsidiaries, successors, assigns and affiliates of each.

4) SALES AND OTHER TAXES

In the event applicable sales taxes of a state or political subdivision of a state of the United States are levied or assessed in connection with and directly related to any amounts invoiced by Contractor to Railway (“Sales Taxes”), Railway shall be responsible for paying only the Sales Taxes that Contractor separately states on the invoice or other billing documents provided to Railway; *provided, however*, that (i) nothing herein shall preclude Railway from claiming whatever Sales Tax exemptions are applicable to amounts Contractor bills Railway, (ii) Contractor shall be responsible for all sales, use, excise, consumption, services and other taxes which may accrue on all services, materials, equipment, supplies or fixtures that Contractor and its subcontractors use or consume in the performance of this Agreement, (iii) Contractor shall be responsible for Sales Taxes (together with any penalties, fines or interest thereon) that Contractor fails to separately state on the invoice or other billing documents provided to Railway or fails to collect at the time of payment by Railway of invoiced amounts (except where Railway claims a Sales Tax exemption), and (iv) Contractor shall be responsible for Sales Taxes (together with any penalties, fines or interest thereon) if Contractor fails to issue separate invoices for each state in which Contractor delivers goods, provides services or, if applicable, transfers intangible rights to Railway.

Upon request, Contractor shall provide Railway satisfactory evidence that all taxes (together with any penalties, fines or interest thereon) that Contractor is responsible to pay under this Agreement have been paid. If a written claim is made against Contractor for Sales Taxes with respect to which Railway may be liable for under this Agreement, Contractor shall promptly notify Railway of such claim and provide Railway copies of all correspondence received from the taxing authority. Railway shall have the right to contest, protest, or claim a refund, in Railway’s own name, any Sales Taxes paid by Railway to Contractor or for which Railway might otherwise be responsible for under this Agreement; *provided, however*, that if Railway is not permitted by law to contest any such Sales Tax in its own name, Contractor shall, if requested by Railway at Railway’s sole cost and expense, contest in Contractor’s own name the validity, applicability or amount of such Sales Tax and allow Railway to control and conduct such contest.

Railway retains the right to withhold from payments made under this Agreement amounts required to be withheld under tax laws of any jurisdiction. If Contractor is claiming a withholding exemption or a reduction in the withholding rate of any jurisdiction on any payments under this Agreement, before any payments are made (and in each succeeding period or year as required by law), Contractor agrees to furnish to Railway a properly completed exemption form prescribed by such jurisdiction. Contractor shall be

responsible for any taxes, interest or penalties assessed against Railway with respect to withholding taxes that Railway does not withhold from payments to Contractor.

1) EXHIBIT “C” CONTRACTOR REQUIREMENTS

The Contractor must observe and comply with all provisions, obligations, requirements and limitations contained in the Agreement, and the Contractor Requirements set forth on Exhibit “C” attached to the Agreement and this Agreement, including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site. Contractor shall execute a Temporary Construction Crossing Agreement or Private Crossing Agreement (<http://www.bnsf.com/communities/fags/permits-real-estate/>), for any temporary crossing requested to aid in the construction of this STRUCTURE, if approved by BNSF.

2) TRAIN DELAY

Contractor is responsible for and hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.

For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. The rate then in effect at the time

of performance by the Contractor hereunder will be used to calculate the actual costs of train delay pursuant to this agreement.

Contractor and its subcontractors must give Railway's representative (_____) _____ (__) weeks advance notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor's expenses for the project.

Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized officer the day and year first above written.

<%Contractor.LegalName%>

BNSF Railway Company

By: _____

By: _____

Printed Name: _____

Name: _____

Manager Public Projects

Title: _____

Accepted and effective this _____ day of 20__.

Contact Person: _____

Address: _____

City: _____

State: _____ Zip: _____

Fax: _____

Phone: _____

E-mail: _____

EXHIBIT D

[Insert Cost Estimate for Railroad Work here]

Exhibit E

[Public Projects Manager's letterhead]

Date: _____

Mr./Ms. _____

_____ [Name of Agency Here]

_____ [Address for Agency]

Re: Final Approval of Plans and Specifications dated _____, 20__, drafted by
_____ **[insert name of architecture or engineering firm here]** (hereinafter
called, the "Plans and Specifications")

Dear _____:

This letter serves as BNSF RAILWAY COMPANY's ("BNSF") final written approval of the Plans and Specifications covering the construction of _____ **[insert description of the project here]**. This final written approval is given to _____ **[insert name of Agency here]** ("Agency") pursuant to Article III, Section 1 of that certain Underpass Agreement between BNSF and Agency, dated _____, 20__, which this Exhibit E is attached to and made a part thereof.

If the Plans and Specifications are revised by Agency subsequent to the date set forth above, this letter shall no longer serve as final written approval of the Plans and Specifications and Agency must resubmit said Plans and Specifications to BNSF for final written approval.

It is understood that the approvals contained in this letter do not cover, the approvals of plans and specifications for any falsework, shoring, and demolition that may be subsequently submitted to BNSF by CITY or its contractor for approval.

BNSF has not reviewed the design details or calculations for structural integrity or engineering accuracy. BNSF accepts no responsibility for errors or omissions in the design of the project.

Regards,

[Public Projects Manager's Name]

BNSF Bridge Requirements

BRIDGE DESIGN, PLANS & SPECIFICATIONS:

Except for the design of temporary falsework and shoring, BNSF review of the Structure plans will be limited to the vertical and horizontal clearances, sight distance for existing train signals, foundation dimensions and drainage characteristics as they relate to existing and future tracks. BNSF will not review structural design calculations for the permanent Structure unless a member or members are influenced by railroad live loads.

Temporary falsework and shoring plans and calculations must be reviewed and approved by BNSF prior to beginning construction. The Agency shall perform an independent review of the design calculations for temporary falsework and shoring prior to submitting them to BNSF for approval. Temporary construction clearances must be no less than 15 feet measured horizontally from the centerline of the nearest track and 21 feet-6 inches measured vertically from the top of rail of the most elevated track to the bottom of lowest temporary falsework member. State regulatory agencies may have more restrictive requirements for temporary railroad clearances.

For the permanent Structure, the Agency will submit plans showing the least horizontal distance from the centerline of existing and future tracks to the face of the nearest member of the proposed Structure. The location of the least horizontal distance must be accurately described such that BNSF can determine where it will occur in both the horizontal and vertical plane. If the permanent member is within 25 feet of the nearest track (or future track), collision walls shall be incorporated into the permanent Structure design according to American Railway Engineering and Maintenance Association Manual of Recommended Practice - Chapter 8 - Article 2.1.5.

For the permanent Structure, the Agency will submit plans showing the least vertical clearance from top of the most elevated rail of existing and future tracks to the lowest point of the proposed Structure. A profile of the existing top of rail elevation shall be plotted on the bridge plans. The profile shall extend for 500 feet in each direction of the proposed overpass and a separate profile shall be plotted for each track. If the existing top of rail profile(s) is not uniform such that a sag exists in the vicinity of the proposed Structure, the permanent Structure vertical clearance shall be increased sufficiently to accommodate a raise in the track profile to remove the sag. Prior to beginning construction of the permanent Structure, the top of rail elevations should be checked and verified that they have not changed from the assumed elevations utilized for the design of the bridge.

Prior to issuing any invitation to bid on construction of the STRUCTURE, the Agency should conduct a pre-bid meeting where prospective Contractors have the opportunity to communicate with BNSF personnel regarding site specific train

speeds, train density, and general safety requirements for men and equipment working near live tracks. Any invitation to bid and specifications for the Structure must be submitted to BNSF for review and approval prior to letting of bids for the STRUCTURE.

BRIDGE CONSTRUCTION:

After awarding the bid, but prior to the Contractor entering BNSF's right-of-way or property, the Agency should conduct a pre-construction meeting with BNSF personnel in attendance to reiterate the safety requirements of construction activity adjacent to live tracks.

During construction, BNSF may require an independent engineering inspector to be present during certain critical activities of the STRUCTURE, including but not limited to: driving foundation piles, erecting falsework, construction of shoring and retaining walls, placing concrete, placing soil backfill and compaction processes. The Agency shall reimburse BNSF for all costs of supplemental inspection services.

Within 90 days of the conclusion of the STRUCTURE and final acceptance by BNSF, the Agency will provide BNSF with a complete electronic set of the bridge plans labeled "As Built". Those plans will reflect any and all deviations from the original plans that occurred during construction. The "As Built" plans will be submitted in Micro Station *.dgn electronic format (preferred) or AutoCAD *.dwg format. Electronic plans are to be submitted in the original format used for CAD plan preparation and not converted to another format prior to submission. Actual measured "as constructed" clearances shall be shown as well as depth, size and location of all foundation components. The plans shall show dimensioned locations of existing and relocated utilities.

BRIDGE MAINTENANCE:

The Agency will be responsible for maintenance and repair of the Structure including the earth retention components, embankment slopes, erosion control, surface drainage, fencing, deck drains, landscaping, paint, walkways, handrails, lighting, and other improvements associated with the STRUCTURE.

Fencing and other pedestrian access controls within BNSF's right-of-way and incorporated into the STRUCTURE shall be designed and maintained by the Agency. Trespasser control shall be the responsibility of the Agency. Graffiti removal will be the responsibility of the Agency.

BRIDGE INSPECTION:

The Agency will conduct annual routine structural inspections. In the event of an earthquake, fire, flood, damage from vehicular impacts or other emergent situations, the Agency will provide an immediate inspection by qualified personnel and notify BNSF of damage that may affect safe passage of trains. If necessary the Agency will embargo weights or provide lane closures or other such measures to protect the structural integrity of the Structure such that there can be continuous safe passage of trains until repairs are made.

BRIDGE ALTERATIONS:

Except as provided otherwise by this Agreement, there will be no alterations made to the Structure that will alter the railroad vertical or horizontal clearances provided by the original design. Pipelines will be not be added or attached to the Structure without first submitting plans and calculations to BNSF for review and approval.

Exhibit G & G1

LEGAL DESCRIPTION

Exhibit H

BNSF INSTRUCTIONS FOR PREPARATION OF DEMOLITION PLANS

AGENDA ITEM 6F

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee Bryce Johnston, Capital Projects Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Agreement for California Highway Patrol Construction Zone Enhancement Enforcement Program Services During the Construction of the Commission's Highway Projects

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Approve Agreement No. 21-31-103-00, with the California Highway Patrol (CHP) for Construction Zone Enhanced Enforcement Program (COZEED) services used during the construction of Commission highway projects (Projects), for a total amount not to exceed \$4 million for a five-year term; 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:

Whenever the Commission's projects on the state highway system employ significant lane or shoulder closures, the Commission is required to use COZEED services supplied by the CHP. These services provide a constant presence of CHP officers to encourage compliance with the temporary traffic control devices used during construction. In the past, the Commission typically entered into a project specific agreement with the CHP to provide these services, which would cover the duration of the project, with an estimated value determined prior to construction.

CHP COZEED SERVICES:


RCTC was informed in 2020 by the CHP that due to procedural changes, any new project specific agreements could be issued for a duration of only three months and a maximum amount of \$50,000. These agreements would require renewal if the services were required beyond the three-month duration or would exceed the agreement value. This process has resulted in numerous amendments for the Commission's Projects. This has resulted in increased paperwork, staff and legal time, and potential impacts and delays to the project's planned traffic control operations and construction.

Commission staff worked with the CHP's local Beaumont office and Headquarters office in Sacramento to negotiate a 5-year, countywide COZEEP service agreement, which would eliminate the 3-month duration, \$50,000 agreement limits, and the associated potential to delay the Commission's Projects.

Staff reviewed the unit rates listed in the proposed agreement, and they align with the separate COZEEP agreements the Commission has entered into for previous Projects. Staff estimated the value of the required services for the next 5 years to be approximately \$4 million for all ongoing and anticipated future Projects.

FISCAL IMPACT:

There are sufficient funds included in the FY 2021/22 budgets for the COZEEP services required during these years through the various planned Projects. Funds required for future years will be included in each annual budget under each project requiring these services.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$ 100,000 \$3,900,000
Source of Funds:	Congestion Mitigation Air Quality, Surface Transportation Block Grant, State Transportation Improvement Program-Regional Improvement Program, State Highway Operations and Protection Program, and 2009 Measure A Western County Highway funds			Budget Adjustment:	No N/A
GL/Project Accounting No.:	XXXXXX 81304 00000 0000 XXX 31 81301 (various projects/funds)				
Fiscal Procedures Approved:				Date:	06/17/2021

Attachments: Agreement No. 21-31-103-00 with CHP for COZEEP Services

<i>Approved by the Western Riverside County Programs and Projects Committee on June 28, 2021</i>					
In Favor:	12	Abstain:	0	No:	0

SCO ID: 2720 - 21R655000

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

21R655000

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTOR NAME

Riverside County Transportation Commission (RCTC)

2. The term of this Agreement is:

START DATE

07/01/2021

THROUGH END DATE

06/30/2026

3. The maximum amount of this Agreement is:

\$4,000,000.00 Four Million Dollars and Zero Cents

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	2
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C *	General Terms and Conditions	
Exhibit D	Special Terms and Conditions	2

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)

Riverside County Transportation Commission (RCTC)

CONTRACTOR BUSINESS ADDRESS

PO Box 12008

CITY

Riverside

STATE

CA

ZIP

92502

PRINTED NAME OF PERSON SIGNING

Ann Mayer

TITLE

Executive Director

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of California Highway Patrol

CONTRACTING AGENCY ADDRESS

601 North 7th Street

CITY

Sacramento

STATE

CA

ZIP

95811

PRINTED NAME OF PERSON SIGNING

C. D. King

TITLE

Chief, Administrative Services Division

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

EXHIBIT A (Standard Agreement)

SCOPE OF WORK

1. Riverside County Transportation Commission (RCTC), agrees to reimburse the Department of California Highway Patrol (CHP) for costs associated with traffic enforcement related services for the Contractee, provided by various CHP Border Division Area offices serving Riverside County.

These traffic enforcement services, Construction Zone Enhanced Enforcement Program (COZEEP) shall be provided for all of the RCTC construction projects located in Riverside County.

2. The services shall be provided during:

The hours of duty performed by CHP officer(s) under this Agreement are those mutually agreed upon by the Project Representatives listed below, or designees. Any changes to the proposed plan such as additional hours, dates, and sites for traffic control can be requested and/or on an "as needed" basis and must be mutually agreed upon by the local CHP command and RCTC.

3. The Project Representatives during the term of this Agreement will be:

STATE AGENCY		CONTRACTEE	
Department of California Highway Patrol		Riverside County Transportation Commission (RCTC)	
NAME		NAME	
Sgt. E. Rodriguez		Anne Mayer, Executive Director	
TELEPHONE NUMBER	EMAIL	TELEPHONE NUMBER	EMAIL
951-769-2000	erodriguez@chp.ca.gov	951-787-7141	amayer@rctc.org
Direct all inquiries to:			
STATE AGENCY		CONTRACTEE	
Department of California Highway Patrol		Riverside County Transportation Commission (RCTC)	
SECTION/UNIT		EMAIL	
Business Services Section/Contract Services Unit		bjohnston@rctc.org	
ATTENTION		ATTENTION	
MaDonna Young, Contract Analyst		Bryce Johnston	
ADDRESS		ADDRESS	
601 North 7 th Street Sacramento, CA 95811		4080 Lemon Street, 3 rd floor Riverside, CA 92501	
TELEPHONE NUMBER	EMAIL	TELEPHONE NUMBER	
(916) 843-3623	Madonna.young@chp.ca.gov	760-269-5150	

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK *(Continued)*

4. Detailed description of work to be performed:

- A. CHP San Geronio Pass Area office shall provide CHP officer(s) with vehicles and coordinate all traffic control. Should the CHP San Geronio Pass Area be unable to fill the necessary staffing for each event, the shortage of CHP Officers will be utilized from out-of-Area uniformed personnel.
- B. The traffic control services to be performed by CHP officer(s) under this Agreement, including the standards of performance, discipline and control thereof, shall be the responsibility of CHP.
- C. It is understood by the RCTC, that billing of CHP officer(s) time shall be from portal to portal (CHP Area office to the service location and return to CHP Area office) except as specified in Item D.
- D. If the CHP officer(s) has reported to the assigned location and has worked less than four (4) hours, the RCTC, agrees to pay every assigned CHP officer(s) a minimum of four (4) hours overtime. Exception: This does not apply to those cases when the hours worked is part of an extended shift.

If the CHP officer(s) report(s) to the assigned service location and if for any reason CHP reassigns the officer(s) away from the service location, the RCTC, will be billed only for the officer(s) actual time incurred from the CHP Area office to the service location and for the time spent at the assigned service location covered under this Agreement.

E. Cancellation of Services

The RCTC, shall not be charged for service cancellations made more than 24 hours prior to the scheduled assignment.

- 1. The RCTC, agrees that if service cancellation is made with less than 24 hours, prior to the scheduled assignment and the assigned CHP officer(s) cannot be notified of such service cancellation, a minimum of four (4) hours overtime shall be charged for each assigned CHP officer.
- 2. The RCTC, agrees that if service cancellation is made within 24 hours prior to the scheduled assignment and CHP officer(s) is notified of such service cancellation, the RCTC, shall only be charged a short notice service cancellation fee of \$50.00 per assigned CHP officer(s).
- 3. All service cancellation notices to CHP must be made during normal CHP business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state holidays.
- 4. The CHP agrees to make reasonable efforts to notify the assigned CHP officer(s) of the service cancellation.

**EXHIBIT B
(Standard Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. The CHP shall provide the RCTC with an itemized invoice which details all CHP costs for traffic control services under this Agreement.

Monthly itemized invoices will be submitted in duplicate to:

Riverside County Transportation Commission
Accounts Payable
PO Box 12008
Riverside, CA 92502-2208

The County of Riverside agrees to pay CHP within thirty (30) days after the date of the invoice.

- B. In consideration for the traffic control services contained herein, the RCTC agrees to reimburse the CHP upon receipt of an itemized invoice. The RCTC agrees to reimburse the CHP for the **actual costs incurred** (at the overtime rate, described below) at the time services are provided, plus actual mileage incurred in providing such services. The rates indicated in this agreement are for estimate purposes only. It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and/or statute and that no advance written notification is necessary prior to implementing the increased rates. In the event CHP is granted a rate increase, the RCTC agrees to pay the increased rate. The following information are the CHP officer overtime rates effective Fiscal Year 20/21, until superseded:

CLASSIFICATION

OVERTIME RATE

CHP Officer	\$ 102.48 per hour
CHP Sergeant	\$ 124.67 per hour
CHP Automobile	\$ 1.41 per mile

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. The CHP and the RCTC, agree this Agreement may be canceled by either party with thirty (30) days advance written notice.
2. In the event of an emergency, this Agreement may be canceled by either party without prior notice.
3. The CHP and the RCTC, agree that this Agreement may be amended by written mutual consent of the parties hereto.
4. Unforeseen events may require CHP officer(s) to expend hours in excess of the original estimate. Any costs in excess of the original estimated amount will be processed by appropriate amendment to the Agreement, to reflect the actual costs incurred.
5. Additional charges may be assessed for CHP supplies, additional equipment utilized, damage to property repaired or replaced at state expense, which are directly related to the services provided herein, but only to the extent such supplies or additional equipment are specifically requested in writing by the RCTC, or such need for repair or replacement of property arises directly from the RCTC, gross misconduct or willful negligence with respect to the property.
6. Gifts, donations, or gratuities may not be accepted by CHP employees in their own behalf or in behalf of the Department, informal squad club, or other local funds.
7. The RCTC, agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy and records and supporting documentation pertaining to the performance of this Agreement. The RCTC, agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. The RCTC, agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the RCTC, agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et CCR Title 2, Section 1896).
8. Any dispute concerning a question of fact arising under the terms of this agreement which is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this contract shall be brought to the attention of the Administrative Services Officer (or designated representative) of each organization for joint resolution
9. The RCTC, agrees to provide CHP with a resolution, motion, order or ordinance of the governing body, which authorizes execution of this Agreement, and indicates the individual who is authorized to sign the Agreement on behalf of the RCTC.
10. INDEMNIFICATION:
 - A. To the extent permitted by law, RCTC shall defend, indemnify, and save harmless CHP and all of CHP's appointees, officers, and employees from and against any and all claims, suits, or actions for "injury" (as defined by Government Code section 810.8) caused by the negligent or intentional acts or omissions of RCTC, or RCTC's officers, directors, and employees, arising out of the performance of this Agreement.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

- B. To the extent permitted by law, CHP shall defend, indemnify, and save harmless RCTC and all of RCTC's officers, directors, and employees from and against any and all claims, suits, or actions for "injury" (as defined by Government Code section 810.8) caused by the negligent or intentional acts or omissions of CHP, or CHP's appointees, officers, or employees, arising out of the performance of this Agreement.
- C. Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release any party from its obligation to indemnify as to any claims or cause of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred subsequent to the effective date of this Agreement and prior to the effective date of Termination or completion.

AGENDA ITEM 6G

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee Michelle McCamish, Senior Management Analyst Brian Cunanan, Commuter and Motorist Assistance Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Agreements for Freeway Service Patrol Tow Truck Service

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Approve Agreement No. 21-45-049-00 to Pepe's Towing Service Inc. (Pepe's) for Freeway Service Patrol (FSP) tow truck services on State Route (SR) 91, Beat No. 4, for a five-year term, in an amount of \$1,666,787, plus a contingency amount of \$83,340, for a total amount not to exceed \$1,750,127;
- 2) Approve Agreement No. 21-45-050-00 to Pepe's for FSP tow truck services on SR-60, Beat No. 7, for a five-year term, in an amount of \$1,666,787, plus a contingency amount of \$83,340, for a total amount not to exceed \$1,750,127;
- 3) Approve Agreement No. 21-45-051-00 to Pepe's for FSP tow truck services on SR-60, Beat No. 8, for a five-year term, in an amount of \$1,666,787, plus a contingency amount of \$83,340, for a total amount not to exceed \$1,750,127;
- 4) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreements on behalf of the Commission; and
- 5) Authorize the Executive Director, or designee, to approve the use of the contingency amount as may be required for these services.

BACKGROUND INFORMATION:

In 1986, the Commission established itself as the Riverside County Service Authority for Freeway Emergencies (RC SAFE) after the enactment of Senate Bill 1199 in 1985. The purpose of the formation of SAFEs in California was to provide call box services and, with excess funds, provide additional motorist aid services. Funding for RC SAFE is derived from a one dollar per vehicle registration fee on vehicles registered in Riverside County. Initially, these funds were used only for the call box program. As additional motorist aid services were developed, SAFE funds were also used to provide FSP and the Inland Empire 511 traveler information services as part of a comprehensive motorist aid system in Riverside County.

In 1990, Proposition C was passed to fund transportation improvements and to help reduce traffic congestion in California. From this, the FSP program was created by Caltrans, which developed the corresponding Local Funding Allocation Plan to distribute funds to participating jurisdictions. In addition to funding received from Caltrans, agencies are required to contribute a 25 percent local match. For the Commission, SAFE revenues are used to meet this match requirement.

The Commission, acting in its capacity as the RC SAFE, is the principal agency in Riverside County, in partnership with Caltrans and the California Highway Patrol (CHP), managing the FSP program. The purpose of the FSP program is to provide a continuously roving tow services patrol along designated freeway segments (referred to as beats) to relieve freeway congestion and facilitate the rapid removal of disabled vehicles and those involved in minor accidents on local freeways. Contracts to provide FSP tow service are competitively bid as needed for each beat. Currently, the Commission contracts with three tow truck operators to provide service on a total of twelve beats Monday through Friday during the peak commute hours, 5:30 a.m. to 8:30 a.m. and 2:30 p.m. (12:30 p.m. on Fridays) to 6:30 p.m. Special weekend service on Beat Nos. 4 and 8, funded by the Mobile Source Air Pollution Reduction Review Committee (MSRC), is operated on Saturday and Sunday from 10:00 a.m. to 6:00 p.m. In FY 2019/20, FSP performed 49,064 assists.

DISCUSSION:

Staff sought a competitive solution to award tow service contracts to qualified firms for the following three beats on SR-91 and SR-60 as illustrated on Figure 1.

Beat No.	Beat No. Description	Number of Tow Trucks
4	SR-91 from Magnolia Ave to 60/91/215 Interchange	2 (+1 backup truck)
7	SR-60 from Milliken St to Main St	2 (+1 backup truck)
8	SR-60 from Central Ave to I-215 at Alessandro Blvd to SR-60 at Theodore St	2 (+1 backup truck)

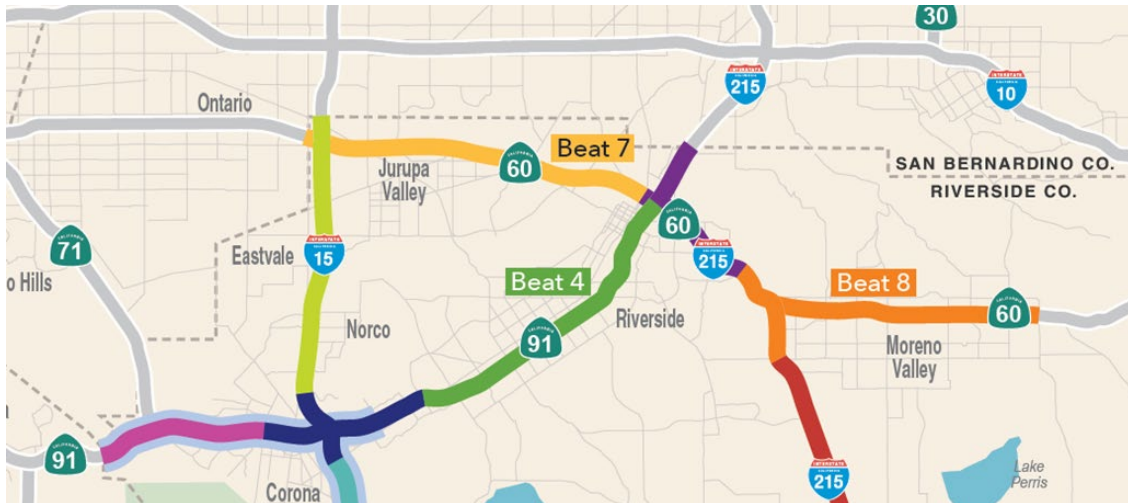


Figure 1: Beats 4, 7, 8

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, personnel, and the ability to respond to the Commission's needs for FSP tow truck services on SR-91, Beat No. 4 and SR-60, Beat Nos. 7 and 8, as set forth under the terms of the request for proposals (RFP) No. 21-45-049-00.

Prior to the release of the RFP, staff conducted electronic outreach, in an effort to increase the participation of tow operators in the FSP program:

- Email Blasts: Five targeted email blasts were sent to over 130 tow company addresses that included:
 - An Introduction to FSP,
 - Facts & Myths about FSP,
 - Pricing Facts,
 - Positive Changes in the FSP program, and
 - RFP Beats Map

Normally, staff would have also conducted in-person meetings, prior to the release of the RFP, to discuss any questions tow operators might have about the process and provide information about the FSP program. Staff would have also participated in an informational booth at the 2020 California Tow Truck Association (CTTA) Tow Show, hosted with nine other counties in the state, to provide information about FSP and stay informed of current topics and issues within the tow industry. Unfortunately, COVID-19 precluded these outreach efforts. Despite the pandemic, the electronic outreach efforts did result in several responses received requesting further information about FSP and the RFP.

Outreach efforts help to spread knowledge and awareness about the FSP program. Although not all tow operators reached may propose, the outreach effort helps the Commission strengthen its ongoing relationship with local tow companies and the CTTA for any future RFPs that may be released.

Staff's previous outreach efforts and conversations with tow companies also led to changes to the FSP contract which were included in this RFP:

- Offering a different hourly rate for each year of the contract to address inflation costs;
- Offering an optional disbursement of a mobilization payment to help the tow company purchase its tow trucks and insurance prior to the start of the contract; and
- Lastly, allowing for a difference in hourly rates when it comes to regular work versus "extra work". Extra work is work done outside of regular peak FSP service hours and/or coverage areas, typically for supplemental FSP service in support of a construction project.

RFP No. 21-45-049-00 was released on April 8, 2021. The RFP was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Utilizing PlanetBids, emails were sent to 41 firms, 19 of which are located in Riverside County. Through the PlanetBids site, 11 firms downloaded the RFP; three of these firms are located in Riverside County. A pre-proposal conference was held on April 15, 2021, and was attended by four firms. Staff responded to all questions submitted by potential proposers prior to the April 29, 2021 clarification deadline date. Three firms – Coastal Pride Towing, Inc. (Riverside); Pepe's Towing Service Inc. (Colton); and Royal Coaches Auto Body & Towing (Riverside) – submitted proposals prior to the 2:00 p.m. submittal deadline on May 18, 2021. Coastal Pride Towing, Inc. Pepe's Towing Service Inc., and Royal Coaches Auto Body & Towing submitted proposals for all three beats. All proposals submitted were responsive and responsible proposals.

An evaluation committee comprised of the CHP Inland Division, Orange County Transportation Authority, San Bernardino County Transportation Authority, and Commission staff evaluated each proposal in accordance with the evaluation criteria set forth in the RFP. Based on the evaluation committee's assessment of the written proposals and pursuant to the terms of the RFP, the evaluation committee shortlisted all three firms for each beat. The evaluation committee conducted interviews of key personnel and reviewed site visit videos on June 3, 2021.

Accordingly, the evaluation committee provided final scoring based on a comprehensive evaluation of each written proposal and interview. Based on the evaluation committee's assessment, the evaluation committee determined Pepe's Towing Service Inc. to be the most qualified firm to perform the work outlined in the scope of services for Beat Nos. 4, 7, and 8.

The proposed five-year contract totals and evaluation rankings for all firms are presented in the following tables:

State Route 91 – Beat No. 4		
Firm	Total	Evaluation Ranking
Pepe's Towing Service Inc.	\$1,666,787	1
Royal Coaches Auto Body & Towing	\$1,693,997	2
Coastal Pride Towing, Inc.	\$1,710,410	3

State Route 60 - Beat No. 7		
Firm	Total	Evaluation Ranking
Pepe's Towing Service Inc.	\$1,666,787	1
Royal Coaches Auto Body & Towing	\$1,693,991	2
Coastal Pride Towing, Inc.	\$1,710,410	3

State Route 60 - Beat No. 8		
Firm	Total	Evaluation Ranking
Pepe's Towing Service Inc.	\$1,666,787	1
Royal Coaches Auto Body & Towing	\$1,693,991	2
Coastal Pride Towing, Inc.	\$1,710,410	3

As a result of the evaluation committee's assessment of the written proposals and interviews, the evaluation committee recommends contract award for FSP tow truck services for SR-91, Beat No. 4, and SR-60, Beat Nos. 7 and 8, to Pepe's Towing Service Inc. for a five-year term, in the amount of \$1,666,787, plus a contingency of \$83,340, for a total amount not to exceed \$1,750,127 for Beat No. 4; \$1,666,787, plus a contingency of \$83,340, for a total amount not to exceed \$1,750,127 for Beat No. 7; \$1,666,787, plus a contingency of \$83,340, for a total amount not to exceed \$1,750,127 for Beat No. 8.

The Commission's standard form FSP services agreement will be entered into with the consultant subject to any changes approved by the Executive Director and pursuant to legal counsel review. Staff also recommends that the Executive Director, or designee, approve the use of the contingency amount as may be required for these services. The three new contracts will begin FSP service in January 2022.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$502,150 \$4,748,231
Source of Funds:	State of California, SAFE funds, MSRC Grant			Budget Adjustment:	No N/A
GL/Project Accounting No.:	002173 81014 00000 0000 201 45 81002				
Fiscal Procedures Approved:	<i>Theresa Irujo</i>			Date:	06/16/2021

Attachments:

- 1) Draft FSP Agreement No. 21-45-049-00 with Pepe's Towing Service Inc.

- 2) Draft FSP Agreement No. 21-45-050-00 with Pepe's Towing Service Inc.
- 3) Draft FSP Agreement No. 21-45-051-00 with Pepe's Towing Service Inc.
- 4) FSP Outreach Flyers

*Approved by the Western Riverside County Programs and Projects Committee on
June 28, 2021*

In Favor: 11 Abstain: 1 No: 0

Agreement No. 21-45-049-00

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION, ACTING AS THE RIVERSIDE
COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES,
FOR
FREEWAY SERVICE PATROL FOR BEAT # 4 WITHIN RIVERSIDE COUNTY
WITH PEPE'S TOWING SERVICE**

1. PARTIES AND DATE.

1.1 This Agreement is made and entered into as of _____ day of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("COMMISSION") acting as the RIVERSIDE COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES ("SAFE") and PEPE'S TOWING SERVICE, a California Corporation (referred to herein as "CONTRACTOR"). SAFE and CONTRACTOR are sometimes individually referred to herein as "Party" and collectively as "Parties".

1.2 The California Highway Patrol herein referred to as "CHP" and California Department of Transportation, herein referred to as "Caltrans" are hereby expressly designated as third-party beneficiaries of CONTRACTOR's performance under this Agreement.

2. RECITALS.

2.1 **WHEREAS**, COMMISSION is a California County Transportation Commission existing under the authority of Section 130050 et seq. of the California Public Utilities Code;

2.2 **WHEREAS**, COMMISSION is authorized, pursuant to Section 2550 et seq. of the California Streets and Highways Code, to act as SAFE for purposes of providing a motorist aid system, including provision of freeway service patrols;

2.3 **WHEREAS**, SAFE requires the services of a CONTRACTOR to provide the freeway service patrol professional services as described in the Scope of Services;

2.4 **WHEREAS**, SAFE has determined that CONTRACTOR is best qualified to perform the required services;

2.5 **WHEREAS**, the CONTRACTOR is able and willing to perform the required services under the terms and conditions of this Contract;

2.6 **WHEREAS**, COMMISSION is the short range transportation planning agency for Riverside County, and programs federal, state, and local funds. COMMISSION has entered into a Memorandum of Understanding

with Caltrans and CHP to fund peak period freeway service patrols on selected freeway segments in Riverside County; and

- 2.7 **WHEREAS**, Section 21718 (a) of the California Vehicle Code specifically authorized CHP to be responsible for freeway service patrols stopping on freeways for the purpose of rapid removal of impediments to traffic. Article 3, Section 91, of the Streets and Highways Code, states that Caltrans has responsibility to improve and maintain the state highways. Caltrans also has the responsibility for traffic management and removing impediments from the highways.

NOW, THEREFORE, for the consideration hereinafter stated, SAFE and CONTRACTOR agree as follows:

3. TERMS.

3.1 General Scope of Services. The purpose of the Freeway Service Patrol ("FSP") program is to provide for the rapid removal of disabled vehicles and vehicles involved in minor accidents from the freeway. Contractor promises and agrees to furnish to SAFE all labor materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately provide the FSP services ("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, and the SOP manual (as defined below).

3.1.1. Contract Oversight. Caltrans and CHP will jointly oversee the Services. Both agencies will have responsibility for overseeing Service performance and ensuring that the CONTRACTOR abides by the terms of this Contract. CHP is responsible for dispatch services to incident locations within the CONTRACTOR's patrol limits. The dispatching will be done in accordance with this Contract. A Standard Operating Procedures ("SOP") manual will be given to the CONTRACTOR explaining the types of incidents to which his/her operators may be dispatched.

3.1.2 Beat Descriptions. The FSP will operate on selected freeway segments referred to herein as "beats". Each beat has specific turnaround locations and designated drop locations identified by the CHP. Exhibit "A" shows the specific limits, number of tow trucks, number of back-up trucks and hours of operation, and holidays for the CONTRACTOR's specific beat. SAFE reserves the right to add or delete holidays to the work schedule, provided that SAFE provides CONTRACTOR seven (7) days advanced notice of such addition or deletion. Travel time to and from the beat will be at the expense of the CONTRACTOR.

3.1.3 Change Orders. At any time during the term of this Contract, SAFE reserves the right to adjust beat specifications to better accommodate demand for the Services, or availability of funding, at no cost to SAFE. Adjustments may include reduction in

the hours of Services. SAFE may direct such adjustments during the course of this Contract through written change orders, signed by SAFE, setting forth any changes to Exhibit "A". Changes may include a change of the specified beat(s) to other beats that SAFE determines better serve the needs of SAFE, as well as changes to schedules and hours for the beats set forth in Exhibit "A". If warranted, as determined in SAFE's sole discretion, and during the hours of operation of the Services, the CONTRACTOR may be requested to temporarily reassign his/her FSP operators/trucks to locations outside the assigned beat. Such reassignments shall be at no cost to SAFE.

3.1.4. The SOP Manual. To promote a safe work environment and for the maintenance of professionalism, the most current version of the SOP manual shall, at all times, be followed by the CONTRACTOR and its vehicle operators. The SOP manual, as such manual may from time to time be amended, is incorporated into this Contract by reference. CONTRACTOR shall be notified and provided with a copy of any changes to the SOP manual. Drivers found not to be in compliance with FSP procedures, as set forth in the SOP manual or this Contract, may be suspended or terminated from the FSP program and the CONTRACTOR may be fined three (3) times the hourly Contract rate in one (1) minute increments until a replacement vehicle is provided (Driver and Truck must return to beat compliant with all FSP requirements), or fined for the entire shift at three (3) times the hourly rate at the discretion of the FSP Field Supervisors.

3.2 Equipment Requirements. CONTRACTOR shall comply with all equipment requirements outlined in the attached Exhibit "A".

3.3 Commencement of Services. The CONTRACTOR shall commence work upon receipt of a written Notice to Proceed from SAFE.

3.4 Term. The term of this Contract shall be for a period of five (5) years, from **January 4, 2022** to **January 3, 2027** unless earlier terminated as provided herein. SAFE shall also have the right to renew this Contract from one month up to a one (1) year term after the initial term by providing notice as provided below. SAFE must provide written notice to CONTRACTOR no less than ninety (90) days prior to the end of the applicable term, indicating its renewal of the Contract. CONTRACTOR shall complete the Services within the term of this Contract, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Contract shall remain in effect following the termination of this Contract. The rates shall be as follows:

SCHEDULE OF HOURLY RATES

Classification	Year 1	Year 2	Year 3	Year 4	Year 5
Regular Rate	\$ 81.75 per hour	\$ 83.75 per hour	\$ 85.56 per hour	\$ 87.23 per hour	\$ 89.10 per hour
CFSP/Extra Rate	\$ 89.93 per hour	\$ 92.12 per hour	\$ 94.12 per hour	\$ 95.95 per hour	\$ 98.01 per hour

3.5 SAFE's Representative. SAFE hereby designates the SAFE Executive Director or his or her designee, to act as its Representative for the performance of this

Contract ("SAFE's Representative"). SAFE's Representative shall have the authority to act on behalf of SAFE for all purposes under this Contract. SAFE's Representative shall also review and give approval, as needed, to the details of CONTRACTOR's work as it progresses. CONTRACTOR shall not accept direction or orders from any person other than the SAFE's Representative or his or her designee.

3.6 CONTRACTOR'S Representative. CONTRACTOR hereby designates **Lorenzo Navarro, Vice President**, to act as its representative for the performance of this Contract ("CONTRACTOR's Representative"). CONTRACTOR's Representative shall have full authority to act on behalf of CONTRACTOR for all purposes under this Contract. 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 Contract. CONTRACTOR shall work closely and cooperate fully with SAFE's Representative and any other agencies which may have jurisdiction over or an interest in the Services. CONTRACTOR's Representative shall be available to the SAFE staff at all reasonable times. Any substitution in CONTRACTOR's Representative shall be approved in writing by SAFE's Representative.

3.7 Substitution of Key Personnel. CONTRACTOR has represented to SAFE that certain key personnel will perform and coordinate the Services under this Contract. Should one or more of such personnel become unavailable, CONTRACTOR may substitute other personnel of at least equal competence upon written approval by SAFE's Representative. In the event that SAFE's Representative and CONTRACTOR cannot agree as to the substitution of the key personnel, SAFE shall be entitled to terminate this Contract for cause, pursuant to the provisions of Section 3.15. The key personnel for performance of this Contract are: **Manuel Acosta, Owner/CEO; Lorenzo Navarro, General Manager; Pete Ortiz, Administrative Manager; Fernando Soria, Operations Manager; Laura Acosta, Office Administrator.**

3.7.1 Availability of FSP Manager. Except in the case of unpreventable circumstances, the FSP Manager must be available at the CONTRACTOR's office for at least 50% of each Work Day to address time sensitive issues related to this Contract or the Services, including, but not limited to, FSP administrative responsibilities; SAFE, CHP, and Caltrans requests; driver matters; and truck maintenance issues. CONTRACTOR shall, within 24 hours, notify SAFE of each circumstance causing the FSP Manager not to be available as required herein. As used in this section, the term "Work Day" shall mean and refer to any day that FSP service is provided, during those hours of operation for Construction FSP as identified on the attached Exhibit "A-1".

3.8 Review of Work and Deliverables. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Contract may be required to be submitted to SAFE's Representative in draft form, and SAFE's Representative may require revisions of such drafts prior to formal submission and approval. In the event that SAFE's Representative, in his or her sole discretion, determines the formally submitted work product to be inadequate, SAFE's Representative may require

CONTRACTOR to revise and resubmit the work at no cost to SAFE. Upon determination by SAFE that CONTRACTOR has satisfactorily completed the Services required under this Contract and within the term set forth in Section 3.4, SAFE shall give CONTRACTOR a written Notice of Final Completion. Upon receipt of such notice, CONTRACTOR shall incur no further costs hereunder, unless otherwise specified in the Notice of Completion. CONTRACTOR may request issuance of a Notice of Final Completion when, in its opinion, it has satisfactorily completed all Services required under the provisions of this Contract.

3.9 Appearance at Hearings. If and when required by SAFE, CONTRACTOR shall render assistance at public hearings or other meetings related to the performance of the Services.

3.10 Standard of Care: Licenses. CONTRACTOR represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Contract. CONTRACTOR 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. CONTRACTOR warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. CONTRACTOR further represents and warrants to SAFE that its employees and subcontractors have all licenses, permits, qualifications (including medical certification) 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 Contract. CONTRACTOR shall perform, at its own cost and expense and without reimbursement from SAFE, 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, and shall be fully responsible to SAFE for all damages and other liabilities provided for in the indemnification provisions of this Contract arising from the CONTRACTOR's errors and omissions. Any employee of CONTRACTOR or its subcontractors who is determined by SAFE to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services, 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 SAFE, shall be promptly removed from performing the Services by the CONTRACTOR and shall not be re-employed to perform any of the Services.

3.11 Opportunity to Cure. SAFE may provide CONTRACTOR an opportunity to cure, at CONTRACTOR's expense, all errors and omissions which may be disclosed during performance of the Services. Should CONTRACTOR fail to make such correction in a timely manner, such correction may be made by SAFE, and the cost thereof charged to CONTRACTOR.

3.12 Inspection of Work. CONTRACTOR shall allow SAFE's Representative to inspect or review CONTRACTOR's performance of Services in progress at any time. SAFE/Caltrans/CHP also reserves the right to audit all paperwork demonstrating that CONTRACTOR participates in an employee alcohol/drug-testing program and the DMV Pull Notice Program.

3.13 Laws and Regulations. 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 Services, including all Cal/OSHA requirements, and shall give all notices required by law. CONTRACTOR shall be solely 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 SAFE, CONTRACTOR shall be solely responsible for all costs arising therefrom. CONTRACTOR shall defend, indemnify and hold SAFE, their officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.14 Damage Complaints. Upon receiving a damage complaint from a motorist assisted by the CONTRACTOR, that the CONTRACTOR damaged their vehicle while lending assistance, the CONTRACTOR shall notify CHP immediately regarding the nature of the damage complaint and its disposition. The CONTRACTOR shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification. If necessary, the CONTRACTOR shall send either his or her authorized representative or his or her insurance company representative to inspect the vehicle and complete an incident report within forty-eight (48) hours after receiving the damage complaint. If the investigation shows that damage to the vehicle could have been caused by the CONTRACTOR, the CONTRACTOR shall negotiate in good faith to try and resolve the issue and shall report to the CHP the result of the negotiations. All complaints shall be resolved within a reasonable period of time after being received.

3.14.1 Complaint Review Committee. The FSP Technical Advisory Committee ("FSP TAC") is composed of voting members from CHP, SAFE and Caltrans. Voting members of the FSP TAC are hereby designated as the members of the Damage Complaint Review Committee ("DCRC"). If the DCRC finds that justifiable complaints are not resolved within a reasonable time frame, it can recommend that payment to the CONTRACTOR in the amount of the damage claim may be deducted from the CONTRACTOR's monthly invoice.

3.15 Termination.

3.15.1 Notice; Reason. SAFE may, by written notice to CONTRACTOR, terminate this Contract, in whole or in part, including, without limitation, the geographical territory covered by this Contract, at any time by giving written notice to CONTRACTOR of such termination, and specifying the effective date thereof ("Notice of Termination"). Such termination may be for SAFE's convenience, due to lack of available funding for the Services, or because of CONTRACTOR's failure to perform its duties and obligations under this Contract, including, but not limited to, the failure of CONTRACTOR to timely perform Services pursuant to the Scope of Services described in Section 3, entitled "Terms," as well as Section 7 of the RFP. CONTRACTOR may not terminate this Contract except for cause.

3.15.2 Discontinuance of Services. Upon receipt of the written Notice of Termination, CONTRACTOR shall discontinue all affected Services as directed in the Notice of Termination, and deliver to SAFE all Documents and Data, as defined in this Contract, as may have been prepared or accumulated by CONTRACTOR in performance of the Services, whether completed or in progress.

3.15.3 Effect of Termination For Convenience. If the termination is to be for the convenience of SAFE, SAFE shall compensate CONTRACTOR for Services fully and adequately provided through the effective date of termination as provided in the Notice of Termination. Such payment shall include a pro-rated amount of profit, if applicable, up through such effective date, but no amount shall be paid for anticipated profit on unperformed Services past such effective date. CONTRACTOR shall provide documentation deemed adequate by SAFE's Representative to show the Services actually completed by CONTRACTOR prior to the effective date of termination. This Contract shall terminate on the effective date of the Notice of Termination.

3.15.4 Effect of Termination for Cause. If the termination is for cause, CONTRACTOR shall be compensated for those Services which have been fully and adequately completed and accepted by SAFE as of the effective date of termination as provided in the Notice of Termination. In such case, SAFE may take over the work and prosecute the same to completion by contract or otherwise. Further, CONTRACTOR shall be liable to SAFE for any reasonable additional costs or damages incurred to revise work for which SAFE has compensated CONTRACTOR under this Contract, but which SAFE has determined in its sole discretion needs to be revised, in part or whole. Termination of this Contract for cause may be considered by SAFE in determining whether to enter into future contracts with CONTRACTOR.

3.15.5 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 Contract.

3.15.6 Procurement of Similar Services. In the event this Contract is terminated, in whole or in part, as provided by this Section, SAFE may procure, upon such terms and in such manner as it deems appropriate, services similar to those terminated.

3.15.7 Waivers. CONTRACTOR, in executing this Contract, recognizes that the Services may be terminated, in whole or in part, as provided in this Section. CONTRACTOR shall not be entitled to any damages including, but not limited to, any compensation for costs incurred to procure vehicles, meet the terms for providing the Services, or for any other costs or expenses, and shall be deemed to have waived any and all claims for damages, costs or expenses which may otherwise arise from SAFE's termination of this Contract, for convenience or cause, as provided in this Section.

3.15.8 Authorization to Terminate. The Executive Director of SAFE shall have the full authority and discretion to exercise SAFE's rights under this Section 3.15, entitled "Termination".

3.16 Trend Meetings. CONTRACTOR shall attend, or send a designated management-level representative, to all trend meetings (i.e., required FSP TAC meeting which meets every other month). These trend meetings will encompass focused and informal discussions concerning, but not limited to: scope, Services, schedule, current progress of Services, relevant cost issues, and future objectives. CONTRACTOR shall be responsible for having a representative attend all meetings (i.e., FSP TAC meetings) that has the ability to make management-level decisions on the behalf of the CONTRACTOR. If the CONTRACTOR cannot have a management-level representative at a meeting, CONTRACTOR shall notify SAFE and CHP prior to the meeting. Management-level attendance at these meetings shall be considered part of the CONTRACTOR's contractual responsibility. Meetings are scheduled, and CONTRACTOR will be notified of such schedule, no later than three (3) working days prior to the meeting.

3.17 Fees and Payment.

3.17.1 Amount to be Paid. Subject to the provisions set forth below for Services satisfactorily performed hereunder, SAFE shall pay the CONTRACTOR on a fixed unit rate basis a ceiling price NOT TO EXCEED **One Million Six Hundred Sixty-Six Thousand Seven Hundred Eighty-Seven Dollars (\$1,666,787).**

3.17.2 Maximum Payment is the Ceiling Price. SAFE shall not be obligated to pay costs which exceed the ceiling price set forth above, except as provided in Sections 3.15 and 3.17.10. CONTRACTOR agrees to use its best efforts to perform the services and all obligations under this Contract within such ceiling price.

3.17.3 Hourly Rate; Break and Meal Periods. For its performance of the Services, the CONTRACTOR shall be paid for labor expended directly in the performance of the Services at the rates specified below. Payments shall be made monthly in arrears based on Services provided and allowable incurred expenses. The CONTRACTOR shall not be entitled to reimbursements for any expenses unless approved in advance in writing.

SCHEDULE OF HOURLY RATES

Classification	Year 1	Year 2	Year 3	Year 4	Year 5
Regular Rate	\$ 81.75 per hour	\$ 83.75 per hour	\$ 85.56 per hour	\$ 87.23 per hour	\$ 89.10 per hour
CFSP/Extra Rate	\$ 89.93 per hour	\$ 92.12 per hour	\$ 94.12 per hour	\$ 95.95 per hour	\$ 98.01 per hour

Hourly rates may be adjusted as set forth in Chapter 9, Violations/Penalties, of the FSP Standard Operating Procedures (SOP).

A) CONTRACTOR is responsible for compliance with all California labor laws related to break periods and meal periods including, but not limited to, compliance with Labor Code section 512. CONTRACTOR shall be solely responsible for any additional pay to which its drivers may be entitled for CONTRACTOR's failure to comply with the California labor law requirements.

B) During shifts that require drivers to be provided a 30-minute meal period break pursuant to Labor Code section 512, CONTRACTOR shall either make arrangements for another certified driver to provide Services during those breaks or not be compensated for each 30-minute meal period break during which Services are not provided. In no case shall CONTRACTOR be entitled to bill RCTC for time during which a driver is taking a meal period break.

3.17.4 Payment Coverage. The compensation herein above specified will cover and include all applicable labor surcharges such as taxes, insurance and fringe benefits, as well as indirect costs, overhead, general and administrative expense, and profit.

3.17.5 Cost Principles.

A) CONTRACTOR agrees to comply with 2 CFR, Part 225, Cost Principles for State and Local Government, and 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

B) CONTRACTOR agrees that 1) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual cost items, and 2) CONTRACTOR shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C) Any costs for which CONTRACTOR has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 225, 48 CFR, Chapter 1, Part 31 or 2 CFR, Part 200, are subject to repayment by CONTRACTOR to SAFE. Should CONTRACTOR fail to reimburse moneys due SAFE within 30 days of demand, or within such other period as may be agreed in writing between the Parties hereto, SAFE is authorized to intercept and withhold future payments due CONTRACTOR from SAFE or any third-party source, including, but not limited to, the State Treasurer, the State Controller, and the California Transportation Commission.

3.17.6 Fines. Fines for starting late; leaving early; taking more breaks than authorized; or being ordered out of service by a CHP, SAFE Representative or Caltrans supervisor for Contract infractions shall be deducted from the CONTRACTOR's monthly invoice at five (5) times the hourly rate, plus the loss of revenue for the down time. Fines may be further described in the attached Exhibit "A" or Exhibit "B".

3.17.7 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.

3.17.8 Invoices. Invoices for CONTRACTOR's Services shall be submitted monthly on forms approved by SAFE. Invoices will be routinely verified by CHP. To ensure prompt payment, most billing disputes may be resolved within ten (10) working days of written notice of dispute. However, at SAFE's discretion, reconciliation of disputed fines that sum to less than 2% of the months' Invoice may be corrected on the next month's Invoice to ensure prompt payment of the major portion of the invoice. Each Invoice shall include a cover sheet bearing a certification as to the accuracy of the statement signed by the CONTRACTOR's authorized officer. Invoices shall be mailed to SAFE's Contract Administrator at the following address:

Riverside County Service Authority for Freeway Emergencies
FSP Program
P.O. Box 12008
Riverside, CA
92502-2208
Attn: Brian Cunanan

3.17.8.1 Payment Schedule. Invoice periods shall be based upon a calendar month, beginning with the first day of the month. SAFE shall reimburse CONTRACTOR for Services adequately provided under this Contract within thirty (30) days of receiving the current period invoice with no errors. If the Invoice is completed incorrectly by the CONTRACTOR it will delay payment. If SAFE fails to pay any amount owed to CONTRACTOR under this Contract within thirty (30) days after receipt of the invoice, CONTRACTOR may give SAFE a notice of failure to pay which shall set forth the invoice(s) and amount(s) which CONTRACTOR believes are thirty (30) days overdue. SAFE shall pay any undisputed invoice(s) and amount(s) within thirty (30) days of receipt of a notice of failure to pay.

3.17.9 Right to Audit. For the purpose of determining compliance with this Contract and other matters connected with the performance of CONTRACTOR's contracts with third parties, CONTRACTOR and its subcontractors shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times for three years from the date of final payment of Funds to CONTRACTOR. SAFE, the State of California acting through the Department of Transportation or its duly authorized representative, the California State Auditor, or the United States Department of Transportation shall each have access to any books, records, and documents that are pertinent for audits, examinations, excerpts, and transactions, and CONTRACTOR shall furnish copies thereof if requested.

3.17.10 Taxes. CONTRACTOR shall pay any sales, use, or other taxes, if any, attributable to the provision of the Services.

3.17.11 Travel and Subsistence. 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. If the rates invoiced are in excess of those authorized DPA rates, then CONTRACTOR is responsible for the cost difference and any overpayments shall be reimbursed to SAFE on demand.

3.17.12 Employment Adverse to the SAFE. CONTRACTOR shall notify SAFE, and shall obtain SAFE's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against SAFE during the term of this Contract.

3.17.13 Extra Work. At any time during the term of this Contract, SAFE may request CONTRACTOR to perform Extra Work. "Extra Work" shall mean any work which is determined by SAFE to be necessary for proper completion of the Services, but which the Parties did not reasonably anticipate would be necessary at the time of the execution of this Contract and was not included in the Scope of Services. Extra Work, if any, shall be reimbursed at the same hourly rate as identified in Section 3.17.3. CONTRACTOR shall not perform, nor be compensated for Extra Work without obtaining authorization in the form of a written Extra Work Order issued by SAFE's Representative. For instance, Construction FSP services as it relates to construction activity can be considered Extra Work. In the event an Extra Work Order is not issued and signed by SAFE's Representative, CONTRACTOR shall not provide such Extra Work. However, no compensation or reimbursement for Extra Work shall be paid if it is not authorized by SAFE and if the cumulative total of such Extra Work under the Contract exceeds \$25,000. All Extra Work in a cumulative total in excess of \$25,000 must be approved in advance by amendment to this Contract.

3.17.13.1 Extra Work Cancellation Policy. If a tow operator is scheduled for Extra Work and they are notified of a cancellation with **LESS than a 24 hour notice** – then the tow operator will be reimbursed for **three (3) hours** of the agreed upon contract hourly rate. *Note: The minimum of the three (3) hours should cover eight hours of the drivers' hourly wage.* Starting with "Less than a 24 hour cancellation notice" up to the time the tow operator is on the assigned Extra Work Beat, the "three contract hour cancellation rate" remains the same. Once the tow operator is on the Extra Work Beat, the cancellation policy changes.

If a tow operator begins the Extra Work (the truck is on the Beat) and is then notified that Extra Work has been cancelled, the FSP operator will be paid for the entire shift period **up to a maximum of eight (8) hours**. A shift period for this policy is defined as: the time period of the actual Extra Work shift assigned or for a maximum of eight (8) contract hours, whichever is less.

The supervising FSP CHP Officer for the Extra Work shift will make the final determination as to whether or not the tow operator will continue to work the Extra Work shift. Regardless, the tow operator will be reimbursed for the original shift period or a maximum of eight (8) hours, whichever is less.

3.17.14 Most Favored Customer. CONTRACTOR agrees that, throughout the term of this Contract, it shall not enter into any FSP services agreement with any government agency with whom it has either existing contractual relationship or has no

contractual relationship that predates this Contract, pursuant to which CONTRACTOR agrees to charge FSP services fees less than those as indicated in this Contract for substantially the same level of FSP services contemplated by this Contract. Should SAFE establish that such lower fees have been agreed to by CONTRACTOR with another government agency, CONTRACTOR agrees to renegotiate the fees or to refund SAFE an amount equal to the difference between the fees indicated in this Contract and the fees charged to other government agency customer.

3.18 Delay in Performance.

3.18.1 Excusable Delays. Neither Party shall be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by an Excusable Delay. Should CONTRACTOR be delayed or prevented from the timely performance of any act or Services required by the terms of the Contract by an Excusable Delay, Contractor's schedule for completion of tasks affected by such delay may be extended as set forth in Section 3.18.2. But in every case, CONTRACTOR's failure to perform must be reasonably beyond the control, and without the fault or negligence of the CONTRACTOR. Excusable Delays are acts of God or of the public enemy, acts or omissions of SAFE or other governmental agencies in either their sovereign or contractual capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather.

3.18.2 Written Notice. If CONTRACTOR believes it is entitled to an extension of time due to conditions set forth in subsection 3.18.1, CONTRACTOR shall provide written notice to the SAFE within seven (7) working days from the time CONTRACTOR knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of CONTRACTOR to provide such timely notice shall constitute a waiver by CONTRACTOR of any right to an excusable delay in time of performance.

3.18.3 Mutual Contract. Performance of any Services under this Contract may be delayed upon mutual agreement of the Parties. Upon such agreement, CONTRACTOR's Schedule of Services (as defined in their Proposal) shall be extended as necessary by SAFE. CONTRACTOR shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

3.19 Status of CONTRACTOR/Subcontractors.

3.19.1 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 Contract. SAFE retains CONTRACTOR on an independent contractor basis and not as an employee, agent or representative of the SAFE. CONTRACTOR retains the right to perform similar or different services for others during the term of this Contract. Any additional personnel performing the Services under this Contract on behalf of CONTRACTOR 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 and as required by law. CONTRACTOR 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.

3.19.2 Assignment or Transfer. CONTRACTOR shall not assign, hypothecate, or transfer, either directly or by operation of law, this Contract or any interest herein, without the prior written consent of SAFE. 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. Notwithstanding the foregoing, SAFE may transfer or assign any and all of its rights and obligations under this Contract, including, without limitation the rights to terminate this Contract, as assigned, pursuant to Section 3.15 hereof.

3.19.3 Subcontracting. CONTRACTOR shall not subcontract any portion of the work or Services required by this Contract, except as expressly stated herein, including the Scope of Services, without prior written approval of the SAFE. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Contract. SAFE shall have no liability to any subconsultant(s) for payment for services under this Contract or other work performed for CONTRACTOR, and any subcontract entered into by CONTRACTOR pursuant to the conduct of services under this Contract shall duly note that the responsibility for payment for the technical services or any other work performed shall be the sole responsibility of CONTRACTOR.

3.20 CONTRACTOR will maintain an inventory of all non-expendable equipment, defined as having a useful life of at least two years and an acquisition cost of \$500 or more, paid for with funds provided pursuant to this Contract.

3.21 Ownership of Materials and Confidentiality.

3.21.1 Documents & Data; Licensing of Intellectual Property. All 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, spreadsheets, or data magnetically or otherwise recorded on computer diskettes, prepared by or on behalf of CONTRACTOR under this Contract ("Documents and Data"), shall be made available to SAFE at all times during this Contract and shall become the property of SAFE upon the completion of the term of this Contract, except that CONTRACTOR shall have the right to retain copies of all such Documents and Data for its records. Should CONTRACTOR, either during or following termination of this Contract, desire to use any Documents and Data, it shall first obtain the written approval of SAFE. This Contract creates a no-cost, nonexclusive, and perpetual license for SAFE to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in the Documents and Data which are prepared or caused to be prepared by CONTRACTOR under this Contract ("Intellectual Property"). CONTRACTOR shall require all subcontractors to agree in writing that SAFE is granted a no-cost, nonexclusive, and

perpetual license for any Intellectual Property the subcontractor prepares under this Contract. CONTRACTOR represents and warrants that CONTRACTOR has the legal right to license any and all Intellectual Property prepared or caused to be prepared by CONTRACTOR under this Contract. SAFE shall not be limited in any way in its use of the Intellectual Property at any time, provided that any such use not within the purposes intended by this Contract shall be at SAFE's sole risk.

3.21.2 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 CONTRACTOR in connection with the performance of this Contract shall be held confidential by CONTRACTOR to the extent permitted by law, including, without limitation, the California Public Records Act, Government Code section 6250 et seq. Such materials shall not, without the prior written consent of SAFE, be used by CONTRACTOR for any purposes other than the performance of the Services as provided herein. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services, except as provided herein. Nothing furnished to CONTRACTOR which is otherwise known to CONTRACTOR or is generally known, or becomes known, to the related industry shall be deemed confidential. CONTRACTOR shall not use SAFE's name or insignia, photographs, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production, or other similar medium without the prior written consent of SAFE.

3.22 Indemnification. CONTRACTOR shall indemnify and hold SAFE, COMMISSION, CHP, Caltrans and their directors, officials, officers, agents, contractors, consultants, employees, and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of, or incident to, any acts, omissions, or willful misconduct of the CONTRACTOR, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services or this Contract, including without limitation, the payment of all consequential damages and other related costs and expenses. CONTRACTOR shall defend, at CONTRACTOR'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 SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, contractors, consultants, employees, and volunteers. CONTRACTOR shall pay and satisfy any judgment, award, or decree that may be rendered against SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, consultants, employees, and volunteers, in any such suit, action, or other legal proceeding. CONTRACTOR shall reimburse SAFE, COMMISSION, CHP, Caltrans and their directors, officials, officers, agents, consultants, employees, and 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 not be restricted to insurance proceeds, if any, received by the CONTRACTOR, SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, consultants, employees, and volunteers.

3.23 Insurance.

3.23.1 Time for Compliance. CONTRACTOR shall not commence work under this Agreement until it has provided evidence satisfactory to SAFE that it has secured all insurance required under this section, in a form and with insurance companies acceptable to SAFE. In addition, CONTRACTOR shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

3.23.2 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:

(i) General Liability:

Per occurrence:	\$2,000,000
Project Specific Aggregate:	\$4,000,000
Products/Completed Operations:	\$1,000,000
Personal Injury Limit:	\$1,000,000

(ii) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and

(iii) 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.

3.23.3 On-Hook Insurance. CONTRACTOR shall maintain a policy of On-Hook Towing Insurance to include the care, custody or control exposure present while vehicles are being serviced roadside, on-hook, or in a storage yard for not less than one hundred thousand dollars (\$100,000).

3.23.4 Insurance Endorsements. The insurance policies shall contain the

following provisions, or CONTRACTOR shall provide endorsements on forms approved by SAFE 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 SAFE, COMMISSION, CHP, Caltrans 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 SAFE, COMMISSION, CHP, 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) SAFE, COMMISSION, CHP, 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 CONTRACTOR or for which the CONTRACTOR is responsible; and (2) the insurance coverage shall be primary insurance as respects SAFE, COMMISSION, CHP, Caltrans and their 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 SAFE, COMMISSION, CHP, Caltrans or their 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 SAFE, 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) 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 SAFE, 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 SAFE, COMMISSION, CHP, and Caltrans (if agreed to in a written contract or agreement) before SAFE, COMMISSION, CHP or Caltrans 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 SAFE 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 SAFE 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 SAFE, 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, SAFE has the right but not the duty to obtain the insurance it deems necessary and any premium paid by SAFE will be promptly reimbursed by CONTRACTOR or SAFE will withhold amounts sufficient to pay premium from CONTRACTOR payments. In the alternative, SAFE may cancel this Agreement. SAFE may require the CONTRACTOR to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither SAFE, COMMISSION, CHP, Caltrans nor any of their 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:

3.23.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by SAFE. If SAFE does not approve the deductibles or self-insured retentions as presented, CONTRACTOR shall guarantee that, at the option of SAFE, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SAFE, 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.

3.23.6 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 SAFE.

3.23.7 Verification of Coverage. CONTRACTOR shall furnish SAFE with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to SAFE. 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 SAFE before work commences. SAFE reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.23.8 Subcontractor Insurance Requirements. CONTRACTOR shall not allow any subcontractors to commence work on any subcontract until they have provided evidence satisfactory to SAFE 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 SAFE, COMMISSION, CHP and Caltrans as additional insureds using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by CONTRACTOR, SAFE may approve different scopes or minimum limits of insurance for particular subcontractors or subcontractors.

3.23.9 Review of Coverage. SAFE retains the right at any time to review the coverage, form and amount of insurance required herein and may require CONTRACTOR to obtain additional insurance reasonably sufficient in coverage, form, amount to provide adequate protection against the kind and extent of risk which exists at the time of change in insurance required.

3.23.10 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.

3.24 Prohibited Interests.

3.24.1 Solicitation. CONTRACTOR 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 Contract. 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, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, SAFE shall have the right to rescind this Contract without liability.

3.24.2 Conflict of Interest. For the term of this Contract, no member, officer or employee of SAFE, during the term of his or her service with SAFE, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom.

3.24.3 Conflict of Employment. Employment by the CONTRACTOR of personnel currently on the payroll of SAFE shall not be permitted in the performance of this Contract, 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 CONTRACTOR of personnel who have been on SAFE payroll within one year prior to the

date of execution of this Contract, where this employment is caused by, and or dependent upon, the CONTRACTOR securing this or related Contracts with SAFE, is prohibited.

3.25 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, ancestry, sex, age, disability (including HIV and AIDS), mental disability, medical condition (cancer), marital status, denial of family and medical care leave, or denial of pregnancy disability leave. 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. Employment and Housing Act (Gov. Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Admin. Code, Tit. 2, Section 7285.0 et seq.): The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Sec 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code, Sec 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this Contract by reference and made a part hereof as if set forth in full. CONTRACTOR shall include the provisions of this Section in all of CONTRACTOR's subcontracts with respect to work under this Agreement, unless exempted by the Regulations. CONTRACTOR shall also comply with all relevant provisions of SAFE's Minority Business Enterprise program, Affirmative Action Plan, or other related SAFE programs or guidelines currently in effect or hereinafter enacted.

3.26 Right to Employ Other CONTRACTORS. SAFE reserves the right to employ other CONTRACTORS in connection with the Services.

3.27 Governing Law. The validity of this Contract and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by and construed with the laws of the State of California.

3.28 Venue. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in Riverside County, California. The Parties agree that the venue for any action or claim brought by any Party will be the Central District of Riverside County. Each Party hereby waives any law or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties agree to use their best efforts to obtain a change of venue to the Central District of Riverside County.

3.29 Time of Essence. Time is of the essence for each and every provision of this Contract.

3.30 Headings. Article and section headings, paragraph captions, or marginal headings contained in this Contract are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

3.31 Notices. All notices hereunder and communications regarding interpretation of the terms of this Contract or changes thereto shall be given to the respective

Parties at the following addresses, or at such other addresses as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

**Pepe's Towing Service
2000 W. Key Street
Colton, CA 92324
Attn: Lorenzo Navarro**

SAFE:

**Riverside County Service Authority
for Freeway Emergencies
FSP Program
P.O. Box 12008
Riverside, CA
92502-2208
Attn: Brian Cunanan**

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.

3.32 Electronic Delivery of Agreement. 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 the Agreement for all purposes.

3.33 Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.34 Entire Contract. This Agreement contains the entire Agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, contracts or understandings.

3.35 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.

3.36 No Waiver. Failure of CONTRACTOR 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.

3.37 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 SAFE 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 CONTRACTOR or the Services are not subject to the Eight-Hour Law.

3.38 Subpoenas or Court Orders. Should CONTRACTOR receive a subpoena or court order related to this Agreement, the Services or the Project, CONTRACTOR shall immediately provide written notice of the subpoena or court order to the SAFE. CONTRACTOR shall not respond to any such subpoena or court order until notice to the SAFE is provided as required herein and shall cooperate with the SAFE in responding to the subpoena or court order.

3.39 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, and the obligations related to receipt of subpoenas or court orders, shall survive any such expiration or termination.

3.40 Counterparts. This Agreement may be signed in one or more counterparts, any one of which shall be effective as an original document.

3.41 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

3.42 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. In the event the standards set forth in this Agreement conflict with the standards set forth in any exhibit hereto, the higher standard shall govern.

3.43 Attorneys' Fees and Costs. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under Section 3.21, Indemnification.

3.44 Consent. Whenever consent or approval of any Party is required under this Contract, that Party shall not unreasonably withhold nor delay such consent or approval.

3.45 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.46 Mobilization Costs Payment. Intentionally Omitted

[Signatures on following page]

DRAFT

**SIGNATURE PAGE
TO AGREEMENT 21-45-049-00**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first herein written above.

RIVERSIDE COUNTY
TRANSPORTATION COMMISSION
ACTING AS THE
RIVERSIDE COUNTY SERVICE
AUTHORITY FOR FREEWAY
EMERGENCIES

PEPE'S TOWING SERVICE

By: _____
Anne Mayer, Executive Director

By: _____

Name

Title

APPROVED AS TO FORM:

Attest:

By: _____
Best Best & Krieger LLP,
Counsel to the Riverside County
Service Authority for
Freeway Emergencies

By: _____

Its: Secretary

EXHIBIT “A”

Scope of Services

DRAFT

1.0 GENERAL INFORMATION

1.1 Background & Introduction

In 1986, the Commission established itself as the Riverside County Service Authority for Freeway Emergencies (RC SAFE) after the enactment of SB 1199 in 1985. The purpose of the formation of SAFEs in California was to provide call box services and, with excess funds, provide additional motorist aid services. Funding for RC SAFE is derived from a one dollar per vehicle registration fee on vehicles registered in Riverside County. Initially, these funds were used only for the call box program. As additional motorist aid services were developed, SAFE funds were also used to provide Freeway Service Patrol (FSP) and the Inland Empire 511 traveler information services as part of a comprehensive motorist aid system in Riverside County.

In 1990, Proposition C was passed to fund transportation improvements and to help reduce traffic congestion in California. From this, the FSP program was created by Caltrans, which developed the corresponding Local Funding Allocation Plan to distribute funds to participating jurisdictions. In addition to funding received from Caltrans, agencies are required to contribute a 25 percent local match. For the Commission, SAFE revenues are used to meet this match requirement.

The Commission, acting in its capacity as the SAFE, is the principal agency in Riverside County, in partnership with Caltrans and the California Highway Patrol (CHP), managing the FSP program. The purpose of the FSP program is to provide a continuously roving tow services patrol along designated freeway segments (referred to as beats) to relieve freeway congestion and facilitate the rapid removal of disabled vehicles and those involved in minor accidents on local freeways. Contracts to provide FSP tow service are competitively bid as needed for each beat.

1.2 Project Description

The purpose of the FSP program is to provide a continuous roving patrol for the rapid removal of disabled vehicles and those involved in minor accidents from the freeway. Where traffic conditions permit, safe removal of small debris will be required. Vehicle operators shall be responsible for clearing the freeway of automobiles, small trucks, and small debris. When and where conditions warrant, service may be executed on the freeway shoulders. Where conditions do not warrant, vehicle operators will remove the vehicles from the freeway to provide service. FSP vehicles shall continuously patrol their assigned beat, respond to CHP calls for Services, use the designated turnaround locations, and use the CHP identified designated drop locations.

FSP vehicle operators may be required to perform minor services such as change flat tires, provide "jump" starts, provide one gallon of gasoline or diesel fuel, temporarily tape cooling system hoses, and refill radiators in a safe and efficient manner. Vehicle operators may spend a maximum of ten (10) minutes per disablement in attempting to mobilize a vehicle. If a disabled vehicle cannot be mobilized within the ten-minute (10)

time limit, it shall be towed to a designated drop location identified by the CHP. The motorist can request the FSP vehicle operator to call the CHP Communications Center to request a CHP rotational tow or other services. FSP vehicle operators shall not be allowed to tow as an independent contractor from an incident that occurred during the FSP shift unless called as a rotation tow by CHP after the FSP shift has ended. If called as a rotation tow after a FSP shift, the vehicle operator must remove all FSP markings such as vests, uniforms, and magnetic vehicle signage.

There may be some instances where FSP operators may be requested to provide assistance to CHP officers. FSP operators shall follow the instructions of the CHP officer at the scene of any incident within the scope of the FSP program.

All FSP services shall be provided at no cost to the motorist. FSP vehicle operators shall not accept gratuities, perform secondary towing services, recommend secondary tows, or recommend repair/body shop businesses.

Freeway Service Patrol hours of operation are 5:30 a.m. to 8:30 a.m. and 2:30 p.m. to 6:30 p.m., Monday through Thursday; and 5:30 a.m. to 8:30 a.m. and 12:30 p.m. to 6:30 p.m. on Friday. Contractor vehicles shall be exclusively dedicated to the service during FSP service hours. All vehicle maintenance activities shall be conducted during non-service hours.

The FSP operates on selected freeway segments referred to as "Beats". Each Beat has specific turnaround locations and designated drop locations identified by the California Highway Patrol (CHP). The Scope of Services (Section 2.0) hereunder identifies the specific limits, number of tow trucks, number of back-up trucks, hours of operation, and tentative holidays on which the cost of each beat shall be based. RCTC reserves the right to add or delete holidays to the work schedule. Travel time to and from the Beat will be at the expense of the Contractor.

To be awarded a contract, a Contractor must have a tow facility within close proximity to the service area, have been in business as a tow service operator for a minimum of five (5) years, and have a minimum of one (1) full year experience working under contract/agreement and in good standing within the last three (3) years with any type of law enforcement agency.

A Contractor with no prior FSP experience shall be considered NEW and may only be awarded one FSP beat. A Contractor that has been terminated for cause from any FSP contract within the state shall not be eligible to participate in the Riverside County FSP program. A NEW Contractor, who remains in good standing, as determined by FSP management, may be considered for additional beat awards in future procurements. An existing Contractor that is not in good standing as determined by information received by the FSP management staff at the time of their proposal may, at the discretion of FSP management, be limited to the number of beats the Contractor is awarded, including not being awarded any beats.

FSP Management Staff reserves the right to limit the number of beats awarded to one Contractor.

At any time during the contract's term, RCTC reserves the right to adjust Beat specifications and Beat hours to better accommodate demand for the service, or the availability of funding. These changes can occur during the course of the contract through written change orders. If warranted during the service hours of operation, the Contractor may be requested to temporarily reassign his/her FSP operators/trucks to locations outside its assigned Beat. Tow Operators may be permitted to do this only upon CHP and/or RCTC approval. FSP vehicle operators shall follow the instructions of the CHP officer at the scene of any incident within the scope of the FSP program.

The contract start date for Beats 4, 7 and 8 shall be January 4, 2022. The first day of FSP service is Tuesday, January 4, 2022. These are 5-year contracts that expire on January 3, 2027.

If awarded a contract, the Contractor shall have one hundred seventy-three (173) calendar days for Beat 4, 7 and 8, after the notice of award (notice of award tentatively expected on or around July 15, 2021), in which to acquire the required equipment and hire and train vehicle operators. The Contractor shall have the appropriate number of primary and back-up trucks ready for equipment installation and CHP inspection no later than December 15, 2021. Any company that cannot meet the above-mentioned requirements shall not be awarded the contract(s).

2.0 Beat Description/Summary

FSP operates on selected freeway segments referred to as "beats". Each beat has specific turnaround locations and designated drop locations identified by the CHP. The specific limits, number of tow trucks, number of back-up trucks and hours of operation, including the holiday schedule, are detailed below. SAFE reserves the right to add or delete holidays to the work schedule, provided that SAFE provides CONTRACTOR seven (7) days advanced notice of such addition or deletion. Travel time to and from the beat will be at the expense of the CONTRACTOR.

At any time, SAFE reserves the right to adjust beat specifications to better accommodate demand for the Services, or availability of funding. These changes can occur during the course of this Contract through written change orders. If warranted and during the hours of operation of the Services, the CONTRACTOR may be requested to temporarily reassign his/her FSP operators/trucks to locations outside the assigned beat.

5-yr Contracts: January 4, 2022 to January 3, 2027				
FSP Beat #	Beat Description	One-Way Length in Miles	# Primary FSP Trucks in both AM and PM	# Backup FSP Trucks
4	SR91 from Magnolia Ave to 60/91/215 Interchange	11.0	2	1
7	SR60 from Milliken St to Main St	11.7	2	1
8	SR60 from Central Ave to I215 at Alessandro Blvd to SR60 at Theodore St	12.3	2	1

2.1 Hours of Operation:

Monday through Thursday: 5:30 a.m. to 8:30 a.m., and from 2:30 p.m. to 6:30 p.m.

Friday: 5:30 a.m. to 8:30 a.m., and from 12:30 p.m. to 6:30 p.m.

Each Beat requires at least one backup truck available at all times. **RCTC reserves the right to change Beat hours and operational requirements during the course of the contract.**

- a. Total estimated service hours per vehicle/per year: 1,950
- b. In addition to the above service hours, at the discretion of RCTC and CHP, additional service may be requested on certain "high traffic days" on/or following certain holidays (e.g., July 4th, Labor Day, and Memorial Day). Contractor will be notified at least one week prior to when this service is to be provided.

During FSP shifts that require a 30-minute meal period break to be provided pursuant to Labor Code section 512, the Contractor shall either make arrangements for another certified FSP driver to provide the contracted FSP coverage during those breaks or not be compensated for each 30-minute meal period break during which FSP service is not provided. In no case shall the Contractor be entitled to compensation from RCTC for time during which its FSP driver is taking a 30-minute meal period break, unless the Contractor has provided another driver to cover this 30-minute meal period break.

2.2 Holiday Schedule

Proposer shall submit its cost proposal for provision of the required FSP tow services five days each week, Monday through Friday, of each year during the contract term, except for the following ten (10) holidays:

1. Martin Luther King, Jr. Day (Monday)
2. Presidents' Day (Monday)
3. Memorial Day (Monday)
4. Independence Day (July 4 - varies)
5. Labor Day (Monday)
6. Veterans Day (varies)
7. Thanksgiving Day (Thursday)
8. Day after Thanksgiving (Friday)
9. Christmas Day (December 25 - varies)
10. New Year's Day (January 1 – varies)

3.0 FSP Management and Representatives

RCTC has entered into a Memorandum of Understanding with the California Department of Transportation (Caltrans) and CHP, in order to provide peak hour freeway service patrols on selected freeway segments for traffic mitigation, as well as air quality improvement within Riverside County. RCTC, Caltrans, and CHP will jointly oversee the service. RCTC serves as the contract administrator and funding partner; Caltrans provides oversight; and CHP is responsible for the daily operations and field supervision of the program.

Authority for FSP derives from (a) Section 21718 (A) of the California Vehicle Code, which allows FSP trucks supervised by the CHP to stop on freeways for the purpose of rapid removal of impediments to traffic, and (b) Article 3, Section 91, of the Streets and Highways Code, which states that Caltrans is responsible for traffic management and removing impediments from the highways, as well as improving and maintaining the state highways.

3.1 Standard Operating Procedures

The guidelines and policies of the FSP program, which promote a safe work environment and maintain a level of professionalism, are contained in the Standard Operating Procedures (SOP) manual developed by the CHP. The SOP and any updates to it are incorporated into the contract with RCTC, therefore, the Contractor and their vehicle operators are responsible to operate and adhere to the most recent version of the SOP at all times.

Contractor shall be held responsible for maintaining an updated SOP (latest version issued with the RFP), which is incorporated herein by reference. SOP revisions and updates shall be unilaterally issued by RCTC or CHP, as deemed necessary by CHP or the FSP Technical Advisory Committee, and all changes, revisions and updates to

the SOP, if any, shall supersede all previous or existing SOPs. A copy of the SOP is included as part of the original RFP package and additional hard or soft copies can be provided to all interested parties upon request.

Vehicle operators or trucks found not to be in compliance with FSP procedures defined in the SOP may be penalized, suspended, and/or terminated from the FSP program and the company may also be assessed liquidated damages amounts for said violations as described herein. Liquidated damages are inclusive of other remedies at law and/or those described under the terms of the contract.

Refer to Proposal Pricing Form for further details on violations and penalties.

4.0 Vehicles

4.1 Tow Truck Requirements

Primary and back-up FSP tow trucks shall be exclusively dedicated to the FSP program during FSP service hours of operation. They are not required to be exclusive during non-FSP hours. All vehicle maintenance activities shall be conducted during non-Service hours. When conducting the Services on a FSP shift, the CONTRACTOR's vehicle shall display all FSP markings and the vehicle operator shall wear a FSP uniform.

The FSP will utilize, at a minimum, Class A tow trucks with a minimum gross vehicle weight rating of 14,000 pounds, dual wheel chassis, and a four (4) ton recovery equipment rating. All trucks proposed for use in the FSP Program must be less than one (1) year old with a maximum of 50,000 miles on the chassis and working parts of the truck at the onset of the contract, free of any mechanical defects or physical damage and have a clear (non-salvage) title. Extenuating circumstances dictating departure from this specification should be at the consensus of the local FSP partners. The CHP, in conjunction with Caltrans or the regional transportation agency, should verify the original purchase dates to ensure compliance. Lastly the truck shall have seating capabilities for five (5) adults.

All FSP tow trucks must be Department of Transportation (DOT) compliant, as well as California Air Resources Board (CARB) compliant. This includes an engine that has been certified by CARB, as required by law in the State of California. Any tow truck that is utilized for the FSP Program must comply with emission standards set forth by DOT and CARB, as well as all local, state, and federal laws associated with that truck and as outlined in the RFP.

Each tow truck shall be equipped in accordance with the CHP's Freeway Service Patrol Manual and Standard Operating Procedures Manual and, at a minimum, shall include the following:

- a. Equipment & Supplies (Required)

1. Wheel lift towing equipment, with a minimum lift rating of 3,000 pounds. All tow equipment shall include proper safety straps.
2. Boom with a minimum static rating of 8,000 pounds.
3. Winch Cable - 8,000 pound rating on the first layer of cable.
4. Wire rope – 100ft., 3/8 inch diameter, 6 x19 or OEM specifications.
5. Two (2) Tow chains 3/8" alloy or OEM specs., J/T hook assembly.
6. Rubber faced push bumper.
7. Mounted spotlight capable of directing a beam both front and rear.
8. Amber warning lights with front and rear directional flashing capability, with on/off switch in cab.
9. Public address system.
10. Power outlets ("hot boxes"), front and rear mounted, with outlets compatible to 12-volt booster cables.
11. Heavy duty, 60+ amp battery.
12. Radios with the ability to communicate with the Contractor's base office (Verizon).
13. Programmable scanners capable of scanning between the 39 and 48 MHz used by the CHP. Scanners need to be capable of scanning CHP Police frequencies, and must be mounted for safety concerns.
14. Suitable cab lighting.
15. Trailer hitch capable of handling a 1 7/8-inch ball and 2 inch ball.
16. One (1) 1 7/8-inch ball and one (1) 2 inch ball.
17. Rear work lights. (4)
18. Safety chain D-ring or eyelet mounted on rear of truck.
19. Motorcycle straps. (2)
20. Diesel fuel in plastic jerry cans. (5 gallons)
21. Unleaded gasoline in plastic jerry cans. (5 gallons)
22. Safety chains min. 5ft. min. 5/16" Alloy or OEM Spec. (2)
23. First aid kit (small 5" x 9"). (1)
24. Fire extinguisher aggregate rating of at least 4 B-C units. (1)
25. Pry bar - 36" or longer. (1)
26. Radiator water in plastic container. (5 gallons)
27. 4" x 4" x 48" wooden cross beam. (1)
28. 4" x 4" x 60" wooden cross beam. (1)
29. 24" wide street broom. (1)
30. Square point shovel. (1)
31. Highway flares 360 minutes min.
32. Cones 18" height, reflectorized with tape.
33. Hydraulic Floor Jack: 2-ton AND
34. 2-ton jack stand
35. Wheel chock
36. Four-way lug wrench (1 std.). (1)
37. Four-way lug wrench (1 metric). (1)
38. Rechargeable compressor or refillable air bottle, hoses and fittings to fit tire valve stems, 100 psi capacity. (1)
39. Flashlight and spare batteries. (1)

- 40. Tail lights/brake lights, portable remote with extension cord. (1 set)
- 41. Booster cables, 25 ft. long minimum, 3-gauge copper wire with heavy-duty clamps and one end adapted to truck's power outlets. (1 set)
- 42. Funnel, multi-purpose, flexible spout. (1)
- 43. Pop-Up dolly (with tow straps), portable for removing otherwise untowable vehicles. (1)
- 44. 5-gallon can with lid filled with clean absorb-all. (1)
- 45. Empty trash can with lid (5 gallon). (1)
- 46. Lock out set. (1)
- 47. Safety glasses.

b. Equipment & Supplies (Recommended)

- 48. Towing slings rated at 3,000 pounds minimum. **RECOMMENDED**
- 49. Sling crossbar spacer blocks. **RECOMMENDED** (2)

c. Tools (Required)

Each FSP truck will be required to have a toolbox with the following minimum number of tools/supplies. A tool kit for small equipment items is required. The list may be supplemented at the Contractor's option and expense.

- 50. Screwdrivers--
 - i. Standard-1/8", 3/16", 1/4", 5/16" (1 each, min).
 - ii. Phillips head - #1 and #2 (1 each, min).
- 51. Needle nose pliers (1)
- 52. Adjustable rib joint pliers, 2" min. capacity (1)
- 53. Crescent wrench - 8" (1)
- 54. Crescent wrench - 12" (1)
- 55. 4 lb. hammer (1)
- 56. Rubber mallet (1)
- 57. Electrical tape, roll (1)
- 58. Duct tape, 20-yard roll (1)
- 59. Tire pressure gauge (1)
- 60. Mechanic's wire (roll) (1)
- 61. Bolt cutters (1)

4.2 Tow Truck Appearance

FSP vehicles bearing the FSP title, logo, and vehicle identification number shall be painted white (includes the hood, fenders, doors, boom, and bed area – the entire truck is to be painted white). No trim is allowed. Lettering shall be in a blocked bold style parallel to the ground and shall be no less than 2 inches by 2 inches and no greater than 4 inches in height. Lettering can only be black in color (no other colors will be permitted). Letters shall be placed on the lower body of the truck toward the cab.

Contractor's name on the boom is prohibited. The overall look of the truck must be approved by CHP prior to service implementation; therefore, any questions regarding this policy may be discussed with CHP prior to implementing, as truck compliance with current state FSP standards is required. No other accessory equipment, signage, or advertisements (mud flaps, stickers, employment advertisement, and so forth) shall be mounted or installed without prior CHP approval. This includes, but is not limited to: bras or window tint.

It shall be the vehicle operator's responsibility to place detachable FSP markings on each vehicle during FSP service hours and to remove the detachable markings immediately upon completion of each shift. RCTC will supply each Contractor with the appropriate number of detachable markings for each Beat(s). If a marking is lost or damaged, the Contractor shall be responsible for the cost of the replacement markings. All FSP markings shall be returned at the termination of the contract. The cost of any RCTC and/or Caltrans/CHP supplied item and/or equipment not returned shall be deducted from the Contractor's final payment.

FSP markings, as well as vehicle numbers, shall be required on both sides of all trucks. The detachable markings (magnetic FSP signage) provided by RCTC, must be placed on the center of the driver and passenger doors of the vehicle. The vehicle operator shall be required to keep the title and logos clean, straight, and in readable condition throughout the FSP shift. The operator is also required to keep the magnetic signage flat (do not bend in any way), clean, and out of direct sunlight while being stored during non-FSP operational hours.

4.3 Vehicle Inspections

Prior to commencement of service, the CHP will inspect each vehicle designated for the FSP to ensure that it meets the vehicle specifications and to ensure that it meets or exceeds safety requirements. These inspections will occur prior to the start of service. Succeeding inspections will occur periodically as determined by the CHP. Documentation of the vehicle identification number and successful completion of the inspection will be kept on file at the CHP office and Contractor's base office.

Any unsafe, poorly maintained, or improperly equipped vehicle(s) shall be removed from service, and if discovered to be in such a condition during the shift said vehicle(s) shall be removed from service or repaired as directed by the CHP, and **the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments for the remainder of that shift, plus the loss of revenue for the down time.** Spare vehicles, also known as "back-ups", will be required to complete the shifts of vehicles removed from service. The Contractor will be required to have a spare FSP vehicle available for service for the duration of each and every FSP shift.

The vehicle operator shall be required to complete a pre-operation shift inspection log of the vehicle as well as inventory the required equipment prior to the start of each and every shift. The vehicle operator shall be required to complete a driver log, which is

used to track the mileage. A shift inspection/inventory log shall be completed by the vehicle operator prior to the start of each shift and be available for inspection. Any item missing must be replaced prior to the start of the shift. All equipment stored on top of the truck shall be secured to the truck.

4.4 Spare/Back-Up Vehicles

The Contractor shall be required to have one FSP Certified Back-Up tow truck available per Beat during FSP service hours that is in full compliance with the agreement, unless otherwise authorized by RCTC and CHP in writing. During FSP service hours, the spare vehicle shall be kept at the Contractor's yard or staged adjacent to the assigned beat. The FSP Certified Back-Up tow truck should be used when a Certified Primary FSP tow truck is unavailable. The FSP Certified Back-Up tow truck shall meet the same requirements for equipment, set-up, and color as the Certified Primary FSP tow truck. It shall meet all the vehicle equipment specifications. Refer to Attachment H for further details on violations and penalties.

4.5 Vehicle Breakdown and Other Missed Service

The spare vehicle must be in service on the Beat within 45 minutes of the time a permanently dedicated vehicle is taken out of service for any reason. The Contractor shall not be paid for the time period that the contractually required trucks are not in service. **If a vehicle is not made available within the required 45-minute time period, the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments for every minute that exceeds the 45 minute replacement period until a certified FSP compliant spare/back-up vehicle is provided. If a truck is not ready due to breakdown at the start of a shift, the fine time will be calculated from the start of the shift until a replacement is placed into service. If the entire shift is missed, Contractor shall be fined for the entire shift at three (3) times the hourly rate times the total minutes for the affected shift.**

Vehicle maintenance shall be performed during non-FSP service hours. In addition, not having a certified FSP "spare or back-up" vehicle operator available is not an allowable excuse for not having a spare (back-up) vehicle on the beat within the 45-minute time period. If the Contractor does not have a dedicated or spare truck on the Beat because a certified FSP vehicle operator is not available, the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments until a certified FSP replacement vehicle operator is provided. If the entire shift is missed because a vehicle operator was not available, the Contractor shall be fined for the entire shift at three (3) times the hourly rate times the total minutes for the affected shift.

5.0 Communications Equipment and Computers

5.1 Communications Equipment

Each FSP vehicle shall be equipped with various communication devices that will enable the vehicle operator to communicate with the CHP Communications Center. All vehicles shall be equipped with an Automatic Vehicle Location (AVL) system, radios, and Data Collection Devices (DCD). The AVL system, radio, and DCD equipment shall be purchased, owned, and supplied by RCTC. RCTC shall select the equipment installation vendor.

The Contractor shall be responsible for maintaining the security of the vehicle communication equipment provided by RCTC. The Contractor shall be liable for any damage to the RCTC-owned communication equipment. The Contractor shall also be liable for the full replacement value of the communication equipment installed in the trucks while in the care, custody, and control of the equipment. RCTC will deduct repair fees as well as the full replacement cost of any RCTC equipment due to improper use or negligence by the Contractor, from any payment due to the Contractor. RCTC-supplied vehicle communications equipment shall be returned in full working condition upon contract termination. The cost of any equipment not returned within a reasonable time period shall be deducted from the Contractor's final payment.

Programmable scanners capable of scanning between the 39 and 48 MHz used by CHP shall be supplied by the Contractor and shall be installed (mounted) in all vehicles.

The Contractor is also required to use Verizon wireless cell phones with push-to-talk-plus capability, or equivalent, for communications with the CHP Communications Center and the CHP Field Supervisor. Wireless cell phones shall be purchased and maintained by the Contractor. The Contractor will also be responsible for all operating costs as well. In addition, tow operators are not permitted to take pictures, video, or capture any other images while performing FSP duties during FSP operational hours. These actions will not be tolerated, and a vehicle operator may be terminated if it is discovered they are doing so.

In addition, any input of data into the DCD shall not be allowed while the vehicle is being operated/driven. Use of other devices while driving/operating a vehicle such as cell phones is prohibited by California State Law.

The FSP vehicles shall be equipped with a public address system. The public address system shall have the capability for the driver of the disabled vehicle to hear instructions transmitted from the cab of the FSP vehicle when the FSP vehicle is directly to the rear of the disabled vehicle.

5.2 Computer Equipment

The Contractor must have and maintain a desktop computer workstation with high-speed internet access and email to communicate with RCTC staff.

The Contractor must ensure that the DCD equipment is inspected and cleaned on a quarterly basis, or more frequently if needed. All DCD equipment should have the exterior protective case cleaned (protective outside case) and screen protector shall be inspected for functionality and serviceability. Worn items shall be immediately reported to RCTC.

All DCD equipment must be kept in a secure location. **During non-FSP operational hours, DCD equipment shall not be left in a tow vehicle or go home with a vehicle operator or anyone else.** All DCD equipment must be in a designated charging area at the tow operator's facility during non-FSP operational hours. The DCD equipment shall always have enough charge to complete each shift. In order to reduce instances of technology glitches, the DCD equipment shall be turned off/turned on at least once per week. DCD equipment is to be with the vehicle operator in their FSP truck during FSP operational hours. Any other location shall not be permitted.

The Contractor shall immediately report any issues with the workstation or the DCD equipment to the RCTC FSP Program Manager or one of the FSP CHP Officers. Contractor is directly responsible to ensure their computer workstation is operating and **has internet access at all times – this is a contract requirement.**

The Contractor shall provide access to the DCD equipment for RCTC staff, or their designated designee, at **any time** during the course of the Contract. **In addition, the Contractor shall also make the workstation available to RCTC, or its designee, 30 calendar days prior to the start of the new service.**

The Contractor shall provide an annual inspection report to RCTC indicating the status of all equipment. RCTC will provide the submittal form. Tow operators should consider the accurate completion and timely return of this form as part of their contract requirements.

5.3 Equipment Tampering

Tampering with FSP communication/tracking equipment so that it does not function properly to RCTC's specifications, and/or is disconnected or moved (without FSP Management authorization) from its original installed location is strictly prohibited. This includes but is not limited to: breaking evidence tape/connection sealer on equipment connections, cutting wires or cables, moving mounted equipment (speakers, microphones, antennas, etc.), rerouting any wiring, disconnecting any connectors, Contractor/subcontractor unintentionally altering equipment or connections to equipment during vehicle maintenance or repair, or interfering with the operations of the equipment.

If tampering is suspected, FSP Management may conduct an inspection of the equipment on the Beat or the vehicle may be sent to a designated location determined by FSP Management.

1. If tampering is found while the vehicle is used during FSP operational hours, the vehicle operator and vehicle will be immediately taken out of service and the Contractor shall be fined in one (1) minute increments at three (3) times their hourly rate, until such time that the back-up truck is deployed. Please note that if tampering is discovered, the penalties (three times the hourly rate in one minute increments) shall begin immediately upon the discovery of the tampering. The normal 45-minute back-up truck time allowance will not be considered “non-penalty” time under these circumstances. The penalties shall begin immediately upon the tampering being discovered.
2. If the vehicle is suspected to have equipment that has been tampered with, it may be sent to a designated location determined by FSP Management and CHP for an inspection. If tampering is found, the Contractor will be retroactively fined three (3) times the hourly rate in one (1) minute increments from the time the tampering was first suspected. The penalties will continue until a certified FSP back-up truck is deployed. The normal 45-minute back-up truck time allowance will not be considered “non-penalty” under these circumstances.

Tampering Repairs

If tampering is discovered during FSP operational hours, the vehicle will be taken out of service and will remain out of service until the repair and the documentation can be completed by the FSP Program designated technician. FSP Management determines the designated technician. The transportation, labor, and repair costs will be the responsibility of the Contractor. Costs incurred to repair and document the equipment will be deducted from the Contractor monthly invoice.

Tampering Penalties

The Contractor will also be assessed a \$250 fine (whether the tampering is discovered while on the Beat, or if it was suspected and later confirmed) per incidence on their monthly invoice. If it is determined that the vehicle operator tampered with the equipment, the vehicle operator will be suspended for a minimum of 30 days for the initial tampering offense and subject to termination from the FSP Program for any subsequent tampering violations.

6.0 Contractor Responsibilities

6.1 Appearance at Hearings

If and when required by SAFE, Contractor shall render assistance at public hearings or other meetings related to the performance of the Services.

6.2 Damage Complaints

Upon receiving a damage complaint from a motorist assisted by the Contractor, that the Contractor damaged their vehicle while lending assistance, the Contractor shall notify CHP immediately regarding the nature of the damage complaint and its

disposition. The Contractor shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification from CHP. If necessary, the Contractor shall send either his or her authorized representative or his or her insurance company representative to inspect the vehicle and complete an incident report within forty-eight (48) hours after receiving the damage complaint. If the investigation shows that damage to the vehicle could have been caused by the Contractor, the Contractor shall negotiate in good faith to try and resolve the issue and shall report to CHP the result of the negotiations. All complaints shall be resolved within a reasonable time-period after being received.

6.3 Complaint Review Committee

The FSP Technical Advisory Committee ("FSP TAC") is composed of voting members from CHP, SAFE, and Caltrans. Voting members of the FSP TAC are hereby designated as the members of the Damage Complaint Review Committee ("DCRC"). If the DCRC finds that justifiable complaints are not resolved within a reasonable timeframe, it can recommend that payment to the Contractor in the amount of the damage claim may be deducted from the Contractor monthly invoice.

6.4 Trend Meetings

Contractor shall attend, or send a designated management-level representative, to all trend meetings (i.e., required FSP TAC meeting which meets every other month). These trend meetings will encompass focused and informal discussions concerning, but not limited to: scope, Services, schedule, current progress of Services, relevant cost issues, and future objectives. Contractor shall be responsible for having a representative attend all meetings (i.e., FSP TAC meetings) that has the ability to make management-level decisions on the behalf of the Contractor. If the Contractor cannot have a management-level representative at a meeting, Contractor shall notify SAFE and CHP prior to the meeting. Management-level attendance at these meetings shall be considered part of the Contractor's contractual responsibility. Meetings are scheduled, and Contractor will be notified of such schedule, no later than three (3) working days prior to the meeting.

7.0 Vehicle Operators

7.1 Operator Qualifications and Performance

All potential vehicle operators shall be required to have a safe driving record and, at a minimum, a valid Class C driver's license. All vehicle operators shall be 18 years of age or older at the time of background check. Potential vehicle operators shall be subject to driving record and criminal background checks through the California Highway Patrol. Potential vehicle operators shall be sufficiently experienced in the tasks of tow truck operations and proficient with all required Freeway Service Patrol equipment to provide safe and proper service. Any certified vehicle operator from other FSP areas will be evaluated on a case-by-case basis. All potential vehicle

operators must be capable of demonstrating their tow operating abilities prior to formal CHP training, also known as proficiency testing.

Additionally, the vehicle operators will be required to exercise good, sound judgment in carrying out their duties. Vehicle operators shall be required to inform the CHP Communications Center any time they leave the assigned Beat. This includes breaks and replenishing expendable items, such as: gasoline, fire extinguisher, etc. The vehicle operator shall be required to immediately notify the CHP Communications Center upon a tow truck breakdown.

FSP vehicle operators will be responsible for accurately entering the required data into DCD equipment every shift. Each FSP vehicle operator shall complete an inspection worksheet prior to the commencement of driving the tow truck and a mileage log prior to beginning service on the Beat. The FSP vehicle operator shall be required to complete an assist record for each incident. Each assist record should be accurate. Contractors or Operators providing false or misleading information to FSP Management shall be subject to disciplinary action and will be handled on a case-by-case basis.

FSP vehicle operators shall always complete the required procedures per the SOP when handling required forms. No duplicate survey numbers should be entered into the DCD equipment at any time. Vehicle operators are required to complete in their entirety the Release of Liability form and Damage Release form when applicable. These completed forms should be handed in to RCTC at a minimum every 60 days. If it is discovered that a vehicle operator has entered duplicate survey numbers, not properly completed the release forms, or not turned the release forms in timely, the Contractor may be subject to penalties as outlined in Proposal Pricing Form.

CHP, Caltrans, and RCTC maintain strict drug and alcohol policies. Contractors shall have an alcohol and drug program that includes at a minimum, a drug and alcohol free workplace policy and an employee alcohol/drug-testing program. Any FSP vehicle operator found working under the influence of drugs or alcohol shall be immediately removed from the FSP program by the Contractor. The Contractor shall be responsible for providing a certified replacement vehicle operator for that vehicle.

The Contractor shall be an active participant in the **DMV Pull Notice Program**.

If a vehicle operator is convicted of a crime involving a stolen vehicle, stolen property, violence, drugs, or moral turpitude, fraud related to the towing business, or misdemeanor or felony driving while under the influence of alcohol or a drug, the Contractor shall permanently remove that vehicle operator from duties under the FSP program. If a vehicle operator is charged with any of the above crimes, the Contractor shall immediately suspend that vehicle operator from duties under this program pending the outcome of the criminal case. If the vehicle operator is not convicted, or is ultimately convicted of a lesser crime not described above, RCTC retains the right to

have the Contractor remove that vehicle operator from the duties under the FSP program.

7.2 Operator Training

At the Contractor's expense, all company owners, FSP vehicle operators, and back-up vehicle operators shall be required to present a certificate of completion of a SHRP 2/TIMS training course and to complete the CHP two-day training program which costs approximately \$50.00 per vehicle operator (fee is for the DL64 Tow Truck Driver Certificate and fingerprinting). Contractors shall pay all FSP operators and back-up vehicle operators for attending the training. No vehicle operator will be allowed to begin patrolling without meeting the requirements set forth in the SOP. Any vehicle operator who is found on patrol not meeting the requirements may be prohibited from further FSP service and the Contractor's contract may be terminated immediately.

Mandatory CHP refresher training classes shall be attended. A minimum of four (4) hours refresher training per year shall be required (at Contractor's expense). **Contractors shall pay all FSP vehicle operators and back-up vehicle operators for attending the required training.**

Vehicle operators will be required to utilize DCD equipment to input information about mileage, inspection, and each assist, which will include: location, vehicle make, model, license number, type of assistance provided, etc. Vehicle operators will be trained on using DCD equipment to enter data.

7.3 Operator Driving Record and Criminal History Check

As required by California Vehicle Code Section 2340, all applicants and owners are required to have a driver's license and criminal history check. Only after a completed CHP 234F is received and accepted by CHP, a driver's license and preliminary criminal history check will be performed. The driver's license check will consist of confirming that the applicant has a valid driver's license and the applicant's point count is within standards set forth in this SOP (refer to Chapter 11, Annex A).

The preliminary criminal history check will consist of a preliminary background check to determine if the applicant meets the criteria for a California Tow Truck Driver Certificate as outlined in California Public Resources Code Section 5164, California Vehicle Code Section 13377 and the FSP Contract. In addition, RCTC or the CHP may, in its sole discretion, require an Employer to replace any vehicle operator or reject a potential vehicle operator who it determines is not suitable to represent the FSP Program with the public. If the applicant passes the preliminary criminal history check, the applicant shall submit to fingerprinting.

Driver's license and preliminary criminal history checks will be completed by CHP within ten (10) working days of the acceptance of a CHP 234F.

7.4 Vehicle Operator Uniform

It shall be the responsibility of the Contractor to provide the vehicle operator with specified uniforms, black protective toe boots, nameplate, gloves and other equipment. The equipment includes navy blue coveralls or navy blue shirts and pants. If coveralls are worn, they shall have a collar with a zip front. Optionally, drivers may wear a standard navy blue (long-sleeve only) uniform shirt, with a fluorescent orange (must be only 2.5" wide) trim, with a ½" silver reflective tape down the middle. This allowed reflective tape must be on both sleeves. All uniforms shall be clean, properly maintained, and replaced whenever excessively worn.

Sleeves and pant legs shall be moderately tapered to avoid excessive fullness.

A safety vest with reflective stripes shall be worn and supplied by RCTC. RCTC will supply vests with the FSP logo patches already sewn on per CHP's required patch placement locations. A FSP logo patch is not required to be sewn on the navy blue FSP vehicle operator uniform.

A detachable brass or gold nameplate shall be worn with the first initial of the first name and full last name. Letters shall not exceed ½" tall. The nameplate shall be worn above the right chest pocket on the safety vest. The Contractor is responsible for obtaining FSP CHP approval of the driver nameplates, and the Contractor is responsible for the purchase and replacement of the FSP vehicle operator nameplate.

All FSP vehicle operators shall wear general duty black work boots with protective (steel or composite) toe.

During cold weather, a navy blue sweater or sweatshirt may be worn under the uniform shirt/coveralls. As an option, a navy blue jacket may also be worn, if it meets all the uniform specifications and is worn under the safety vest. Rain gear, if worn, shall be waterproofed material and navy blue or yellow in color. Hats, if worn, shall be baseball-type caps and navy blue in color. An "FSP" logo patch may be sewn on the hat above the brim. No other logos/names shall be accepted. A beanie may also be worn which must be navy blue in color and worn only with a jacket or long sleeve shirt under the vest.

Contractor should refer to the most current SOP to ensure they are following the most recent requirements. SOP revisions and updates shall be unilaterally issued by RCTC, as deemed necessary by RCTC management, and all changes, revisions and updates to the SOP, if any, shall supersede all previous or existing SOPs. A copy of the SOP is included as part of the original RFP package.

7.5 Local Office

The Contractor shall provide a local office for contract administration purposes. This office shall be staffed by either the Contractor or a person who has the authority to conduct business and make decisions on behalf of the Contractor. The office shall

have business hours coinciding with Contractor's Beat(s) hours of operation. Through the Proposal document shown in the Contractor Representative Form, the Contractor shall designate representatives who will be available at the office during hours of operation to make decisions on behalf of the Contractor. The office shall be established within close proximity to the Contractor's Beat(s) and the County of Riverside. Also note in the Scope of Services, Section 4.4, **a backup vehicle and a certified FSP vehicle operator must be available within a 45-minute request of the Beat area.**

This requirement may also determine if the local office is close enough to satisfy the requirements under this section.

The Contractor shall also provide **telephone and email** through which he/she, or a responsible representative who has the authority to conduct business and make decisions on behalf of the Contractor, can be contacted during the non-service hours of operation for the length of the contract. During non-business hours, an answering machine provided at the Contractor's expense, shall be available to log calls, take complaints, etc. **An email address that is monitored daily** shall be provided for notification purposes during operational and non-service hours. The Contractor will be responsible for having a company representative monitor and review messages/notices on a daily basis.

7.6 Remedies and Liquidated Damages

RCTC has a need to deal contractually with a range of failures by Contractors to meet contractual standards and requirements short of suspension or termination. Failure to meet contractual standards and requirements constitute a default under the contract and is subject to the various remedies provided in the contract, up to and including termination of the contract.

It is clear that any default that is related to service or contractor's readiness for service will either degrade service or lead to the degradation of service. The failure to meet contractual standards and requirements, therefore, causes damages to the FSP program and its participants (RCTC, CHP and Caltrans) and to the public being served by the FSP program. Because of the public service nature of the mission of the FSP, described generally in the Standard Operating Procedures (SOP), to keep traffic and commerce flowing on the regional freeways, the damages arising from contractor's failure to meet the contractual standards and requirements are impractical or extremely difficult to ascertain on an individual basis.

The contract has therefore established a series of remedies to attempt to deal with a range of defaults. The most egregious default will result in suspension or termination. Lesser defaults will result in the assessment of liquidated damages. These lesser remedies have been described in the SOP as fines, violations or penalties. This is not a correct characterization of the intent of the remedies. The remedies arise because the contractor is in default and the FSP and the public it serves is damaged by that

default. The remedies are to compensate FSP for its damages and to encourage compliance with performance requirements of the contract.

DRAFT

EXHIBIT "B"

Compensation Summary

FIRM	PROJECT TASKS/ROLE	COST
Prime Consultant:		
Pepe's Towing Service, Inc.	FSP Services for Beat No. 4	\$1,666,787.00
TOTAL COSTS		\$1,666,787.00

Agreement No. 21-45-050-00

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION, ACTING AS THE RIVERSIDE
COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES,
FOR
FREEWAY SERVICE PATROL FOR BEAT # 7 WITHIN RIVERSIDE COUNTY
WITH PEPE'S TOWING SERVICE**

1. PARTIES AND DATE.

1.1 This Agreement is made and entered into as of _____ day of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("COMMISSION") acting as the RIVERSIDE COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES ("SAFE") and PEPE'S TOWING SERVICE, a California Corporation (referred to herein as "CONTRACTOR"). SAFE and CONTRACTOR are sometimes individually referred to herein as "Party" and collectively as "Parties".

1.2 The California Highway Patrol herein referred to as "CHP" and California Department of Transportation, herein referred to as "Caltrans" are hereby expressly designated as third-party beneficiaries of CONTRACTOR's performance under this Agreement.

2. RECITALS.

2.1 **WHEREAS**, COMMISSION is a California County Transportation Commission existing under the authority of Section 130050 et seq. of the California Public Utilities Code;

2.2 **WHEREAS**, COMMISSION is authorized, pursuant to Section 2550 et seq. of the California Streets and Highways Code, to act as SAFE for purposes of providing a motorist aid system, including provision of freeway service patrols;

2.3 **WHEREAS**, SAFE requires the services of a CONTRACTOR to provide the freeway service patrol professional services as described in the Scope of Services;

2.4 **WHEREAS**, SAFE has determined that CONTRACTOR is best qualified to perform the required services;

2.5 **WHEREAS**, the CONTRACTOR is able and willing to perform the required services under the terms and conditions of this Contract;

2.6 **WHEREAS**, COMMISSION is the short range transportation planning agency for Riverside County, and programs federal, state, and local funds. COMMISSION has entered into a Memorandum of Understanding

with Caltrans and CHP to fund peak period freeway service patrols on selected freeway segments in Riverside County; and

- 2.7 **WHEREAS**, Section 21718 (a) of the California Vehicle Code specifically authorized CHP to be responsible for freeway service patrols stopping on freeways for the purpose of rapid removal of impediments to traffic. Article 3, Section 91, of the Streets and Highways Code, states that Caltrans has responsibility to improve and maintain the state highways. Caltrans also has the responsibility for traffic management and removing impediments from the highways.

NOW, THEREFORE, for the consideration hereinafter stated, SAFE and CONTRACTOR agree as follows:

3. TERMS.

3.1 General Scope of Services. The purpose of the Freeway Service Patrol ("FSP") program is to provide for the rapid removal of disabled vehicles and vehicles involved in minor accidents from the freeway. Contractor promises and agrees to furnish to SAFE all labor materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately provide the FSP services ("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, and the SOP manual (as defined below).

3.1.1. Contract Oversight. Caltrans and CHP will jointly oversee the Services. Both agencies will have responsibility for overseeing Service performance and ensuring that the CONTRACTOR abides by the terms of this Contract. CHP is responsible for dispatch services to incident locations within the CONTRACTOR's patrol limits. The dispatching will be done in accordance with this Contract. A Standard Operating Procedures ("SOP") manual will be given to the CONTRACTOR explaining the types of incidents to which his/her operators may be dispatched.

3.1.2 Beat Descriptions. The FSP will operate on selected freeway segments referred to herein as "beats". Each beat has specific turnaround locations and designated drop locations identified by the CHP. Exhibit "A" shows the specific limits, number of tow trucks, number of back-up trucks and hours of operation, and holidays for the CONTRACTOR's specific beat. SAFE reserves the right to add or delete holidays to the work schedule, provided that SAFE provides CONTRACTOR seven (7) days advanced notice of such addition or deletion. Travel time to and from the beat will be at the expense of the CONTRACTOR.

3.1.3 Change Orders. At any time during the term of this Contract, SAFE reserves the right to adjust beat specifications to better accommodate demand for the Services, or availability of funding, at no cost to SAFE. Adjustments may include reduction in

the hours of Services. SAFE may direct such adjustments during the course of this Contract through written change orders, signed by SAFE, setting forth any changes to Exhibit "A". Changes may include a change of the specified beat(s) to other beats that SAFE determines better serve the needs of SAFE, as well as changes to schedules and hours for the beats set forth in Exhibit "A". If warranted, as determined in SAFE's sole discretion, and during the hours of operation of the Services, the CONTRACTOR may be requested to temporarily reassign his/her FSP operators/trucks to locations outside the assigned beat. Such reassignments shall be at no cost to SAFE.

3.1.4. The SOP Manual. To promote a safe work environment and for the maintenance of professionalism, the most current version of the SOP manual shall, at all times, be followed by the CONTRACTOR and its vehicle operators. The SOP manual, as such manual may from time to time be amended, is incorporated into this Contract by reference. CONTRACTOR shall be notified and provided with a copy of any changes to the SOP manual. Drivers found not to be in compliance with FSP procedures, as set forth in the SOP manual or this Contract, may be suspended or terminated from the FSP program and the CONTRACTOR may be fined three (3) times the hourly Contract rate in one (1) minute increments until a replacement vehicle is provided (Driver and Truck must return to beat compliant with all FSP requirements), or fined for the entire shift at three (3) times the hourly rate at the discretion of the FSP Field Supervisors.

3.2 Equipment Requirements. CONTRACTOR shall comply with all equipment requirements outlined in the attached Exhibit "A".

3.3 Commencement of Services. The CONTRACTOR shall commence work upon receipt of a written Notice to Proceed from SAFE.

3.4 Term. The term of this Contract shall be for a period of five (5) years, from **January 4, 2022** to **January 3, 2027** unless earlier terminated as provided herein. SAFE shall also have the right to renew this Contract from one month up to a one (1) year term after the initial term by providing notice as provided below. SAFE must provide written notice to CONTRACTOR no less than ninety (90) days prior to the end of the applicable term, indicating its renewal of the Contract. CONTRACTOR shall complete the Services within the term of this Contract, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Contract shall remain in effect following the termination of this Contract. The rates shall be as follows:

SCHEDULE OF HOURLY RATES

Classification	Year 1	Year 2	Year 3	Year 4	Year 5
Regular Rate	\$ 81.75 per hour	\$ 83.75 per hour	\$ 85.56 per hour	\$ 87.23 per hour	\$ 89.10 per hour
CFSP/Extra Rate	\$ 89.93 per hour	\$ 92.12 per hour	\$ 94.12 per hour	\$ 95.95 per hour	\$ 98.01 per hour

3.5 SAFE's Representative. SAFE hereby designates the SAFE Executive Director or his or her designee, to act as its Representative for the performance of this

Contract ("SAFE's Representative"). SAFE's Representative shall have the authority to act on behalf of SAFE for all purposes under this Contract. SAFE's Representative shall also review and give approval, as needed, to the details of CONTRACTOR's work as it progresses. CONTRACTOR shall not accept direction or orders from any person other than the SAFE's Representative or his or her designee.

3.6 CONTRACTOR'S Representative. CONTRACTOR hereby designates **Lorenzo Navarro, Vice President**, to act as its representative for the performance of this Contract ("CONTRACTOR's Representative"). CONTRACTOR's Representative shall have full authority to act on behalf of CONTRACTOR for all purposes under this Contract. 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 Contract. CONTRACTOR shall work closely and cooperate fully with SAFE's Representative and any other agencies which may have jurisdiction over or an interest in the Services. CONTRACTOR's Representative shall be available to the SAFE staff at all reasonable times. Any substitution in CONTRACTOR's Representative shall be approved in writing by SAFE's Representative.

3.7 Substitution of Key Personnel. CONTRACTOR has represented to SAFE that certain key personnel will perform and coordinate the Services under this Contract. Should one or more of such personnel become unavailable, CONTRACTOR may substitute other personnel of at least equal competence upon written approval by SAFE's Representative. In the event that SAFE's Representative and CONTRACTOR cannot agree as to the substitution of the key personnel, SAFE shall be entitled to terminate this Contract for cause, pursuant to the provisions of Section 3.15. The key personnel for performance of this Contract are: **Manuel Acosta, Owner/CEO; Lorenzo Navarro, General Manager; Pete Ortiz, Administrative Manager; Fernando Soria, Operations Manager; Laura Acosta, Office Administrator.**

3.7.1 Availability of FSP Manager. Except in the case of unpreventable circumstances, the FSP Manager must be available at the CONTRACTOR's office for at least 50% of each Work Day to address time sensitive issues related to this Contract or the Services, including, but not limited to, FSP administrative responsibilities; SAFE, CHP, and Caltrans requests; driver matters; and truck maintenance issues. CONTRACTOR shall, within 24 hours, notify SAFE of each circumstance causing the FSP Manager not to be available as required herein. As used in this section, the term "Work Day" shall mean and refer to any day that FSP service is provided, during those hours of operation for Construction FSP as identified on the attached Exhibit "A-1".

3.8 Review of Work and Deliverables. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Contract may be required to be submitted to SAFE's Representative in draft form, and SAFE's Representative may require revisions of such drafts prior to formal submission and approval. In the event that SAFE's Representative, in his or her sole discretion, determines the formally submitted work product to be inadequate, SAFE's Representative may require

CONTRACTOR to revise and resubmit the work at no cost to SAFE. Upon determination by SAFE that CONTRACTOR has satisfactorily completed the Services required under this Contract and within the term set forth in Section 3.4, SAFE shall give CONTRACTOR a written Notice of Final Completion. Upon receipt of such notice, CONTRACTOR shall incur no further costs hereunder, unless otherwise specified in the Notice of Completion. CONTRACTOR may request issuance of a Notice of Final Completion when, in its opinion, it has satisfactorily completed all Services required under the provisions of this Contract.

3.9 Appearance at Hearings. If and when required by SAFE, CONTRACTOR shall render assistance at public hearings or other meetings related to the performance of the Services.

3.10 Standard of Care: Licenses. CONTRACTOR represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Contract. CONTRACTOR 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. CONTRACTOR warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. CONTRACTOR further represents and warrants to SAFE that its employees and subcontractors have all licenses, permits, qualifications (including medical certification) 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 Contract. CONTRACTOR shall perform, at its own cost and expense and without reimbursement from SAFE, 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, and shall be fully responsible to SAFE for all damages and other liabilities provided for in the indemnification provisions of this Contract arising from the CONTRACTOR's errors and omissions. Any employee of CONTRACTOR or its subcontractors who is determined by SAFE to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services, 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 SAFE, shall be promptly removed from performing the Services by the CONTRACTOR and shall not be re-employed to perform any of the Services.

3.11 Opportunity to Cure. SAFE may provide CONTRACTOR an opportunity to cure, at CONTRACTOR's expense, all errors and omissions which may be disclosed during performance of the Services. Should CONTRACTOR fail to make such correction in a timely manner, such correction may be made by SAFE, and the cost thereof charged to CONTRACTOR.

3.12 Inspection of Work. CONTRACTOR shall allow SAFE's Representative to inspect or review CONTRACTOR's performance of Services in progress at any time. SAFE/Caltrans/CHP also reserves the right to audit all paperwork demonstrating that CONTRACTOR participates in an employee alcohol/drug-testing program and the DMV Pull Notice Program.

3.13 Laws and Regulations. 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 Services, including all Cal/OSHA requirements, and shall give all notices required by law. CONTRACTOR shall be solely 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 SAFE, CONTRACTOR shall be solely responsible for all costs arising therefrom. CONTRACTOR shall defend, indemnify and hold SAFE, their officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.14 Damage Complaints. Upon receiving a damage complaint from a motorist assisted by the CONTRACTOR, that the CONTRACTOR damaged their vehicle while lending assistance, the CONTRACTOR shall notify CHP immediately regarding the nature of the damage complaint and its disposition. The CONTRACTOR shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification. If necessary, the CONTRACTOR shall send either his or her authorized representative or his or her insurance company representative to inspect the vehicle and complete an incident report within forty-eight (48) hours after receiving the damage complaint. If the investigation shows that damage to the vehicle could have been caused by the CONTRACTOR, the CONTRACTOR shall negotiate in good faith to try and resolve the issue and shall report to the CHP the result of the negotiations. All complaints shall be resolved within a reasonable period of time after being received.

3.14.1 Complaint Review Committee. The FSP Technical Advisory Committee ("FSP TAC") is composed of voting members from CHP, SAFE and Caltrans. Voting members of the FSP TAC are hereby designated as the members of the Damage Complaint Review Committee ("DCRC"). If the DCRC finds that justifiable complaints are not resolved within a reasonable time frame, it can recommend that payment to the CONTRACTOR in the amount of the damage claim may be deducted from the CONTRACTOR's monthly invoice.

3.15 Termination.

3.15.1 Notice; Reason. SAFE may, by written notice to CONTRACTOR, terminate this Contract, in whole or in part, including, without limitation, the geographical territory covered by this Contract, at any time by giving written notice to CONTRACTOR of such termination, and specifying the effective date thereof ("Notice of Termination"). Such termination may be for SAFE's convenience, due to lack of available funding for the Services, or because of CONTRACTOR's failure to perform its duties and obligations under this Contract, including, but not limited to, the failure of CONTRACTOR to timely perform Services pursuant to the Scope of Services described in Section 3, entitled "Terms," as well as Section 7 of the RFP. CONTRACTOR may not terminate this Contract except for cause.

3.15.2 Discontinuance of Services. Upon receipt of the written Notice of Termination, CONTRACTOR shall discontinue all affected Services as directed in the Notice of Termination, and deliver to SAFE all Documents and Data, as defined in this Contract, as may have been prepared or accumulated by CONTRACTOR in performance of the Services, whether completed or in progress.

3.15.3 Effect of Termination For Convenience. If the termination is to be for the convenience of SAFE, SAFE shall compensate CONTRACTOR for Services fully and adequately provided through the effective date of termination as provided in the Notice of Termination. Such payment shall include a pro-rated amount of profit, if applicable, up through such effective date, but no amount shall be paid for anticipated profit on unperformed Services past such effective date. CONTRACTOR shall provide documentation deemed adequate by SAFE's Representative to show the Services actually completed by CONTRACTOR prior to the effective date of termination. This Contract shall terminate on the effective date of the Notice of Termination.

3.15.4 Effect of Termination for Cause. If the termination is for cause, CONTRACTOR shall be compensated for those Services which have been fully and adequately completed and accepted by SAFE as of the effective date of termination as provided in the Notice of Termination. In such case, SAFE may take over the work and prosecute the same to completion by contract or otherwise. Further, CONTRACTOR shall be liable to SAFE for any reasonable additional costs or damages incurred to revise work for which SAFE has compensated CONTRACTOR under this Contract, but which SAFE has determined in its sole discretion needs to be revised, in part or whole. Termination of this Contract for cause may be considered by SAFE in determining whether to enter into future contracts with CONTRACTOR.

3.15.5 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 Contract.

3.15.6 Procurement of Similar Services. In the event this Contract is terminated, in whole or in part, as provided by this Section, SAFE may procure, upon such terms and in such manner as it deems appropriate, services similar to those terminated.

3.15.7 Waivers. CONTRACTOR, in executing this Contract, recognizes that the Services may be terminated, in whole or in part, as provided in this Section. CONTRACTOR shall not be entitled to any damages including, but not limited to, any compensation for costs incurred to procure vehicles, meet the terms for providing the Services, or for any other costs or expenses, and shall be deemed to have waived any and all claims for damages, costs or expenses which may otherwise arise from SAFE's termination of this Contract, for convenience or cause, as provided in this Section.

3.15.8 Authorization to Terminate. The Executive Director of SAFE shall have the full authority and discretion to exercise SAFE's rights under this Section 3.15, entitled "Termination".

3.16 Trend Meetings. CONTRACTOR shall attend, or send a designated management-level representative, to all trend meetings (i.e., required FSP TAC meeting which meets every other month). These trend meetings will encompass focused and informal discussions concerning, but not limited to: scope, Services, schedule, current progress of Services, relevant cost issues, and future objectives. CONTRACTOR shall be responsible for having a representative attend all meetings (i.e., FSP TAC meetings) that has the ability to make management-level decisions on the behalf of the CONTRACTOR. If the CONTRACTOR cannot have a management-level representative at a meeting, CONTRACTOR shall notify SAFE and CHP prior to the meeting. Management-level attendance at these meetings shall be considered part of the CONTRACTOR's contractual responsibility. Meetings are scheduled, and CONTRACTOR will be notified of such schedule, no later than three (3) working days prior to the meeting.

3.17 Fees and Payment.

3.17.1 Amount to be Paid. Subject to the provisions set forth below for Services satisfactorily performed hereunder, SAFE shall pay the CONTRACTOR on a fixed unit rate basis a ceiling price NOT TO EXCEED **One Million Six Hundred Sixty-Six Thousand Seven Hundred Eighty-Seven Dollars (\$1,666,787).**

3.17.2 Maximum Payment is the Ceiling Price. SAFE shall not be obligated to pay costs which exceed the ceiling price set forth above, except as provided in Sections 3.15 and 3.17.10. CONTRACTOR agrees to use its best efforts to perform the services and all obligations under this Contract within such ceiling price.

3.17.3 Hourly Rate; Break and Meal Periods. For its performance of the Services, the CONTRACTOR shall be paid for labor expended directly in the performance of the Services at the rates specified below. Payments shall be made monthly in arrears based on Services provided and allowable incurred expenses. The CONTRACTOR shall not be entitled to reimbursements for any expenses unless approved in advance in writing.

SCHEDULE OF HOURLY RATES

Classification	Year 1	Year 2	Year 3	Year 4	Year 5
Regular Rate	\$ 81.75 per hour	\$ 83.75 per hour	\$ 85.56 per hour	\$ 87.23 per hour	\$ 89.10 per hour
CFSP/Extra Rate	\$ 89.93 per hour	\$ 92.12 per hour	\$ 94.12 per hour	\$ 95.95 per hour	\$ 98.01 per hour

Hourly rates may be adjusted as set forth in Chapter 9, Violations/Penalties, of the FSP Standard Operating Procedures (SOP).

A) CONTRACTOR is responsible for compliance with all California labor laws related to break periods and meal periods including, but not limited to, compliance with Labor Code section 512. CONTRACTOR shall be solely responsible for any additional pay to which its drivers may be entitled for CONTRACTOR's failure to comply with the California labor law requirements.

B) During shifts that require drivers to be provided a 30-minute meal period break pursuant to Labor Code section 512, CONTRACTOR shall either make arrangements for another certified driver to provide Services during those breaks or not be compensated for each 30-minute meal period break during which Services are not provided. In no case shall CONTRACTOR be entitled to bill RCTC for time during which a driver is taking a meal period break.

3.17.4 Payment Coverage. The compensation herein above specified will cover and include all applicable labor surcharges such as taxes, insurance and fringe benefits, as well as indirect costs, overhead, general and administrative expense, and profit.

3.17.5 Cost Principles.

A) CONTRACTOR agrees to comply with 2 CFR, Part 225, Cost Principles for State and Local Government, and 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

B) CONTRACTOR agrees that 1) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual cost items, and 2) CONTRACTOR shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C) Any costs for which CONTRACTOR has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 225, 48 CFR, Chapter 1, Part 31 or 2 CFR, Part 200, are subject to repayment by CONTRACTOR to SAFE. Should CONTRACTOR fail to reimburse moneys due SAFE within 30 days of demand, or within such other period as may be agreed in writing between the Parties hereto, SAFE is authorized to intercept and withhold future payments due CONTRACTOR from SAFE or any third-party source, including, but not limited to, the State Treasurer, the State Controller, and the California Transportation Commission.

3.17.6 Fines. Fines for starting late; leaving early; taking more breaks than authorized; or being ordered out of service by a CHP, SAFE Representative or Caltrans supervisor for Contract infractions shall be deducted from the CONTRACTOR's monthly invoice at five (5) times the hourly rate, plus the loss of revenue for the down time. Fines may be further described in the attached Exhibit "A" or Exhibit "B".

3.17.7 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.

3.17.8 Invoices. Invoices for CONTRACTOR's Services shall be submitted monthly on forms approved by SAFE. Invoices will be routinely verified by CHP. To ensure prompt payment, most billing disputes may be resolved within ten (10) working days of written notice of dispute. However, at SAFE's discretion, reconciliation of disputed fines that sum to less than 2% of the months' Invoice may be corrected on the next month's Invoice to ensure prompt payment of the major portion of the invoice. Each Invoice shall include a cover sheet bearing a certification as to the accuracy of the statement signed by the CONTRACTOR's authorized officer. Invoices shall be mailed to SAFE's Contract Administrator at the following address:

Riverside County Service Authority for Freeway Emergencies
FSP Program
P.O. Box 12008
Riverside, CA
92502-2208
Attn: Brian Cunanan

3.17.8.1 Payment Schedule. Invoice periods shall be based upon a calendar month, beginning with the first day of the month. SAFE shall reimburse CONTRACTOR for Services adequately provided under this Contract within thirty (30) days of receiving the current period invoice with no errors. If the Invoice is completed incorrectly by the CONTRACTOR it will delay payment. If SAFE fails to pay any amount owed to CONTRACTOR under this Contract within thirty (30) days after receipt of the invoice, CONTRACTOR may give SAFE a notice of failure to pay which shall set forth the invoice(s) and amount(s) which CONTRACTOR believes are thirty (30) days overdue. SAFE shall pay any undisputed invoice(s) and amount(s) within thirty (30) days of receipt of a notice of failure to pay.

3.17.9 Right to Audit. For the purpose of determining compliance with this Contract and other matters connected with the performance of CONTRACTOR's contracts with third parties, CONTRACTOR and its subcontractors shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times for three years from the date of final payment of Funds to CONTRACTOR. SAFE, the State of California acting through the Department of Transportation or its duly authorized representative, the California State Auditor, or the United States Department of Transportation shall each have access to any books, records, and documents that are pertinent for audits, examinations, excerpts, and transactions, and CONTRACTOR shall furnish copies thereof if requested.

3.17.10 Taxes. CONTRACTOR shall pay any sales, use, or other taxes, if any, attributable to the provision of the Services.

3.17.11 Travel and Subsistence. 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. If the rates invoiced are in excess of those authorized DPA rates, then CONTRACTOR is responsible for the cost difference and any overpayments shall be reimbursed to SAFE on demand.

3.17.12 Employment Adverse to the SAFE. CONTRACTOR shall notify SAFE, and shall obtain SAFE's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against SAFE during the term of this Contract.

3.17.13 Extra Work. At any time during the term of this Contract, SAFE may request CONTRACTOR to perform Extra Work. "Extra Work" shall mean any work which is determined by SAFE to be necessary for proper completion of the Services, but which the Parties did not reasonably anticipate would be necessary at the time of the execution of this Contract and was not included in the Scope of Services. Extra Work, if any, shall be reimbursed at the same hourly rate as identified in Section 3.17.3. CONTRACTOR shall not perform, nor be compensated for Extra Work without obtaining authorization in the form of a written Extra Work Order issued by SAFE's Representative. For instance, Construction FSP services as it relates to construction activity can be considered Extra Work. In the event an Extra Work Order is not issued and signed by SAFE's Representative, CONTRACTOR shall not provide such Extra Work. However, no compensation or reimbursement for Extra Work shall be paid if it is not authorized by SAFE and if the cumulative total of such Extra Work under the Contract exceeds \$25,000. All Extra Work in a cumulative total in excess of \$25,000 must be approved in advance by amendment to this Contract.

3.17.13.1 Extra Work Cancellation Policy. If a tow operator is scheduled for Extra Work and they are notified of a cancellation with **LESS than a 24 hour notice** – then the tow operator will be reimbursed for **three (3) hours** of the agreed upon contract hourly rate. *Note: The minimum of the three (3) hours should cover eight hours of the drivers' hourly wage.* Starting with "Less than a 24 hour cancellation notice" up to the time the tow operator is on the assigned Extra Work Beat, the "three contract hour cancellation rate" remains the same. Once the tow operator is on the Extra Work Beat, the cancellation policy changes.

If a tow operator begins the Extra Work (the truck is on the Beat) and is then notified that Extra Work has been cancelled, the FSP operator will be paid for the entire shift period **up to a maximum of eight (8) hours**. A shift period for this policy is defined as: the time period of the actual Extra Work shift assigned or for a maximum of eight (8) contract hours, whichever is less.

The supervising FSP CHP Officer for the Extra Work shift will make the final determination as to whether or not the tow operator will continue to work the Extra Work shift. Regardless, the tow operator will be reimbursed for the original shift period or a maximum of eight (8) hours, whichever is less.

3.17.14 Most Favored Customer. CONTRACTOR agrees that, throughout the term of this Contract, it shall not enter into any FSP services agreement with any government agency with whom it has either existing contractual relationship or has no

contractual relationship that predates this Contract, pursuant to which CONTRACTOR agrees to charge FSP services fees less than those as indicated in this Contract for substantially the same level of FSP services contemplated by this Contract. Should SAFE establish that such lower fees have been agreed to by CONTRACTOR with another government agency, CONTRACTOR agrees to renegotiate the fees or to refund SAFE an amount equal to the difference between the fees indicated in this Contract and the fees charged to other government agency customer.

3.18 Delay in Performance.

3.18.1 Excusable Delays. Neither Party shall be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by an Excusable Delay. Should CONTRACTOR be delayed or prevented from the timely performance of any act or Services required by the terms of the Contract by an Excusable Delay, Contractor's schedule for completion of tasks affected by such delay may be extended as set forth in Section 3.18.2. But in every case, CONTRACTOR's failure to perform must be reasonably beyond the control, and without the fault or negligence of the CONTRACTOR. Excusable Delays are acts of God or of the public enemy, acts or omissions of SAFE or other governmental agencies in either their sovereign or contractual capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather.

3.18.2 Written Notice. If CONTRACTOR believes it is entitled to an extension of time due to conditions set forth in subsection 3.18.1, CONTRACTOR shall provide written notice to the SAFE within seven (7) working days from the time CONTRACTOR knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of CONTRACTOR to provide such timely notice shall constitute a waiver by CONTRACTOR of any right to an excusable delay in time of performance.

3.18.3 Mutual Contract. Performance of any Services under this Contract may be delayed upon mutual agreement of the Parties. Upon such agreement, CONTRACTOR's Schedule of Services (as defined in their Proposal) shall be extended as necessary by SAFE. CONTRACTOR shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

3.19 Status of CONTRACTOR/Subcontractors.

3.19.1 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 Contract. SAFE retains CONTRACTOR on an independent contractor basis and not as an employee, agent or representative of the SAFE. CONTRACTOR retains the right to perform similar or different services for others during the term of this Contract. Any additional personnel performing the Services under this Contract on behalf of CONTRACTOR 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 and as required by law. CONTRACTOR 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.

3.19.2 Assignment or Transfer. CONTRACTOR shall not assign, hypothecate, or transfer, either directly or by operation of law, this Contract or any interest herein, without the prior written consent of SAFE. 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. Notwithstanding the foregoing, SAFE may transfer or assign any and all of its rights and obligations under this Contract, including, without limitation the rights to terminate this Contract, as assigned, pursuant to Section 3.15 hereof.

3.19.3 Subcontracting. CONTRACTOR shall not subcontract any portion of the work or Services required by this Contract, except as expressly stated herein, including the Scope of Services, without prior written approval of the SAFE. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Contract. SAFE shall have no liability to any subconsultant(s) for payment for services under this Contract or other work performed for CONTRACTOR, and any subcontract entered into by CONTRACTOR pursuant to the conduct of services under this Contract shall duly note that the responsibility for payment for the technical services or any other work performed shall be the sole responsibility of CONTRACTOR.

3.20 CONTRACTOR will maintain an inventory of all non-expendable equipment, defined as having a useful life of at least two years and an acquisition cost of \$500 or more, paid for with funds provided pursuant to this Contract.

3.21 Ownership of Materials and Confidentiality.

3.21.1 Documents & Data; Licensing of Intellectual Property. All 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, spreadsheets, or data magnetically or otherwise recorded on computer diskettes, prepared by or on behalf of CONTRACTOR under this Contract ("Documents and Data"), shall be made available to SAFE at all times during this Contract and shall become the property of SAFE upon the completion of the term of this Contract, except that CONTRACTOR shall have the right to retain copies of all such Documents and Data for its records. Should CONTRACTOR, either during or following termination of this Contract, desire to use any Documents and Data, it shall first obtain the written approval of SAFE. This Contract creates a no-cost, nonexclusive, and perpetual license for SAFE to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in the Documents and Data which are prepared or caused to be prepared by CONTRACTOR under this Contract ("Intellectual Property"). CONTRACTOR shall require all subcontractors to agree in writing that SAFE is granted a no-cost, nonexclusive, and

perpetual license for any Intellectual Property the subcontractor prepares under this Contract. CONTRACTOR represents and warrants that CONTRACTOR has the legal right to license any and all Intellectual Property prepared or caused to be prepared by CONTRACTOR under this Contract. SAFE shall not be limited in any way in its use of the Intellectual Property at any time, provided that any such use not within the purposes intended by this Contract shall be at SAFE's sole risk.

3.21.2 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 CONTRACTOR in connection with the performance of this Contract shall be held confidential by CONTRACTOR to the extent permitted by law, including, without limitation, the California Public Records Act, Government Code section 6250 et seq. Such materials shall not, without the prior written consent of SAFE, be used by CONTRACTOR for any purposes other than the performance of the Services as provided herein. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services, except as provided herein. Nothing furnished to CONTRACTOR which is otherwise known to CONTRACTOR or is generally known, or becomes known, to the related industry shall be deemed confidential. CONTRACTOR shall not use SAFE's name or insignia, photographs, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production, or other similar medium without the prior written consent of SAFE.

3.22 Indemnification. CONTRACTOR shall indemnify and hold SAFE, COMMISSION, CHP, Caltrans and their directors, officials, officers, agents, contractors, consultants, employees, and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of, or incident to, any acts, omissions, or willful misconduct of the CONTRACTOR, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services or this Contract, including without limitation, the payment of all consequential damages and other related costs and expenses. CONTRACTOR shall defend, at CONTRACTOR'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 SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, contractors, consultants, employees, and volunteers. CONTRACTOR shall pay and satisfy any judgment, award, or decree that may be rendered against SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, consultants, employees, and volunteers, in any such suit, action, or other legal proceeding. CONTRACTOR shall reimburse SAFE, COMMISSION, CHP, Caltrans and their directors, officials, officers, agents, consultants, employees, and 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 not be restricted to insurance proceeds, if any, received by the CONTRACTOR, SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, consultants, employees, and volunteers.

3.23 Insurance.

3.23.1 Time for Compliance. CONTRACTOR shall not commence work under this Agreement until it has provided evidence satisfactory to SAFE that it has secured all insurance required under this section, in a form and with insurance companies acceptable to SAFE. In addition, CONTRACTOR shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

3.23.2 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:

(i) General Liability:

Per occurrence:	\$2,000,000
Project Specific Aggregate:	\$4,000,000
Products/Completed Operations:	\$1,000,000
Personal Injury Limit:	\$1,000,000

(ii) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and

(iii) 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.

3.23.3 On-Hook Insurance. CONTRACTOR shall maintain a policy of On-Hook Towing Insurance to include the care, custody or control exposure present while vehicles are being serviced roadside, on-hook, or in a storage yard for not less than one hundred thousand dollars (\$100,000).

3.23.4 Insurance Endorsements. The insurance policies shall contain the

following provisions, or CONTRACTOR shall provide endorsements on forms approved by SAFE 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 SAFE, COMMISSION, CHP, Caltrans 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 SAFE, COMMISSION, CHP, 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) SAFE, COMMISSION, CHP, 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 CONTRACTOR or for which the CONTRACTOR is responsible; and (2) the insurance coverage shall be primary insurance as respects SAFE, COMMISSION, CHP, Caltrans and their 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 SAFE, COMMISSION, CHP, Caltrans or their 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 SAFE, 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) 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 SAFE, 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 SAFE, COMMISSION, CHP, and Caltrans (if agreed to in a written contract or agreement) before SAFE, COMMISSION, CHP or Caltrans 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 SAFE 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 SAFE 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 SAFE, 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, SAFE has the right but not the duty to obtain the insurance it deems necessary and any premium paid by SAFE will be promptly reimbursed by CONTRACTOR or SAFE will withhold amounts sufficient to pay premium from CONTRACTOR payments. In the alternative, SAFE may cancel this Agreement. SAFE may require the CONTRACTOR to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither SAFE, COMMISSION, CHP, Caltrans nor any of their 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:

3.23.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by SAFE. If SAFE does not approve the deductibles or self-insured retentions as presented, CONTRACTOR shall guarantee that, at the option of SAFE, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SAFE, 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.

3.23.6 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 SAFE.

3.23.7 Verification of Coverage. CONTRACTOR shall furnish SAFE with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to SAFE. 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 SAFE before work commences. SAFE reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.23.8 Subcontractor Insurance Requirements. CONTRACTOR shall not allow any subcontractors to commence work on any subcontract until they have provided evidence satisfactory to SAFE 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 SAFE, COMMISSION, CHP and Caltrans as additional insureds using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by CONTRACTOR, SAFE may approve different scopes or minimum limits of insurance for particular subcontractors or subcontractors.

3.23.9 Review of Coverage. SAFE retains the right at any time to review the coverage, form and amount of insurance required herein and may require CONTRACTOR to obtain additional insurance reasonably sufficient in coverage, form, amount to provide adequate protection against the kind and extent of risk which exists at the time of change in insurance required.

3.23.10 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.

3.24 Prohibited Interests.

3.24.1 Solicitation. CONTRACTOR 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 Contract. 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, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, SAFE shall have the right to rescind this Contract without liability.

3.24.2 Conflict of Interest. For the term of this Contract, no member, officer or employee of SAFE, during the term of his or her service with SAFE, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom.

3.24.3 Conflict of Employment. Employment by the CONTRACTOR of personnel currently on the payroll of SAFE shall not be permitted in the performance of this Contract, 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 CONTRACTOR of personnel who have been on SAFE payroll within one year prior to the

date of execution of this Contract, where this employment is caused by, and or dependent upon, the CONTRACTOR securing this or related Contracts with SAFE, is prohibited.

3.25 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, ancestry, sex, age, disability (including HIV and AIDS), mental disability, medical condition (cancer), marital status, denial of family and medical care leave, or denial of pregnancy disability leave. 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. Employment and Housing Act (Gov. Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Admin. Code, Tit. 2, Section 7285.0 et seq.): The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Sec 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code, Sec 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this Contract by reference and made a part hereof as if set forth in full. CONTRACTOR shall include the provisions of this Section in all of CONTRACTOR's subcontracts with respect to work under this Agreement, unless exempted by the Regulations. CONTRACTOR shall also comply with all relevant provisions of SAFE's Minority Business Enterprise program, Affirmative Action Plan, or other related SAFE programs or guidelines currently in effect or hereinafter enacted.

3.26 Right to Employ Other CONTRACTORS. SAFE reserves the right to employ other CONTRACTORS in connection with the Services.

3.27 Governing Law. The validity of this Contract and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by and construed with the laws of the State of California.

3.28 Venue. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in Riverside County, California. The Parties agree that the venue for any action or claim brought by any Party will be the Central District of Riverside County. Each Party hereby waives any law or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties agree to use their best efforts to obtain a change of venue to the Central District of Riverside County.

3.29 Time of Essence. Time is of the essence for each and every provision of this Contract.

3.30 Headings. Article and section headings, paragraph captions, or marginal headings contained in this Contract are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

3.31 Notices. All notices hereunder and communications regarding interpretation of the terms of this Contract or changes thereto shall be given to the respective

Parties at the following addresses, or at such other addresses as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

**Pepe's Towing Service
2000 W. Key Street
Colton, CA 92324
Attn: Lorenzo Navarro**

SAFE:

**Riverside County Service Authority
for Freeway Emergencies
FSP Program
P.O. Box 12008
Riverside, CA
92502-2208
Attn: Brian Cunanan**

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.

3.32 Electronic Delivery of Agreement. 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 the Agreement for all purposes.

3.33 Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.34 Entire Contract. This Agreement contains the entire Agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, contracts or understandings.

3.35 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.

3.36 No Waiver. Failure of CONTRACTOR 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.

3.37 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 SAFE 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 CONTRACTOR or the Services are not subject to the Eight-Hour Law.

3.38 Subpoenas or Court Orders. Should CONTRACTOR receive a subpoena or court order related to this Agreement, the Services or the Project, CONTRACTOR shall immediately provide written notice of the subpoena or court order to the SAFE. CONTRACTOR shall not respond to any such subpoena or court order until notice to the SAFE is provided as required herein and shall cooperate with the SAFE in responding to the subpoena or court order.

3.39 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, and the obligations related to receipt of subpoenas or court orders, shall survive any such expiration or termination.

3.40 Counterparts. This Agreement may be signed in one or more counterparts, any one of which shall be effective as an original document.

3.41 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

3.42 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. In the event the standards set forth in this Agreement conflict with the standards set forth in any exhibit hereto, the higher standard shall govern.

3.43 Attorneys' Fees and Costs. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under Section 3.21, Indemnification.

3.44 Consent. Whenever consent or approval of any Party is required under this Contract, that Party shall not unreasonably withhold nor delay such consent or approval.

3.45 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.46 Mobilization Costs Payment. Intentionally Omitted

[Signatures on following page]

DRAFT

**SIGNATURE PAGE
TO AGREEMENT 21-45-050-00**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first herein written above.

RIVERSIDE COUNTY
TRANSPORTATION COMMISSION
ACTING AS THE
RIVERSIDE COUNTY SERVICE
AUTHORITY FOR FREEWAY
EMERGENCIES

PEPE'S TOWING SERVICE

By: _____
Anne Mayer, Executive Director

By: _____

Name

Title

APPROVED AS TO FORM:

Attest:

By: _____
Best Best & Krieger LLP,
Counsel to the Riverside County
Service Authority for
Freeway Emergencies

By: _____

Its: Secretary

EXHIBIT “A”

Scope of Services

DRAFT

1.0 GENERAL INFORMATION

1.1 Background & Introduction

In 1986, the Commission established itself as the Riverside County Service Authority for Freeway Emergencies (RC SAFE) after the enactment of SB 1199 in 1985. The purpose of the formation of SAFEs in California was to provide call box services and, with excess funds, provide additional motorist aid services. Funding for RC SAFE is derived from a one dollar per vehicle registration fee on vehicles registered in Riverside County. Initially, these funds were used only for the call box program. As additional motorist aid services were developed, SAFE funds were also used to provide Freeway Service Patrol (FSP) and the Inland Empire 511 traveler information services as part of a comprehensive motorist aid system in Riverside County.

In 1990, Proposition C was passed to fund transportation improvements and to help reduce traffic congestion in California. From this, the FSP program was created by Caltrans, which developed the corresponding Local Funding Allocation Plan to distribute funds to participating jurisdictions. In addition to funding received from Caltrans, agencies are required to contribute a 25 percent local match. For the Commission, SAFE revenues are used to meet this match requirement.

The Commission, acting in its capacity as the SAFE, is the principal agency in Riverside County, in partnership with Caltrans and the California Highway Patrol (CHP), managing the FSP program. The purpose of the FSP program is to provide a continuously roving tow services patrol along designated freeway segments (referred to as beats) to relieve freeway congestion and facilitate the rapid removal of disabled vehicles and those involved in minor accidents on local freeways. Contracts to provide FSP tow service are competitively bid as needed for each beat.

1.2 Project Description

The purpose of the FSP program is to provide a continuous roving patrol for the rapid removal of disabled vehicles and those involved in minor accidents from the freeway. Where traffic conditions permit, safe removal of small debris will be required. Vehicle operators shall be responsible for clearing the freeway of automobiles, small trucks, and small debris. When and where conditions warrant, service may be executed on the freeway shoulders. Where conditions do not warrant, vehicle operators will remove the vehicles from the freeway to provide service. FSP vehicles shall continuously patrol their assigned beat, respond to CHP calls for Services, use the designated turnaround locations, and use the CHP identified designated drop locations.

FSP vehicle operators may be required to perform minor services such as change flat tires, provide "jump" starts, provide one gallon of gasoline or diesel fuel, temporarily tape cooling system hoses, and refill radiators in a safe and efficient manner. Vehicle operators may spend a maximum of ten (10) minutes per disablement in attempting to mobilize a vehicle. If a disabled vehicle cannot be mobilized within the ten-minute (10)

time limit, it shall be towed to a designated drop location identified by the CHP. The motorist can request the FSP vehicle operator to call the CHP Communications Center to request a CHP rotational tow or other services. FSP vehicle operators shall not be allowed to tow as an independent contractor from an incident that occurred during the FSP shift unless called as a rotation tow by CHP after the FSP shift has ended. If called as a rotation tow after a FSP shift, the vehicle operator must remove all FSP markings such as vests, uniforms, and magnetic vehicle signage.

There may be some instances where FSP operators may be requested to provide assistance to CHP officers. FSP operators shall follow the instructions of the CHP officer at the scene of any incident within the scope of the FSP program.

All FSP services shall be provided at no cost to the motorist. FSP vehicle operators shall not accept gratuities, perform secondary towing services, recommend secondary tows, or recommend repair/body shop businesses.

Freeway Service Patrol hours of operation are 5:30 a.m. to 8:30 a.m. and 2:30 p.m. to 6:30 p.m., Monday through Thursday; and 5:30 a.m. to 8:30 a.m. and 12:30 p.m. to 6:30 p.m. on Friday. Contractor vehicles shall be exclusively dedicated to the service during FSP service hours. All vehicle maintenance activities shall be conducted during non-service hours.

The FSP operates on selected freeway segments referred to as "Beats". Each Beat has specific turnaround locations and designated drop locations identified by the California Highway Patrol (CHP). The Scope of Services (Section 2.0) hereunder identifies the specific limits, number of tow trucks, number of back-up trucks, hours of operation, and tentative holidays on which the cost of each beat shall be based. RCTC reserves the right to add or delete holidays to the work schedule. Travel time to and from the Beat will be at the expense of the Contractor.

To be awarded a contract, a Contractor must have a tow facility within close proximity to the service area, have been in business as a tow service operator for a minimum of five (5) years, and have a minimum of one (1) full year experience working under contract/agreement and in good standing within the last three (3) years with any type of law enforcement agency.

A Contractor with no prior FSP experience shall be considered NEW and may only be awarded one FSP beat. A Contractor that has been terminated for cause from any FSP contract within the state shall not be eligible to participate in the Riverside County FSP program. A NEW Contractor, who remains in good standing, as determined by FSP management, may be considered for additional beat awards in future procurements. An existing Contractor that is not in good standing as determined by information received by the FSP management staff at the time of their proposal may, at the discretion of FSP management, be limited to the number of beats the Contractor is awarded, including not being awarded any beats.

FSP Management Staff reserves the right to limit the number of beats awarded to one Contractor.

At any time during the contract's term, RCTC reserves the right to adjust Beat specifications and Beat hours to better accommodate demand for the service, or the availability of funding. These changes can occur during the course of the contract through written change orders. If warranted during the service hours of operation, the Contractor may be requested to temporarily reassign his/her FSP operators/trucks to locations outside its assigned Beat. Tow Operators may be permitted to do this only upon CHP and/or RCTC approval. FSP vehicle operators shall follow the instructions of the CHP officer at the scene of any incident within the scope of the FSP program.

The contract start date for Beats 4, 7 and 8 shall be January 4, 2022. The first day of FSP service is Tuesday, January 4, 2022. These are 5-year contracts that expire on January 3, 2027.

If awarded a contract, the Contractor shall have one hundred seventy-three (173) calendar days for Beat 4, 7 and 8, after the notice of award (notice of award tentatively expected on or around July 15, 2021), in which to acquire the required equipment and hire and train vehicle operators. The Contractor shall have the appropriate number of primary and back-up trucks ready for equipment installation and CHP inspection no later than December 15, 2021. Any company that cannot meet the above-mentioned requirements shall not be awarded the contract(s).

2.0 Beat Description/Summary

FSP operates on selected freeway segments referred to as "beats". Each beat has specific turnaround locations and designated drop locations identified by the CHP. The specific limits, number of tow trucks, number of back-up trucks and hours of operation, including the holiday schedule, are detailed below. SAFE reserves the right to add or delete holidays to the work schedule, provided that SAFE provides CONTRACTOR seven (7) days advanced notice of such addition or deletion. Travel time to and from the beat will be at the expense of the CONTRACTOR.

At any time, SAFE reserves the right to adjust beat specifications to better accommodate demand for the Services, or availability of funding. These changes can occur during the course of this Contract through written change orders. If warranted and during the hours of operation of the Services, the CONTRACTOR may be requested to temporarily reassign his/her FSP operators/trucks to locations outside the assigned beat.

5-yr Contracts: January 4, 2022 to January 3, 2027				
FSP Beat #	Beat Description	One-Way Length in Miles	# Primary FSP Trucks in both AM and PM	# Backup FSP Trucks
4	SR91 from Magnolia Ave to 60/91/215 Interchange	11.0	2	1
7	SR60 from Milliken St to Main St	11.7	2	1
8	SR60 from Central Ave to I215 at Alessandro Blvd to SR60 at Theodore St	12.3	2	1

2.1 Hours of Operation:

Monday through Thursday: 5:30 a.m. to 8:30 a.m., and from 2:30 p.m. to 6:30 p.m.

Friday: 5:30 a.m. to 8:30 a.m., and from 12:30 p.m. to 6:30 p.m.

Each Beat requires at least one backup truck available at all times. **RCTC reserves the right to change Beat hours and operational requirements during the course of the contract.**

- a. Total estimated service hours per vehicle/per year: 1,950
- b. In addition to the above service hours, at the discretion of RCTC and CHP, additional service may be requested on certain "high traffic days" on/or following certain holidays (e.g., July 4th, Labor Day, and Memorial Day). Contractor will be notified at least one week prior to when this service is to be provided.

During FSP shifts that require a 30-minute meal period break to be provided pursuant to Labor Code section 512, the Contractor shall either make arrangements for another certified FSP driver to provide the contracted FSP coverage during those breaks or not be compensated for each 30-minute meal period break during which FSP service is not provided. In no case shall the Contractor be entitled to compensation from RCTC for time during which its FSP driver is taking a 30-minute meal period break, unless the Contractor has provided another driver to cover this 30-minute meal period break.

2.2 Holiday Schedule

Proposer shall submit its cost proposal for provision of the required FSP tow services five days each week, Monday through Friday, of each year during the contract term, except for the following ten (10) holidays:

1. Martin Luther King, Jr. Day (Monday)
2. Presidents' Day (Monday)
3. Memorial Day (Monday)
4. Independence Day (July 4 - varies)
5. Labor Day (Monday)
6. Veterans Day (varies)
7. Thanksgiving Day (Thursday)
8. Day after Thanksgiving (Friday)
9. Christmas Day (December 25 - varies)
10. New Year's Day (January 1 – varies)

3.0 FSP Management and Representatives

RCTC has entered into a Memorandum of Understanding with the California Department of Transportation (Caltrans) and CHP, in order to provide peak hour freeway service patrols on selected freeway segments for traffic mitigation, as well as air quality improvement within Riverside County. RCTC, Caltrans, and CHP will jointly oversee the service. RCTC serves as the contract administrator and funding partner; Caltrans provides oversight; and CHP is responsible for the daily operations and field supervision of the program.

Authority for FSP derives from (a) Section 21718 (A) of the California Vehicle Code, which allows FSP trucks supervised by the CHP to stop on freeways for the purpose of rapid removal of impediments to traffic, and (b) Article 3, Section 91, of the Streets and Highways Code, which states that Caltrans is responsible for traffic management and removing impediments from the highways, as well as improving and maintaining the state highways.

3.1 Standard Operating Procedures

The guidelines and policies of the FSP program, which promote a safe work environment and maintain a level of professionalism, are contained in the Standard Operating Procedures (SOP) manual developed by the CHP. The SOP and any updates to it are incorporated into the contract with RCTC, therefore, the Contractor and their vehicle operators are responsible to operate and adhere to the most recent version of the SOP at all times.

Contractor shall be held responsible for maintaining an updated SOP (latest version issued with the RFP), which is incorporated herein by reference. SOP revisions and updates shall be unilaterally issued by RCTC or CHP, as deemed necessary by CHP or the FSP Technical Advisory Committee, and all changes, revisions and updates to

the SOP, if any, shall supersede all previous or existing SOPs. A copy of the SOP is included as part of the original RFP package and additional hard or soft copies can be provided to all interested parties upon request.

Vehicle operators or trucks found not to be in compliance with FSP procedures defined in the SOP may be penalized, suspended, and/or terminated from the FSP program and the company may also be assessed liquidated damages amounts for said violations as described herein. Liquidated damages are inclusive of other remedies at law and/or those described under the terms of the contract.

Refer to Proposal Pricing Form for further details on violations and penalties.

4.0 Vehicles

4.1 Tow Truck Requirements

Primary and back-up FSP tow trucks shall be exclusively dedicated to the FSP program during FSP service hours of operation. They are not required to be exclusive during non-FSP hours. All vehicle maintenance activities shall be conducted during non-Service hours. When conducting the Services on a FSP shift, the CONTRACTOR's vehicle shall display all FSP markings and the vehicle operator shall wear a FSP uniform.

The FSP will utilize, at a minimum, Class A tow trucks with a minimum gross vehicle weight rating of 14,000 pounds, dual wheel chassis, and a four (4) ton recovery equipment rating. All trucks proposed for use in the FSP Program must be less than one (1) year old with a maximum of 50,000 miles on the chassis and working parts of the truck at the onset of the contract, free of any mechanical defects or physical damage and have a clear (non-salvage) title. Extenuating circumstances dictating departure from this specification should be at the consensus of the local FSP partners. The CHP, in conjunction with Caltrans or the regional transportation agency, should verify the original purchase dates to ensure compliance. Lastly the truck shall have seating capabilities for five (5) adults.

All FSP tow trucks must be Department of Transportation (DOT) compliant, as well as California Air Resources Board (CARB) compliant. This includes an engine that has been certified by CARB, as required by law in the State of California. Any tow truck that is utilized for the FSP Program must comply with emission standards set forth by DOT and CARB, as well as all local, state, and federal laws associated with that truck and as outlined in the RFP.

Each tow truck shall be equipped in accordance with the CHP's Freeway Service Patrol Manual and Standard Operating Procedures Manual and, at a minimum, shall include the following:

- a. Equipment & Supplies (Required)

1. Wheel lift towing equipment, with a minimum lift rating of 3,000 pounds. All tow equipment shall include proper safety straps.
2. Boom with a minimum static rating of 8,000 pounds.
3. Winch Cable - 8,000 pound rating on the first layer of cable.
4. Wire rope – 100ft., 3/8 inch diameter, 6 x19 or OEM specifications.
5. Two (2) Tow chains 3/8" alloy or OEM specs., J/T hook assembly.
6. Rubber faced push bumper.
7. Mounted spotlight capable of directing a beam both front and rear.
8. Amber warning lights with front and rear directional flashing capability, with on/off switch in cab.
9. Public address system.
10. Power outlets ("hot boxes"), front and rear mounted, with outlets compatible to 12-volt booster cables.
11. Heavy duty, 60+ amp battery.
12. Radios with the ability to communicate with the Contractor's base office (Verizon).
13. Programmable scanners capable of scanning between the 39 and 48 MHz used by the CHP. Scanners need to be capable of scanning CHP Police frequencies, and must be mounted for safety concerns.
14. Suitable cab lighting.
15. Trailer hitch capable of handling a 1 7/8-inch ball and 2 inch ball.
16. One (1) 1 7/8-inch ball and one (1) 2 inch ball.
17. Rear work lights. (4)
18. Safety chain D-ring or eyelet mounted on rear of truck.
19. Motorcycle straps. (2)
20. Diesel fuel in plastic jerry cans. (5 gallons)
21. Unleaded gasoline in plastic jerry cans. (5 gallons)
22. Safety chains min. 5ft. min. 5/16" Alloy or OEM Spec. (2)
23. First aid kit (small 5" x 9"). (1)
24. Fire extinguisher aggregate rating of at least 4 B-C units. (1)
25. Pry bar - 36" or longer. (1)
26. Radiator water in plastic container. (5 gallons)
27. 4" x 4" x 48" wooden cross beam. (1)
28. 4" x 4" x 60" wooden cross beam. (1)
29. 24" wide street broom. (1)
30. Square point shovel. (1)
31. Highway flares 360 minutes min.
32. Cones 18" height, reflectorized with tape.
33. Hydraulic Floor Jack: 2-ton AND
34. 2-ton jack stand
35. Wheel chock
36. Four-way lug wrench (1 std.). (1)
37. Four-way lug wrench (1 metric). (1)
38. Rechargeable compressor or refillable air bottle, hoses and fittings to fit tire valve stems, 100 psi capacity. (1)
39. Flashlight and spare batteries. (1)

- 40. Tail lights/brake lights, portable remote with extension cord. (1 set)
- 41. Booster cables, 25 ft. long minimum, 3-gauge copper wire with heavy-duty clamps and one end adapted to truck's power outlets. (1 set)
- 42. Funnel, multi-purpose, flexible spout. (1)
- 43. Pop-Up dolly (with tow straps), portable for removing otherwise untowable vehicles. (1)
- 44. 5-gallon can with lid filled with clean absorb-all. (1)
- 45. Empty trash can with lid (5 gallon). (1)
- 46. Lock out set. (1)
- 47. Safety glasses.

b. Equipment & Supplies (Recommended)

- 48. Towing slings rated at 3,000 pounds minimum. **RECOMMENDED**
- 49. Sling crossbar spacer blocks. **RECOMMENDED** (2)

c. Tools (Required)

Each FSP truck will be required to have a toolbox with the following minimum number of tools/supplies. A tool kit for small equipment items is required. The list may be supplemented at the Contractor's option and expense.

- 50. Screwdrivers--
 - i. Standard-1/8", 3/16", 1/4", 5/16" (1 each, min).
 - ii. Phillips head - #1 and #2 (1 each, min).
- 51. Needle nose pliers (1)
- 52. Adjustable rib joint pliers, 2" min. capacity (1)
- 53. Crescent wrench - 8" (1)
- 54. Crescent wrench - 12" (1)
- 55. 4 lb. hammer (1)
- 56. Rubber mallet (1)
- 57. Electrical tape, roll (1)
- 58. Duct tape, 20-yard roll (1)
- 59. Tire pressure gauge (1)
- 60. Mechanic's wire (roll) (1)
- 61. Bolt cutters (1)

4.2 Tow Truck Appearance

FSP vehicles bearing the FSP title, logo, and vehicle identification number shall be painted white (includes the hood, fenders, doors, boom, and bed area – the entire truck is to be painted white). No trim is allowed. Lettering shall be in a blocked bold style parallel to the ground and shall be no less than 2 inches by 2 inches and no greater than 4 inches in height. Lettering can only be black in color (no other colors will be permitted). Letters shall be placed on the lower body of the truck toward the cab.

Contractor's name on the boom is prohibited. The overall look of the truck must be approved by CHP prior to service implementation; therefore, any questions regarding this policy may be discussed with CHP prior to implementing, as truck compliance with current state FSP standards is required. No other accessory equipment, signage, or advertisements (mud flaps, stickers, employment advertisement, and so forth) shall be mounted or installed without prior CHP approval. This includes, but is not limited to: bras or window tint.

It shall be the vehicle operator's responsibility to place detachable FSP markings on each vehicle during FSP service hours and to remove the detachable markings immediately upon completion of each shift. RCTC will supply each Contractor with the appropriate number of detachable markings for each Beat(s). If a marking is lost or damaged, the Contractor shall be responsible for the cost of the replacement markings. All FSP markings shall be returned at the termination of the contract. The cost of any RCTC and/or Caltrans/CHP supplied item and/or equipment not returned shall be deducted from the Contractor's final payment.

FSP markings, as well as vehicle numbers, shall be required on both sides of all trucks. The detachable markings (magnetic FSP signage) provided by RCTC, must be placed on the center of the driver and passenger doors of the vehicle. The vehicle operator shall be required to keep the title and logos clean, straight, and in readable condition throughout the FSP shift. The operator is also required to keep the magnetic signage flat (do not bend in any way), clean, and out of direct sunlight while being stored during non-FSP operational hours.

4.3 Vehicle Inspections

Prior to commencement of service, the CHP will inspect each vehicle designated for the FSP to ensure that it meets the vehicle specifications and to ensure that it meets or exceeds safety requirements. These inspections will occur prior to the start of service. Succeeding inspections will occur periodically as determined by the CHP. Documentation of the vehicle identification number and successful completion of the inspection will be kept on file at the CHP office and Contractor's base office.

Any unsafe, poorly maintained, or improperly equipped vehicle(s) shall be removed from service, and if discovered to be in such a condition during the shift said vehicle(s) shall be removed from service or repaired as directed by the CHP, and **the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments for the remainder of that shift, plus the loss of revenue for the down time.** Spare vehicles, also known as "back-ups", will be required to complete the shifts of vehicles removed from service. The Contractor will be required to have a spare FSP vehicle available for service for the duration of each and every FSP shift.

The vehicle operator shall be required to complete a pre-operation shift inspection log of the vehicle as well as inventory the required equipment prior to the start of each and every shift. The vehicle operator shall be required to complete a driver log, which is

used to track the mileage. A shift inspection/inventory log shall be completed by the vehicle operator prior to the start of each shift and be available for inspection. Any item missing must be replaced prior to the start of the shift. All equipment stored on top of the truck shall be secured to the truck.

4.4 Spare/Back-Up Vehicles

The Contractor shall be required to have one FSP Certified Back-Up tow truck available per Beat during FSP service hours that is in full compliance with the agreement, unless otherwise authorized by RCTC and CHP in writing. During FSP service hours, the spare vehicle shall be kept at the Contractor's yard or staged adjacent to the assigned beat. The FSP Certified Back-Up tow truck should be used when a Certified Primary FSP tow truck is unavailable. The FSP Certified Back-Up tow truck shall meet the same requirements for equipment, set-up, and color as the Certified Primary FSP tow truck. It shall meet all the vehicle equipment specifications. Refer to Attachment H for further details on violations and penalties.

4.5 Vehicle Breakdown and Other Missed Service

The spare vehicle must be in service on the Beat within 45 minutes of the time a permanently dedicated vehicle is taken out of service for any reason. The Contractor shall not be paid for the time period that the contractually required trucks are not in service. **If a vehicle is not made available within the required 45-minute time period, the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments for every minute that exceeds the 45 minute replacement period until a certified FSP compliant spare/back-up vehicle is provided. If a truck is not ready due to breakdown at the start of a shift, the fine time will be calculated from the start of the shift until a replacement is placed into service. If the entire shift is missed, Contractor shall be fined for the entire shift at three (3) times the hourly rate times the total minutes for the affected shift.**

Vehicle maintenance shall be performed during non-FSP service hours. In addition, not having a certified FSP "spare or back-up" vehicle operator available is not an allowable excuse for not having a spare (back-up) vehicle on the beat within the 45-minute time period. If the Contractor does not have a dedicated or spare truck on the Beat because a certified FSP vehicle operator is not available, the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments until a certified FSP replacement vehicle operator is provided. If the entire shift is missed because a vehicle operator was not available, the Contractor shall be fined for the entire shift at three (3) times the hourly rate times the total minutes for the affected shift.

5.0 Communications Equipment and Computers

5.1 Communications Equipment

Each FSP vehicle shall be equipped with various communication devices that will enable the vehicle operator to communicate with the CHP Communications Center. All vehicles shall be equipped with an Automatic Vehicle Location (AVL) system, radios, and Data Collection Devices (DCD). The AVL system, radio, and DCD equipment shall be purchased, owned, and supplied by RCTC. RCTC shall select the equipment installation vendor.

The Contractor shall be responsible for maintaining the security of the vehicle communication equipment provided by RCTC. The Contractor shall be liable for any damage to the RCTC-owned communication equipment. The Contractor shall also be liable for the full replacement value of the communication equipment installed in the trucks while in the care, custody, and control of the equipment. RCTC will deduct repair fees as well as the full replacement cost of any RCTC equipment due to improper use or negligence by the Contractor, from any payment due to the Contractor. RCTC-supplied vehicle communications equipment shall be returned in full working condition upon contract termination. The cost of any equipment not returned within a reasonable time period shall be deducted from the Contractor's final payment.

Programmable scanners capable of scanning between the 39 and 48 MHz used by CHP shall be supplied by the Contractor and shall be installed (mounted) in all vehicles.

The Contractor is also required to use Verizon wireless cell phones with push-to-talk-plus capability, or equivalent, for communications with the CHP Communications Center and the CHP Field Supervisor. Wireless cell phones shall be purchased and maintained by the Contractor. The Contractor will also be responsible for all operating costs as well. In addition, tow operators are not permitted to take pictures, video, or capture any other images while performing FSP duties during FSP operational hours. These actions will not be tolerated, and a vehicle operator may be terminated if it is discovered they are doing so.

In addition, any input of data into the DCD shall not be allowed while the vehicle is being operated/driven. Use of other devices while driving/operating a vehicle such as cell phones is prohibited by California State Law.

The FSP vehicles shall be equipped with a public address system. The public address system shall have the capability for the driver of the disabled vehicle to hear instructions transmitted from the cab of the FSP vehicle when the FSP vehicle is directly to the rear of the disabled vehicle.

5.2 Computer Equipment

The Contractor must have and maintain a desktop computer workstation with high-speed internet access and email to communicate with RCTC staff.

The Contractor must ensure that the DCD equipment is inspected and cleaned on a quarterly basis, or more frequently if needed. All DCD equipment should have the exterior protective case cleaned (protective outside case) and screen protector shall be inspected for functionality and serviceability. Worn items shall be immediately reported to RCTC.

All DCD equipment must be kept in a secure location. **During non-FSP operational hours, DCD equipment shall not be left in a tow vehicle or go home with a vehicle operator or anyone else.** All DCD equipment must be in a designated charging area at the tow operator's facility during non-FSP operational hours. The DCD equipment shall always have enough charge to complete each shift. In order to reduce instances of technology glitches, the DCD equipment shall be turned off/turned on at least once per week. DCD equipment is to be with the vehicle operator in their FSP truck during FSP operational hours. Any other location shall not be permitted.

The Contractor shall immediately report any issues with the workstation or the DCD equipment to the RCTC FSP Program Manager or one of the FSP CHP Officers. Contractor is directly responsible to ensure their computer workstation is operating and **has internet access at all times – this is a contract requirement.**

The Contractor shall provide access to the DCD equipment for RCTC staff, or their designated designee, at **any time** during the course of the Contract. **In addition, the Contractor shall also make the workstation available to RCTC, or its designee, 30 calendar days prior to the start of the new service.**

The Contractor shall provide an annual inspection report to RCTC indicating the status of all equipment. RCTC will provide the submittal form. Tow operators should consider the accurate completion and timely return of this form as part of their contract requirements.

5.3 Equipment Tampering

Tampering with FSP communication/tracking equipment so that it does not function properly to RCTC's specifications, and/or is disconnected or moved (without FSP Management authorization) from its original installed location is strictly prohibited. This includes but is not limited to: breaking evidence tape/connection sealer on equipment connections, cutting wires or cables, moving mounted equipment (speakers, microphones, antennas, etc.), rerouting any wiring, disconnecting any connectors, Contractor/subcontractor unintentionally altering equipment or connections to equipment during vehicle maintenance or repair, or interfering with the operations of the equipment.

If tampering is suspected, FSP Management may conduct an inspection of the equipment on the Beat or the vehicle may be sent to a designated location determined by FSP Management.

1. If tampering is found while the vehicle is used during FSP operational hours, the vehicle operator and vehicle will be immediately taken out of service and the Contractor shall be fined in one (1) minute increments at three (3) times their hourly rate, until such time that the back-up truck is deployed. Please note that if tampering is discovered, the penalties (three times the hourly rate in one minute increments) shall begin immediately upon the discovery of the tampering. The normal 45-minute back-up truck time allowance will not be considered “non-penalty” time under these circumstances. The penalties shall begin immediately upon the tampering being discovered.
2. If the vehicle is suspected to have equipment that has been tampered with, it may be sent to a designated location determined by FSP Management and CHP for an inspection. If tampering is found, the Contractor will be retroactively fined three (3) times the hourly rate in one (1) minute increments from the time the tampering was first suspected. The penalties will continue until a certified FSP back-up truck is deployed. The normal 45-minute back-up truck time allowance will not be considered “non-penalty” under these circumstances.

Tampering Repairs

If tampering is discovered during FSP operational hours, the vehicle will be taken out of service and will remain out of service until the repair and the documentation can be completed by the FSP Program designated technician. FSP Management determines the designated technician. The transportation, labor, and repair costs will be the responsibility of the Contractor. Costs incurred to repair and document the equipment will be deducted from the Contractor monthly invoice.

Tampering Penalties

The Contractor will also be assessed a \$250 fine (whether the tampering is discovered while on the Beat, or if it was suspected and later confirmed) per incidence on their monthly invoice. If it is determined that the vehicle operator tampered with the equipment, the vehicle operator will be suspended for a minimum of 30 days for the initial tampering offense and subject to termination from the FSP Program for any subsequent tampering violations.

6.0 Contractor Responsibilities

6.1 Appearance at Hearings

If and when required by SAFE, Contractor shall render assistance at public hearings or other meetings related to the performance of the Services.

6.2 Damage Complaints

Upon receiving a damage complaint from a motorist assisted by the Contractor, that the Contractor damaged their vehicle while lending assistance, the Contractor shall notify CHP immediately regarding the nature of the damage complaint and its

disposition. The Contractor shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification from CHP. If necessary, the Contractor shall send either his or her authorized representative or his or her insurance company representative to inspect the vehicle and complete an incident report within forty-eight (48) hours after receiving the damage complaint. If the investigation shows that damage to the vehicle could have been caused by the Contractor, the Contractor shall negotiate in good faith to try and resolve the issue and shall report to CHP the result of the negotiations. All complaints shall be resolved within a reasonable time-period after being received.

6.3 Complaint Review Committee

The FSP Technical Advisory Committee ("FSP TAC") is composed of voting members from CHP, SAFE, and Caltrans. Voting members of the FSP TAC are hereby designated as the members of the Damage Complaint Review Committee ("DCRC"). If the DCRC finds that justifiable complaints are not resolved within a reasonable timeframe, it can recommend that payment to the Contractor in the amount of the damage claim may be deducted from the Contractor monthly invoice.

6.4 Trend Meetings

Contractor shall attend, or send a designated management-level representative, to all trend meetings (i.e., required FSP TAC meeting which meets every other month). These trend meetings will encompass focused and informal discussions concerning, but not limited to: scope, Services, schedule, current progress of Services, relevant cost issues, and future objectives. Contractor shall be responsible for having a representative attend all meetings (i.e., FSP TAC meetings) that has the ability to make management-level decisions on the behalf of the Contractor. If the Contractor cannot have a management-level representative at a meeting, Contractor shall notify SAFE and CHP prior to the meeting. Management-level attendance at these meetings shall be considered part of the Contractor's contractual responsibility. Meetings are scheduled, and Contractor will be notified of such schedule, no later than three (3) working days prior to the meeting.

7.0 Vehicle Operators

7.1 Operator Qualifications and Performance

All potential vehicle operators shall be required to have a safe driving record and, at a minimum, a valid Class C driver's license. All vehicle operators shall be 18 years of age or older at the time of background check. Potential vehicle operators shall be subject to driving record and criminal background checks through the California Highway Patrol. Potential vehicle operators shall be sufficiently experienced in the tasks of tow truck operations and proficient with all required Freeway Service Patrol equipment to provide safe and proper service. Any certified vehicle operator from other FSP areas will be evaluated on a case-by-case basis. All potential vehicle

operators must be capable of demonstrating their tow operating abilities prior to formal CHP training, also known as proficiency testing.

Additionally, the vehicle operators will be required to exercise good, sound judgment in carrying out their duties. Vehicle operators shall be required to inform the CHP Communications Center any time they leave the assigned Beat. This includes breaks and replenishing expendable items, such as: gasoline, fire extinguisher, etc. The vehicle operator shall be required to immediately notify the CHP Communications Center upon a tow truck breakdown.

FSP vehicle operators will be responsible for accurately entering the required data into DCD equipment every shift. Each FSP vehicle operator shall complete an inspection worksheet prior to the commencement of driving the tow truck and a mileage log prior to beginning service on the Beat. The FSP vehicle operator shall be required to complete an assist record for each incident. Each assist record should be accurate. Contractors or Operators providing false or misleading information to FSP Management shall be subject to disciplinary action and will be handled on a case-by-case basis.

FSP vehicle operators shall always complete the required procedures per the SOP when handling required forms. No duplicate survey numbers should be entered into the DCD equipment at any time. Vehicle operators are required to complete in their entirety the Release of Liability form and Damage Release form when applicable. These completed forms should be handed in to RCTC at a minimum every 60 days. If it is discovered that a vehicle operator has entered duplicate survey numbers, not properly completed the release forms, or not turned the release forms in timely, the Contractor may be subject to penalties as outlined in Proposal Pricing Form.

CHP, Caltrans, and RCTC maintain strict drug and alcohol policies. Contractors shall have an alcohol and drug program that includes at a minimum, a drug and alcohol free workplace policy and an employee alcohol/drug-testing program. Any FSP vehicle operator found working under the influence of drugs or alcohol shall be immediately removed from the FSP program by the Contractor. The Contractor shall be responsible for providing a certified replacement vehicle operator for that vehicle.

The Contractor shall be an active participant in the **DMV Pull Notice Program**.

If a vehicle operator is convicted of a crime involving a stolen vehicle, stolen property, violence, drugs, or moral turpitude, fraud related to the towing business, or misdemeanor or felony driving while under the influence of alcohol or a drug, the Contractor shall permanently remove that vehicle operator from duties under the FSP program. If a vehicle operator is charged with any of the above crimes, the Contractor shall immediately suspend that vehicle operator from duties under this program pending the outcome of the criminal case. If the vehicle operator is not convicted, or is ultimately convicted of a lesser crime not described above, RCTC retains the right to

have the Contractor remove that vehicle operator from the duties under the FSP program.

7.2 Operator Training

At the Contractor's expense, all company owners, FSP vehicle operators, and back-up vehicle operators shall be required to present a certificate of completion of a SHRP 2/TIMS training course and to complete the CHP two-day training program which costs approximately \$50.00 per vehicle operator (fee is for the DL64 Tow Truck Driver Certificate and fingerprinting). Contractors shall pay all FSP operators and back-up vehicle operators for attending the training. No vehicle operator will be allowed to begin patrolling without meeting the requirements set forth in the SOP. Any vehicle operator who is found on patrol not meeting the requirements may be prohibited from further FSP service and the Contractor's contract may be terminated immediately.

Mandatory CHP refresher training classes shall be attended. A minimum of four (4) hours refresher training per year shall be required (at Contractor's expense). **Contractors shall pay all FSP vehicle operators and back-up vehicle operators for attending the required training.**

Vehicle operators will be required to utilize DCD equipment to input information about mileage, inspection, and each assist, which will include: location, vehicle make, model, license number, type of assistance provided, etc. Vehicle operators will be trained on using DCD equipment to enter data.

7.3 Operator Driving Record and Criminal History Check

As required by California Vehicle Code Section 2340, all applicants and owners are required to have a driver's license and criminal history check. Only after a completed CHP 234F is received and accepted by CHP, a driver's license and preliminary criminal history check will be performed. The driver's license check will consist of confirming that the applicant has a valid driver's license and the applicant's point count is within standards set forth in this SOP (refer to Chapter 11, Annex A).

The preliminary criminal history check will consist of a preliminary background check to determine if the applicant meets the criteria for a California Tow Truck Driver Certificate as outlined in California Public Resources Code Section 5164, California Vehicle Code Section 13377 and the FSP Contract. In addition, RCTC or the CHP may, in its sole discretion, require an Employer to replace any vehicle operator or reject a potential vehicle operator who it determines is not suitable to represent the FSP Program with the public. If the applicant passes the preliminary criminal history check, the applicant shall submit to fingerprinting.

Driver's license and preliminary criminal history checks will be completed by CHP within ten (10) working days of the acceptance of a CHP 234F.

7.4 Vehicle Operator Uniform

It shall be the responsibility of the Contractor to provide the vehicle operator with specified uniforms, black protective toe boots, nameplate, gloves and other equipment. The equipment includes navy blue coveralls or navy blue shirts and pants. If coveralls are worn, they shall have a collar with a zip front. Optionally, drivers may wear a standard navy blue (long-sleeve only) uniform shirt, with a fluorescent orange (must be only 2.5" wide) trim, with a ½" silver reflective tape down the middle. This allowed reflective tape must be on both sleeves. All uniforms shall be clean, properly maintained, and replaced whenever excessively worn.

Sleeves and pant legs shall be moderately tapered to avoid excessive fullness.

A safety vest with reflective stripes shall be worn and supplied by RCTC. RCTC will supply vests with the FSP logo patches already sewn on per CHP's required patch placement locations. A FSP logo patch is not required to be sewn on the navy blue FSP vehicle operator uniform.

A detachable brass or gold nameplate shall be worn with the first initial of the first name and full last name. Letters shall not exceed ½" tall. The nameplate shall be worn above the right chest pocket on the safety vest. The Contractor is responsible for obtaining FSP CHP approval of the driver nameplates, and the Contractor is responsible for the purchase and replacement of the FSP vehicle operator nameplate.

All FSP vehicle operators shall wear general duty black work boots with protective (steel or composite) toe.

During cold weather, a navy blue sweater or sweatshirt may be worn under the uniform shirt/coveralls. As an option, a navy blue jacket may also be worn, if it meets all the uniform specifications and is worn under the safety vest. Rain gear, if worn, shall be waterproofed material and navy blue or yellow in color. Hats, if worn, shall be baseball-type caps and navy blue in color. An "FSP" logo patch may be sewn on the hat above the brim. No other logos/names shall be accepted. A beanie may also be worn which must be navy blue in color and worn only with a jacket or long sleeve shirt under the vest.

Contractor should refer to the most current SOP to ensure they are following the most recent requirements. SOP revisions and updates shall be unilaterally issued by RCTC, as deemed necessary by RCTC management, and all changes, revisions and updates to the SOP, if any, shall supersede all previous or existing SOPs. A copy of the SOP is included as part of the original RFP package.

7.5 Local Office

The Contractor shall provide a local office for contract administration purposes. This office shall be staffed by either the Contractor or a person who has the authority to conduct business and make decisions on behalf of the Contractor. The office shall

have business hours coinciding with Contractor's Beat(s) hours of operation. Through the Proposal document shown in the Contractor Representative Form, the Contractor shall designate representatives who will be available at the office during hours of operation to make decisions on behalf of the Contractor. The office shall be established within close proximity to the Contractor's Beat(s) and the County of Riverside. Also note in the Scope of Services, Section 4.4, **a backup vehicle and a certified FSP vehicle operator must be available within a 45-minute request of the Beat area.**

This requirement may also determine if the local office is close enough to satisfy the requirements under this section.

The Contractor shall also provide **telephone and email** through which he/she, or a responsible representative who has the authority to conduct business and make decisions on behalf of the Contractor, can be contacted during the non-service hours of operation for the length of the contract. During non-business hours, an answering machine provided at the Contractor's expense, shall be available to log calls, take complaints, etc. **An email address that is monitored daily** shall be provided for notification purposes during operational and non-service hours. The Contractor will be responsible for having a company representative monitor and review messages/notices on a daily basis.

7.6 Remedies and Liquidated Damages

RCTC has a need to deal contractually with a range of failures by Contractors to meet contractual standards and requirements short of suspension or termination. Failure to meet contractual standards and requirements constitute a default under the contract and is subject to the various remedies provided in the contract, up to and including termination of the contract.

It is clear that any default that is related to service or contractor's readiness for service will either degrade service or lead to the degradation of service. The failure to meet contractual standards and requirements, therefore, causes damages to the FSP program and its participants (RCTC, CHP and Caltrans) and to the public being served by the FSP program. Because of the public service nature of the mission of the FSP, described generally in the Standard Operating Procedures (SOP), to keep traffic and commerce flowing on the regional freeways, the damages arising from contractor's failure to meet the contractual standards and requirements are impractical or extremely difficult to ascertain on an individual basis.

The contract has therefore established a series of remedies to attempt to deal with a range of defaults. The most egregious default will result in suspension or termination. Lesser defaults will result in the assessment of liquidated damages. These lesser remedies have been described in the SOP as fines, violations or penalties. This is not a correct characterization of the intent of the remedies. The remedies arise because the contractor is in default and the FSP and the public it serves is damaged by that

default. The remedies are to compensate FSP for its damages and to encourage compliance with performance requirements of the contract.

DRAFT

EXHIBIT “B”

Compensation Summary

FIRM	PROJECT TASKS/ROLE	COST
Prime Consultant:		
Pepe’s Towing Service, Inc.	FSP Services for Beat No. 7	\$1,666,787.00
TOTAL COSTS		\$1,666,787.00

Agreement No. 21-45-051-00

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION, ACTING AS THE RIVERSIDE
COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES,
FOR
FREEWAY SERVICE PATROL FOR BEAT # 8 WITHIN RIVERSIDE COUNTY
WITH PEPE'S TOWING SERVICE**

1. PARTIES AND DATE.

1.1 This Agreement is made and entered into as of _____ day of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("COMMISSION") acting as the RIVERSIDE COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES ("SAFE") and PEPE'S TOWING SERVICE, a California Corporation (referred to herein as "CONTRACTOR"). SAFE and CONTRACTOR are sometimes individually referred to herein as "Party" and collectively as "Parties".

1.2 The California Highway Patrol herein referred to as "CHP" and California Department of Transportation, herein referred to as "Caltrans" are hereby expressly designated as third-party beneficiaries of CONTRACTOR's performance under this Agreement.

2. RECITALS.

2.1 **WHEREAS**, COMMISSION is a California County Transportation Commission existing under the authority of Section 130050 et seq. of the California Public Utilities Code;

2.2 **WHEREAS**, COMMISSION is authorized, pursuant to Section 2550 et seq. of the California Streets and Highways Code, to act as SAFE for purposes of providing a motorist aid system, including provision of freeway service patrols;

2.3 **WHEREAS**, SAFE requires the services of a CONTRACTOR to provide the freeway service patrol professional services as described in the Scope of Services;

2.4 **WHEREAS**, SAFE has determined that CONTRACTOR is best qualified to perform the required services;

2.5 **WHEREAS**, the CONTRACTOR is able and willing to perform the required services under the terms and conditions of this Contract;

2.6 **WHEREAS**, COMMISSION is the short range transportation planning agency for Riverside County, and programs federal, state, and local funds. COMMISSION has entered into a Memorandum of Understanding

with Caltrans and CHP to fund peak period freeway service patrols on selected freeway segments in Riverside County; and

- 2.7 **WHEREAS**, Section 21718 (a) of the California Vehicle Code specifically authorized CHP to be responsible for freeway service patrols stopping on freeways for the purpose of rapid removal of impediments to traffic. Article 3, Section 91, of the Streets and Highways Code, states that Caltrans has responsibility to improve and maintain the state highways. Caltrans also has the responsibility for traffic management and removing impediments from the highways.

NOW, THEREFORE, for the consideration hereinafter stated, SAFE and CONTRACTOR agree as follows:

3. TERMS.

3.1 General Scope of Services. The purpose of the Freeway Service Patrol ("FSP") program is to provide for the rapid removal of disabled vehicles and vehicles involved in minor accidents from the freeway. Contractor promises and agrees to furnish to SAFE all labor materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately provide the FSP services ("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, and the SOP manual (as defined below).

3.1.1. Contract Oversight. Caltrans and CHP will jointly oversee the Services. Both agencies will have responsibility for overseeing Service performance and ensuring that the CONTRACTOR abides by the terms of this Contract. CHP is responsible for dispatch services to incident locations within the CONTRACTOR's patrol limits. The dispatching will be done in accordance with this Contract. A Standard Operating Procedures ("SOP") manual will be given to the CONTRACTOR explaining the types of incidents to which his/her operators may be dispatched.

3.1.2 Beat Descriptions. The FSP will operate on selected freeway segments referred to herein as "beats". Each beat has specific turnaround locations and designated drop locations identified by the CHP. Exhibit "A" shows the specific limits, number of tow trucks, number of back-up trucks and hours of operation, and holidays for the CONTRACTOR's specific beat. SAFE reserves the right to add or delete holidays to the work schedule, provided that SAFE provides CONTRACTOR seven (7) days advanced notice of such addition or deletion. Travel time to and from the beat will be at the expense of the CONTRACTOR.

3.1.3 Change Orders. At any time during the term of this Contract, SAFE reserves the right to adjust beat specifications to better accommodate demand for the Services, or availability of funding, at no cost to SAFE. Adjustments may include reduction in

the hours of Services. SAFE may direct such adjustments during the course of this Contract through written change orders, signed by SAFE, setting forth any changes to Exhibit "A". Changes may include a change of the specified beat(s) to other beats that SAFE determines better serve the needs of SAFE, as well as changes to schedules and hours for the beats set forth in Exhibit "A". If warranted, as determined in SAFE's sole discretion, and during the hours of operation of the Services, the CONTRACTOR may be requested to temporarily reassign his/her FSP operators/trucks to locations outside the assigned beat. Such reassignments shall be at no cost to SAFE.

3.1.4. The SOP Manual. To promote a safe work environment and for the maintenance of professionalism, the most current version of the SOP manual shall, at all times, be followed by the CONTRACTOR and its vehicle operators. The SOP manual, as such manual may from time to time be amended, is incorporated into this Contract by reference. CONTRACTOR shall be notified and provided with a copy of any changes to the SOP manual. Drivers found not to be in compliance with FSP procedures, as set forth in the SOP manual or this Contract, may be suspended or terminated from the FSP program and the CONTRACTOR may be fined three (3) times the hourly Contract rate in one (1) minute increments until a replacement vehicle is provided (Driver and Truck must return to beat compliant with all FSP requirements), or fined for the entire shift at three (3) times the hourly rate at the discretion of the FSP Field Supervisors.

3.2 Equipment Requirements. CONTRACTOR shall comply with all equipment requirements outlined in the attached Exhibit "A".

3.3 Commencement of Services. The CONTRACTOR shall commence work upon receipt of a written Notice to Proceed from SAFE.

3.4 Term. The term of this Contract shall be for a period of five (5) years, from **January 4, 2022** to **January 3, 2027** unless earlier terminated as provided herein. SAFE shall also have the right to renew this Contract from one month up to a one (1) year term after the initial term by providing notice as provided below. SAFE must provide written notice to CONTRACTOR no less than ninety (90) days prior to the end of the applicable term, indicating its renewal of the Contract. CONTRACTOR shall complete the Services within the term of this Contract, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Contract shall remain in effect following the termination of this Contract. The rates shall be as follows:

SCHEDULE OF HOURLY RATES

Classification	Year 1	Year 2	Year 3	Year 4	Year 5
Regular Rate	\$ 81.75 per hour	\$ 83.75 per hour	\$ 85.56 per hour	\$ 87.23 per hour	\$ 89.10 per hour
CFSP/Extra Rate	\$ 89.93 per hour	\$ 92.12 per hour	\$ 94.12 per hour	\$ 95.95 per hour	\$ 98.01 per hour

3.5 SAFE's Representative. SAFE hereby designates the SAFE Executive Director or his or her designee, to act as its Representative for the performance of this

Contract ("SAFE's Representative"). SAFE's Representative shall have the authority to act on behalf of SAFE for all purposes under this Contract. SAFE's Representative shall also review and give approval, as needed, to the details of CONTRACTOR's work as it progresses. CONTRACTOR shall not accept direction or orders from any person other than the SAFE's Representative or his or her designee.

3.6 CONTRACTOR'S Representative. CONTRACTOR hereby designates **Lorenzo Navarro, Vice President**, to act as its representative for the performance of this Contract ("CONTRACTOR's Representative"). CONTRACTOR's Representative shall have full authority to act on behalf of CONTRACTOR for all purposes under this Contract. 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 Contract. CONTRACTOR shall work closely and cooperate fully with SAFE's Representative and any other agencies which may have jurisdiction over or an interest in the Services. CONTRACTOR's Representative shall be available to the SAFE staff at all reasonable times. Any substitution in CONTRACTOR's Representative shall be approved in writing by SAFE's Representative.

3.7 Substitution of Key Personnel. CONTRACTOR has represented to SAFE that certain key personnel will perform and coordinate the Services under this Contract. Should one or more of such personnel become unavailable, CONTRACTOR may substitute other personnel of at least equal competence upon written approval by SAFE's Representative. In the event that SAFE's Representative and CONTRACTOR cannot agree as to the substitution of the key personnel, SAFE shall be entitled to terminate this Contract for cause, pursuant to the provisions of Section 3.15. The key personnel for performance of this Contract are: **Manuel Acosta, Owner/CEO; Lorenzo Navarro, General Manager; Pete Ortiz, Administrative Manager; Fernando Soria, Operations Manager; Laura Acosta, Office Administrator.**

3.7.1 Availability of FSP Manager. Except in the case of unpreventable circumstances, the FSP Manager must be available at the CONTRACTOR's office for at least 50% of each Work Day to address time sensitive issues related to this Contract or the Services, including, but not limited to, FSP administrative responsibilities; SAFE, CHP, and Caltrans requests; driver matters; and truck maintenance issues. CONTRACTOR shall, within 24 hours, notify SAFE of each circumstance causing the FSP Manager not to be available as required herein. As used in this section, the term "Work Day" shall mean and refer to any day that FSP service is provided, during those hours of operation for Construction FSP as identified on the attached Exhibit "A-1".

3.8 Review of Work and Deliverables. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Contract may be required to be submitted to SAFE's Representative in draft form, and SAFE's Representative may require revisions of such drafts prior to formal submission and approval. In the event that SAFE's Representative, in his or her sole discretion, determines the formally submitted work product to be inadequate, SAFE's Representative may require

CONTRACTOR to revise and resubmit the work at no cost to SAFE. Upon determination by SAFE that CONTRACTOR has satisfactorily completed the Services required under this Contract and within the term set forth in Section 3.4, SAFE shall give CONTRACTOR a written Notice of Final Completion. Upon receipt of such notice, CONTRACTOR shall incur no further costs hereunder, unless otherwise specified in the Notice of Completion. CONTRACTOR may request issuance of a Notice of Final Completion when, in its opinion, it has satisfactorily completed all Services required under the provisions of this Contract.

3.9 Appearance at Hearings. If and when required by SAFE, CONTRACTOR shall render assistance at public hearings or other meetings related to the performance of the Services.

3.10 Standard of Care: Licenses. CONTRACTOR represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Contract. CONTRACTOR 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. CONTRACTOR warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. CONTRACTOR further represents and warrants to SAFE that its employees and subcontractors have all licenses, permits, qualifications (including medical certification) 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 Contract. CONTRACTOR shall perform, at its own cost and expense and without reimbursement from SAFE, 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, and shall be fully responsible to SAFE for all damages and other liabilities provided for in the indemnification provisions of this Contract arising from the CONTRACTOR's errors and omissions. Any employee of CONTRACTOR or its subcontractors who is determined by SAFE to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services, 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 SAFE, shall be promptly removed from performing the Services by the CONTRACTOR and shall not be re-employed to perform any of the Services.

3.11 Opportunity to Cure. SAFE may provide CONTRACTOR an opportunity to cure, at CONTRACTOR's expense, all errors and omissions which may be disclosed during performance of the Services. Should CONTRACTOR fail to make such correction in a timely manner, such correction may be made by SAFE, and the cost thereof charged to CONTRACTOR.

3.12 Inspection of Work. CONTRACTOR shall allow SAFE's Representative to inspect or review CONTRACTOR's performance of Services in progress at any time. SAFE/Caltrans/CHP also reserves the right to audit all paperwork demonstrating that CONTRACTOR participates in an employee alcohol/drug-testing program and the DMV Pull Notice Program.

3.13 Laws and Regulations. 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 Services, including all Cal/OSHA requirements, and shall give all notices required by law. CONTRACTOR shall be solely 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 SAFE, CONTRACTOR shall be solely responsible for all costs arising therefrom. CONTRACTOR shall defend, indemnify and hold SAFE, their officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.14 Damage Complaints. Upon receiving a damage complaint from a motorist assisted by the CONTRACTOR, that the CONTRACTOR damaged their vehicle while lending assistance, the CONTRACTOR shall notify CHP immediately regarding the nature of the damage complaint and its disposition. The CONTRACTOR shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification. If necessary, the CONTRACTOR shall send either his or her authorized representative or his or her insurance company representative to inspect the vehicle and complete an incident report within forty-eight (48) hours after receiving the damage complaint. If the investigation shows that damage to the vehicle could have been caused by the CONTRACTOR, the CONTRACTOR shall negotiate in good faith to try and resolve the issue and shall report to the CHP the result of the negotiations. All complaints shall be resolved within a reasonable period of time after being received.

3.14.1 Complaint Review Committee. The FSP Technical Advisory Committee ("FSP TAC") is composed of voting members from CHP, SAFE and Caltrans. Voting members of the FSP TAC are hereby designated as the members of the Damage Complaint Review Committee ("DCRC"). If the DCRC finds that justifiable complaints are not resolved within a reasonable time frame, it can recommend that payment to the CONTRACTOR in the amount of the damage claim may be deducted from the CONTRACTOR's monthly invoice.

3.15 Termination.

3.15.1 Notice; Reason. SAFE may, by written notice to CONTRACTOR, terminate this Contract, in whole or in part, including, without limitation, the geographical territory covered by this Contract, at any time by giving written notice to CONTRACTOR of such termination, and specifying the effective date thereof ("Notice of Termination"). Such termination may be for SAFE's convenience, due to lack of available funding for the Services, or because of CONTRACTOR's failure to perform its duties and obligations under this Contract, including, but not limited to, the failure of CONTRACTOR to timely perform Services pursuant to the Scope of Services described in Section 3, entitled "Terms," as well as Section 7 of the RFP. CONTRACTOR may not terminate this Contract except for cause.

3.15.2 Discontinuance of Services. Upon receipt of the written Notice of Termination, CONTRACTOR shall discontinue all affected Services as directed in the Notice of Termination, and deliver to SAFE all Documents and Data, as defined in this Contract, as may have been prepared or accumulated by CONTRACTOR in performance of the Services, whether completed or in progress.

3.15.3 Effect of Termination For Convenience. If the termination is to be for the convenience of SAFE, SAFE shall compensate CONTRACTOR for Services fully and adequately provided through the effective date of termination as provided in the Notice of Termination. Such payment shall include a pro-rated amount of profit, if applicable, up through such effective date, but no amount shall be paid for anticipated profit on unperformed Services past such effective date. CONTRACTOR shall provide documentation deemed adequate by SAFE's Representative to show the Services actually completed by CONTRACTOR prior to the effective date of termination. This Contract shall terminate on the effective date of the Notice of Termination.

3.15.4 Effect of Termination for Cause. If the termination is for cause, CONTRACTOR shall be compensated for those Services which have been fully and adequately completed and accepted by SAFE as of the effective date of termination as provided in the Notice of Termination. In such case, SAFE may take over the work and prosecute the same to completion by contract or otherwise. Further, CONTRACTOR shall be liable to SAFE for any reasonable additional costs or damages incurred to revise work for which SAFE has compensated CONTRACTOR under this Contract, but which SAFE has determined in its sole discretion needs to be revised, in part or whole. Termination of this Contract for cause may be considered by SAFE in determining whether to enter into future contracts with CONTRACTOR.

3.15.5 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 Contract.

3.15.6 Procurement of Similar Services. In the event this Contract is terminated, in whole or in part, as provided by this Section, SAFE may procure, upon such terms and in such manner as it deems appropriate, services similar to those terminated.

3.15.7 Waivers. CONTRACTOR, in executing this Contract, recognizes that the Services may be terminated, in whole or in part, as provided in this Section. CONTRACTOR shall not be entitled to any damages including, but not limited to, any compensation for costs incurred to procure vehicles, meet the terms for providing the Services, or for any other costs or expenses, and shall be deemed to have waived any and all claims for damages, costs or expenses which may otherwise arise from SAFE's termination of this Contract, for convenience or cause, as provided in this Section.

3.15.8 Authorization to Terminate. The Executive Director of SAFE shall have the full authority and discretion to exercise SAFE's rights under this Section 3.15, entitled "Termination".

3.16 Trend Meetings. CONTRACTOR shall attend, or send a designated management-level representative, to all trend meetings (i.e., required FSP TAC meeting which meets every other month). These trend meetings will encompass focused and informal discussions concerning, but not limited to: scope, Services, schedule, current progress of Services, relevant cost issues, and future objectives. CONTRACTOR shall be responsible for having a representative attend all meetings (i.e., FSP TAC meetings) that has the ability to make management-level decisions on the behalf of the CONTRACTOR. If the CONTRACTOR cannot have a management-level representative at a meeting, CONTRACTOR shall notify SAFE and CHP prior to the meeting. Management-level attendance at these meetings shall be considered part of the CONTRACTOR's contractual responsibility. Meetings are scheduled, and CONTRACTOR will be notified of such schedule, no later than three (3) working days prior to the meeting.

3.17 Fees and Payment.

3.17.1 Amount to be Paid. Subject to the provisions set forth below for Services satisfactorily performed hereunder, SAFE shall pay the CONTRACTOR on a fixed unit rate basis a ceiling price NOT TO EXCEED **One Million Six Hundred Sixty-Six Thousand Seven Hundred Eighty-Seven Dollars (\$1,666,787).**

3.17.2 Maximum Payment is the Ceiling Price. SAFE shall not be obligated to pay costs which exceed the ceiling price set forth above, except as provided in Sections 3.15 and 3.17.10. CONTRACTOR agrees to use its best efforts to perform the services and all obligations under this Contract within such ceiling price.

3.17.3 Hourly Rate; Break and Meal Periods. For its performance of the Services, the CONTRACTOR shall be paid for labor expended directly in the performance of the Services at the rates specified below. Payments shall be made monthly in arrears based on Services provided and allowable incurred expenses. The CONTRACTOR shall not be entitled to reimbursements for any expenses unless approved in advance in writing.

SCHEDULE OF HOURLY RATES

Classification	Year 1	Year 2	Year 3	Year 4	Year 5
Regular Rate	\$ 81.75 per hour	\$ 83.75 per hour	\$ 85.56 per hour	\$ 87.23 per hour	\$ 89.10 per hour
CFSP/Extra Rate	\$ 89.93 per hour	\$ 92.12 per hour	\$ 94.12 per hour	\$ 95.95 per hour	\$ 98.01 per hour

Hourly rates may be adjusted as set forth in Chapter 9, Violations/Penalties, of the FSP Standard Operating Procedures (SOP).

A) CONTRACTOR is responsible for compliance with all California labor laws related to break periods and meal periods including, but not limited to, compliance with Labor Code section 512. CONTRACTOR shall be solely responsible for any additional pay to which its drivers may be entitled for CONTRACTOR's failure to comply with the California labor law requirements.

B) During shifts that require drivers to be provided a 30-minute meal period break pursuant to Labor Code section 512, CONTRACTOR shall either make arrangements for another certified driver to provide Services during those breaks or not be compensated for each 30-minute meal period break during which Services are not provided. In no case shall CONTRACTOR be entitled to bill RCTC for time during which a driver is taking a meal period break.

3.17.4 Payment Coverage. The compensation herein above specified will cover and include all applicable labor surcharges such as taxes, insurance and fringe benefits, as well as indirect costs, overhead, general and administrative expense, and profit.

3.17.5 Cost Principles.

A) CONTRACTOR agrees to comply with 2 CFR, Part 225, Cost Principles for State and Local Government, and 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

B) CONTRACTOR agrees that 1) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual cost items, and 2) CONTRACTOR shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C) Any costs for which CONTRACTOR has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 225, 48 CFR, Chapter 1, Part 31 or 2 CFR, Part 200, are subject to repayment by CONTRACTOR to SAFE. Should CONTRACTOR fail to reimburse moneys due SAFE within 30 days of demand, or within such other period as may be agreed in writing between the Parties hereto, SAFE is authorized to intercept and withhold future payments due CONTRACTOR from SAFE or any third-party source, including, but not limited to, the State Treasurer, the State Controller, and the California Transportation Commission.

3.17.6 Fines. Fines for starting late; leaving early; taking more breaks than authorized; or being ordered out of service by a CHP, SAFE Representative or Caltrans supervisor for Contract infractions shall be deducted from the CONTRACTOR's monthly invoice at five (5) times the hourly rate, plus the loss of revenue for the down time. Fines may be further described in the attached Exhibit "A" or Exhibit "B".

3.17.7 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.

3.17.8 Invoices. Invoices for CONTRACTOR's Services shall be submitted monthly on forms approved by SAFE. Invoices will be routinely verified by CHP. To ensure prompt payment, most billing disputes may be resolved within ten (10) working days of written notice of dispute. However, at SAFE's discretion, reconciliation of disputed fines that sum to less than 2% of the months' Invoice may be corrected on the next month's Invoice to ensure prompt payment of the major portion of the invoice. Each Invoice shall include a cover sheet bearing a certification as to the accuracy of the statement signed by the CONTRACTOR's authorized officer. Invoices shall be mailed to SAFE's Contract Administrator at the following address:

Riverside County Service Authority for Freeway Emergencies
FSP Program
P.O. Box 12008
Riverside, CA
92502-2208
Attn: Brian Cunanan

3.17.8.1 Payment Schedule. Invoice periods shall be based upon a calendar month, beginning with the first day of the month. SAFE shall reimburse CONTRACTOR for Services adequately provided under this Contract within thirty (30) days of receiving the current period invoice with no errors. If the Invoice is completed incorrectly by the CONTRACTOR it will delay payment. If SAFE fails to pay any amount owed to CONTRACTOR under this Contract within thirty (30) days after receipt of the invoice, CONTRACTOR may give SAFE a notice of failure to pay which shall set forth the invoice(s) and amount(s) which CONTRACTOR believes are thirty (30) days overdue. SAFE shall pay any undisputed invoice(s) and amount(s) within thirty (30) days of receipt of a notice of failure to pay.

3.17.9 Right to Audit. For the purpose of determining compliance with this Contract and other matters connected with the performance of CONTRACTOR's contracts with third parties, CONTRACTOR and its subcontractors shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times for three years from the date of final payment of Funds to CONTRACTOR. SAFE, the State of California acting through the Department of Transportation or its duly authorized representative, the California State Auditor, or the United States Department of Transportation shall each have access to any books, records, and documents that are pertinent for audits, examinations, excerpts, and transactions, and CONTRACTOR shall furnish copies thereof if requested.

3.17.10 Taxes. CONTRACTOR shall pay any sales, use, or other taxes, if any, attributable to the provision of the Services.

3.17.11 Travel and Subsistence. 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. If the rates invoiced are in excess of those authorized DPA rates, then CONTRACTOR is responsible for the cost difference and any overpayments shall be reimbursed to SAFE on demand.

3.17.12 Employment Adverse to the SAFE. CONTRACTOR shall notify SAFE, and shall obtain SAFE's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against SAFE during the term of this Contract.

3.17.13 Extra Work. At any time during the term of this Contract, SAFE may request CONTRACTOR to perform Extra Work. "Extra Work" shall mean any work which is determined by SAFE to be necessary for proper completion of the Services, but which the Parties did not reasonably anticipate would be necessary at the time of the execution of this Contract and was not included in the Scope of Services. Extra Work, if any, shall be reimbursed at the same hourly rate as identified in Section 3.17.3. CONTRACTOR shall not perform, nor be compensated for Extra Work without obtaining authorization in the form of a written Extra Work Order issued by SAFE's Representative. For instance, Construction FSP services as it relates to construction activity can be considered Extra Work. In the event an Extra Work Order is not issued and signed by SAFE's Representative, CONTRACTOR shall not provide such Extra Work. However, no compensation or reimbursement for Extra Work shall be paid if it is not authorized by SAFE and if the cumulative total of such Extra Work under the Contract exceeds \$25,000. All Extra Work in a cumulative total in excess of \$25,000 must be approved in advance by amendment to this Contract.

3.17.13.1 Extra Work Cancellation Policy. If a tow operator is scheduled for Extra Work and they are notified of a cancellation with **LESS than a 24 hour notice** – then the tow operator will be reimbursed for **three (3) hours** of the agreed upon contract hourly rate. *Note: The minimum of the three (3) hours should cover eight hours of the drivers' hourly wage.* Starting with "Less than a 24 hour cancellation notice" up to the time the tow operator is on the assigned Extra Work Beat, the "three contract hour cancellation rate" remains the same. Once the tow operator is on the Extra Work Beat, the cancellation policy changes.

If a tow operator begins the Extra Work (the truck is on the Beat) and is then notified that Extra Work has been cancelled, the FSP operator will be paid for the entire shift period **up to a maximum of eight (8) hours**. A shift period for this policy is defined as: the time period of the actual Extra Work shift assigned or for a maximum of eight (8) contract hours, whichever is less.

The supervising FSP CHP Officer for the Extra Work shift will make the final determination as to whether or not the tow operator will continue to work the Extra Work shift. Regardless, the tow operator will be reimbursed for the original shift period or a maximum of eight (8) hours, whichever is less.

3.17.14 Most Favored Customer. CONTRACTOR agrees that, throughout the term of this Contract, it shall not enter into any FSP services agreement with any government agency with whom it has either existing contractual relationship or has no

contractual relationship that predates this Contract, pursuant to which CONTRACTOR agrees to charge FSP services fees less than those as indicated in this Contract for substantially the same level of FSP services contemplated by this Contract. Should SAFE establish that such lower fees have been agreed to by CONTRACTOR with another government agency, CONTRACTOR agrees to renegotiate the fees or to refund SAFE an amount equal to the difference between the fees indicated in this Contract and the fees charged to other government agency customer.

3.18 Delay in Performance.

3.18.1 Excusable Delays. Neither Party shall be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by an Excusable Delay. Should CONTRACTOR be delayed or prevented from the timely performance of any act or Services required by the terms of the Contract by an Excusable Delay, Contractor's schedule for completion of tasks affected by such delay may be extended as set forth in Section 3.18.2. But in every case, CONTRACTOR's failure to perform must be reasonably beyond the control, and without the fault or negligence of the CONTRACTOR. Excusable Delays are acts of God or of the public enemy, acts or omissions of SAFE or other governmental agencies in either their sovereign or contractual capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather.

3.18.2 Written Notice. If CONTRACTOR believes it is entitled to an extension of time due to conditions set forth in subsection 3.18.1, CONTRACTOR shall provide written notice to the SAFE within seven (7) working days from the time CONTRACTOR knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of CONTRACTOR to provide such timely notice shall constitute a waiver by CONTRACTOR of any right to an excusable delay in time of performance.

3.18.3 Mutual Contract. Performance of any Services under this Contract may be delayed upon mutual agreement of the Parties. Upon such agreement, CONTRACTOR's Schedule of Services (as defined in their Proposal) shall be extended as necessary by SAFE. CONTRACTOR shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

3.19 Status of CONTRACTOR/Subcontractors.

3.19.1 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 Contract. SAFE retains CONTRACTOR on an independent contractor basis and not as an employee, agent or representative of the SAFE. CONTRACTOR retains the right to perform similar or different services for others during the term of this Contract. Any additional personnel performing the Services under this Contract on behalf of CONTRACTOR 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 and as required by law. CONTRACTOR 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.

3.19.2 Assignment or Transfer. CONTRACTOR shall not assign, hypothecate, or transfer, either directly or by operation of law, this Contract or any interest herein, without the prior written consent of SAFE. 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. Notwithstanding the foregoing, SAFE may transfer or assign any and all of its rights and obligations under this Contract, including, without limitation the rights to terminate this Contract, as assigned, pursuant to Section 3.15 hereof.

3.19.3 Subcontracting. CONTRACTOR shall not subcontract any portion of the work or Services required by this Contract, except as expressly stated herein, including the Scope of Services, without prior written approval of the SAFE. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Contract. SAFE shall have no liability to any subconsultant(s) for payment for services under this Contract or other work performed for CONTRACTOR, and any subcontract entered into by CONTRACTOR pursuant to the conduct of services under this Contract shall duly note that the responsibility for payment for the technical services or any other work performed shall be the sole responsibility of CONTRACTOR.

3.20 CONTRACTOR will maintain an inventory of all non-expendable equipment, defined as having a useful life of at least two years and an acquisition cost of \$500 or more, paid for with funds provided pursuant to this Contract.

3.21 Ownership of Materials and Confidentiality.

3.21.1 Documents & Data; Licensing of Intellectual Property. All 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, spreadsheets, or data magnetically or otherwise recorded on computer diskettes, prepared by or on behalf of CONTRACTOR under this Contract ("Documents and Data"), shall be made available to SAFE at all times during this Contract and shall become the property of SAFE upon the completion of the term of this Contract, except that CONTRACTOR shall have the right to retain copies of all such Documents and Data for its records. Should CONTRACTOR, either during or following termination of this Contract, desire to use any Documents and Data, it shall first obtain the written approval of SAFE. This Contract creates a no-cost, nonexclusive, and perpetual license for SAFE to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in the Documents and Data which are prepared or caused to be prepared by CONTRACTOR under this Contract ("Intellectual Property"). CONTRACTOR shall require all subcontractors to agree in writing that SAFE is granted a no-cost, nonexclusive, and

perpetual license for any Intellectual Property the subcontractor prepares under this Contract. CONTRACTOR represents and warrants that CONTRACTOR has the legal right to license any and all Intellectual Property prepared or caused to be prepared by CONTRACTOR under this Contract. SAFE shall not be limited in any way in its use of the Intellectual Property at any time, provided that any such use not within the purposes intended by this Contract shall be at SAFE's sole risk.

3.21.2 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 CONTRACTOR in connection with the performance of this Contract shall be held confidential by CONTRACTOR to the extent permitted by law, including, without limitation, the California Public Records Act, Government Code section 6250 et seq. Such materials shall not, without the prior written consent of SAFE, be used by CONTRACTOR for any purposes other than the performance of the Services as provided herein. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services, except as provided herein. Nothing furnished to CONTRACTOR which is otherwise known to CONTRACTOR or is generally known, or becomes known, to the related industry shall be deemed confidential. CONTRACTOR shall not use SAFE's name or insignia, photographs, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production, or other similar medium without the prior written consent of SAFE.

3.22 Indemnification. CONTRACTOR shall indemnify and hold SAFE, COMMISSION, CHP, Caltrans and their directors, officials, officers, agents, contractors, consultants, employees, and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of, or incident to, any acts, omissions, or willful misconduct of the CONTRACTOR, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services or this Contract, including without limitation, the payment of all consequential damages and other related costs and expenses. CONTRACTOR shall defend, at CONTRACTOR'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 SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, contractors, consultants, employees, and volunteers. CONTRACTOR shall pay and satisfy any judgment, award, or decree that may be rendered against SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, consultants, employees, and volunteers, in any such suit, action, or other legal proceeding. CONTRACTOR shall reimburse SAFE, COMMISSION, CHP, Caltrans and their directors, officials, officers, agents, consultants, employees, and 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 not be restricted to insurance proceeds, if any, received by the CONTRACTOR, SAFE, COMMISSION, CHP, Caltrans or their directors, officials, officers, agents, consultants, employees, and volunteers.

3.23 Insurance.

3.23.1 Time for Compliance. CONTRACTOR shall not commence work under this Agreement until it has provided evidence satisfactory to SAFE that it has secured all insurance required under this section, in a form and with insurance companies acceptable to SAFE. In addition, CONTRACTOR shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

3.23.2 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:

(i) General Liability:

Per occurrence:	\$2,000,000
Project Specific Aggregate:	\$4,000,000
Products/Completed Operations:	\$1,000,000
Personal Injury Limit:	\$1,000,000

(ii) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and

(iii) 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.

3.23.3 On-Hook Insurance. CONTRACTOR shall maintain a policy of On-Hook Towing Insurance to include the care, custody or control exposure present while vehicles are being serviced roadside, on-hook, or in a storage yard for not less than one hundred thousand dollars (\$100,000).

3.23.4 Insurance Endorsements. The insurance policies shall contain the

following provisions, or CONTRACTOR shall provide endorsements on forms approved by SAFE 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 SAFE, COMMISSION, CHP, Caltrans 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 SAFE, COMMISSION, CHP, 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) SAFE, COMMISSION, CHP, 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 CONTRACTOR or for which the CONTRACTOR is responsible; and (2) the insurance coverage shall be primary insurance as respects SAFE, COMMISSION, CHP, Caltrans and their 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 SAFE, COMMISSION, CHP, Caltrans or their 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 SAFE, 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) 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 SAFE, 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 SAFE, COMMISSION, CHP, and Caltrans (if agreed to in a written contract or agreement) before SAFE, COMMISSION, CHP or Caltrans 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 SAFE 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 SAFE 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 SAFE, 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, SAFE has the right but not the duty to obtain the insurance it deems necessary and any premium paid by SAFE will be promptly reimbursed by CONTRACTOR or SAFE will withhold amounts sufficient to pay premium from CONTRACTOR payments. In the alternative, SAFE may cancel this Agreement. SAFE may require the CONTRACTOR to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither SAFE, COMMISSION, CHP, Caltrans nor any of their 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:

3.23.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by SAFE. If SAFE does not approve the deductibles or self-insured retentions as presented, CONTRACTOR shall guarantee that, at the option of SAFE, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SAFE, 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.

3.23.6 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 SAFE.

3.23.7 Verification of Coverage. CONTRACTOR shall furnish SAFE with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to SAFE. 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 SAFE before work commences. SAFE reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.23.8 Subcontractor Insurance Requirements. CONTRACTOR shall not allow any subcontractors to commence work on any subcontract until they have provided evidence satisfactory to SAFE 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 SAFE, COMMISSION, CHP and Caltrans as additional insureds using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by CONTRACTOR, SAFE may approve different scopes or minimum limits of insurance for particular subcontractors or subcontractors.

3.23.9 Review of Coverage. SAFE retains the right at any time to review the coverage, form and amount of insurance required herein and may require CONTRACTOR to obtain additional insurance reasonably sufficient in coverage, form, amount to provide adequate protection against the kind and extent of risk which exists at the time of change in insurance required.

3.23.10 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.

3.24 Prohibited Interests.

3.24.1 Solicitation. CONTRACTOR 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 Contract. 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, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, SAFE shall have the right to rescind this Contract without liability.

3.24.2 Conflict of Interest. For the term of this Contract, no member, officer or employee of SAFE, during the term of his or her service with SAFE, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom.

3.24.3 Conflict of Employment. Employment by the CONTRACTOR of personnel currently on the payroll of SAFE shall not be permitted in the performance of this Contract, 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 CONTRACTOR of personnel who have been on SAFE payroll within one year prior to the

date of execution of this Contract, where this employment is caused by, and or dependent upon, the CONTRACTOR securing this or related Contracts with SAFE, is prohibited.

3.25 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, ancestry, sex, age, disability (including HIV and AIDS), mental disability, medical condition (cancer), marital status, denial of family and medical care leave, or denial of pregnancy disability leave. 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. Employment and Housing Act (Gov. Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Admin. Code, Tit. 2, Section 7285.0 et seq.): The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Sec 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code, Sec 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this Contract by reference and made a part hereof as if set forth in full. CONTRACTOR shall include the provisions of this Section in all of CONTRACTOR's subcontracts with respect to work under this Agreement, unless exempted by the Regulations. CONTRACTOR shall also comply with all relevant provisions of SAFE's Minority Business Enterprise program, Affirmative Action Plan, or other related SAFE programs or guidelines currently in effect or hereinafter enacted.

3.26 Right to Employ Other CONTRACTORS. SAFE reserves the right to employ other CONTRACTORS in connection with the Services.

3.27 Governing Law. The validity of this Contract and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by and construed with the laws of the State of California.

3.28 Venue. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in Riverside County, California. The Parties agree that the venue for any action or claim brought by any Party will be the Central District of Riverside County. Each Party hereby waives any law or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties agree to use their best efforts to obtain a change of venue to the Central District of Riverside County.

3.29 Time of Essence. Time is of the essence for each and every provision of this Contract.

3.30 Headings. Article and section headings, paragraph captions, or marginal headings contained in this Contract are for convenience only and shall have no effect in the construction or interpretation of any provision herein.

3.31 Notices. All notices hereunder and communications regarding interpretation of the terms of this Contract or changes thereto shall be given to the respective

Parties at the following addresses, or at such other addresses as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

**Pepe's Towing Service
2000 W. Key Street
Colton, CA 92324
Attn: Lorenzo Navarro**

SAFE:

**Riverside County Service Authority
for Freeway Emergencies
FSP Program
P.O. Box 12008
Riverside, CA
92502-2208
Attn: Brian Cunanan**

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.

3.32 Electronic Delivery of Agreement. 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 the Agreement for all purposes.

3.33 Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.34 Entire Contract. This Agreement contains the entire Agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, contracts or understandings.

3.35 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.

3.36 No Waiver. Failure of CONTRACTOR 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.

3.37 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 SAFE 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 CONTRACTOR or the Services are not subject to the Eight-Hour Law.

3.38 Subpoenas or Court Orders. Should CONTRACTOR receive a subpoena or court order related to this Agreement, the Services or the Project, CONTRACTOR shall immediately provide written notice of the subpoena or court order to the SAFE. CONTRACTOR shall not respond to any such subpoena or court order until notice to the SAFE is provided as required herein and shall cooperate with the SAFE in responding to the subpoena or court order.

3.39 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, and the obligations related to receipt of subpoenas or court orders, shall survive any such expiration or termination.

3.40 Counterparts. This Agreement may be signed in one or more counterparts, any one of which shall be effective as an original document.

3.41 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

3.42 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. In the event the standards set forth in this Agreement conflict with the standards set forth in any exhibit hereto, the higher standard shall govern.

3.43 Attorneys' Fees and Costs. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under Section 3.21, Indemnification.

3.44 Consent. Whenever consent or approval of any Party is required under this Contract, that Party shall not unreasonably withhold nor delay such consent or approval.

3.45 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.46 Mobilization Costs Payment. Intentionally Omitted

[Signatures on following page]

DRAFT

**SIGNATURE PAGE
TO AGREEMENT 21-45-051-00**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first herein written above.

RIVERSIDE COUNTY
TRANSPORTATION COMMISSION
ACTING AS THE
RIVERSIDE COUNTY SERVICE
AUTHORITY FOR FREEWAY
EMERGENCIES

PEPE'S TOWING SERVICE

By: _____
Anne Mayer, Executive Director

By: _____

Name

Title

APPROVED AS TO FORM:

Attest:

By: _____
Best Best & Krieger LLP,
Counsel to the Riverside County
Service Authority for
Freeway Emergencies

By: _____

Its: Secretary

EXHIBIT “A”

Scope of Services

DRAFT

1.0 GENERAL INFORMATION

1.1 Background & Introduction

In 1986, the Commission established itself as the Riverside County Service Authority for Freeway Emergencies (RC SAFE) after the enactment of SB 1199 in 1985. The purpose of the formation of SAFEs in California was to provide call box services and, with excess funds, provide additional motorist aid services. Funding for RC SAFE is derived from a one dollar per vehicle registration fee on vehicles registered in Riverside County. Initially, these funds were used only for the call box program. As additional motorist aid services were developed, SAFE funds were also used to provide Freeway Service Patrol (FSP) and the Inland Empire 511 traveler information services as part of a comprehensive motorist aid system in Riverside County.

In 1990, Proposition C was passed to fund transportation improvements and to help reduce traffic congestion in California. From this, the FSP program was created by Caltrans, which developed the corresponding Local Funding Allocation Plan to distribute funds to participating jurisdictions. In addition to funding received from Caltrans, agencies are required to contribute a 25 percent local match. For the Commission, SAFE revenues are used to meet this match requirement.

The Commission, acting in its capacity as the SAFE, is the principal agency in Riverside County, in partnership with Caltrans and the California Highway Patrol (CHP), managing the FSP program. The purpose of the FSP program is to provide a continuously roving tow services patrol along designated freeway segments (referred to as beats) to relieve freeway congestion and facilitate the rapid removal of disabled vehicles and those involved in minor accidents on local freeways. Contracts to provide FSP tow service are competitively bid as needed for each beat.

1.2 Project Description

The purpose of the FSP program is to provide a continuous roving patrol for the rapid removal of disabled vehicles and those involved in minor accidents from the freeway. Where traffic conditions permit, safe removal of small debris will be required. Vehicle operators shall be responsible for clearing the freeway of automobiles, small trucks, and small debris. When and where conditions warrant, service may be executed on the freeway shoulders. Where conditions do not warrant, vehicle operators will remove the vehicles from the freeway to provide service. FSP vehicles shall continuously patrol their assigned beat, respond to CHP calls for Services, use the designated turnaround locations, and use the CHP identified designated drop locations.

FSP vehicle operators may be required to perform minor services such as change flat tires, provide "jump" starts, provide one gallon of gasoline or diesel fuel, temporarily tape cooling system hoses, and refill radiators in a safe and efficient manner. Vehicle operators may spend a maximum of ten (10) minutes per disablement in attempting to mobilize a vehicle. If a disabled vehicle cannot be mobilized within the ten-minute (10)

time limit, it shall be towed to a designated drop location identified by the CHP. The motorist can request the FSP vehicle operator to call the CHP Communications Center to request a CHP rotational tow or other services. FSP vehicle operators shall not be allowed to tow as an independent contractor from an incident that occurred during the FSP shift unless called as a rotation tow by CHP after the FSP shift has ended. If called as a rotation tow after a FSP shift, the vehicle operator must remove all FSP markings such as vests, uniforms, and magnetic vehicle signage.

There may be some instances where FSP operators may be requested to provide assistance to CHP officers. FSP operators shall follow the instructions of the CHP officer at the scene of any incident within the scope of the FSP program.

All FSP services shall be provided at no cost to the motorist. FSP vehicle operators shall not accept gratuities, perform secondary towing services, recommend secondary tows, or recommend repair/body shop businesses.

Freeway Service Patrol hours of operation are 5:30 a.m. to 8:30 a.m. and 2:30 p.m. to 6:30 p.m., Monday through Thursday; and 5:30 a.m. to 8:30 a.m. and 12:30 p.m. to 6:30 p.m. on Friday. Contractor vehicles shall be exclusively dedicated to the service during FSP service hours. All vehicle maintenance activities shall be conducted during non-service hours.

The FSP operates on selected freeway segments referred to as "Beats". Each Beat has specific turnaround locations and designated drop locations identified by the California Highway Patrol (CHP). The Scope of Services (Section 2.0) hereunder identifies the specific limits, number of tow trucks, number of back-up trucks, hours of operation, and tentative holidays on which the cost of each beat shall be based. RCTC reserves the right to add or delete holidays to the work schedule. Travel time to and from the Beat will be at the expense of the Contractor.

To be awarded a contract, a Contractor must have a tow facility within close proximity to the service area, have been in business as a tow service operator for a minimum of five (5) years, and have a minimum of one (1) full year experience working under contract/agreement and in good standing within the last three (3) years with any type of law enforcement agency.

A Contractor with no prior FSP experience shall be considered NEW and may only be awarded one FSP beat. A Contractor that has been terminated for cause from any FSP contract within the state shall not be eligible to participate in the Riverside County FSP program. A NEW Contractor, who remains in good standing, as determined by FSP management, may be considered for additional beat awards in future procurements. An existing Contractor that is not in good standing as determined by information received by the FSP management staff at the time of their proposal may, at the discretion of FSP management, be limited to the number of beats the Contractor is awarded, including not being awarded any beats.

FSP Management Staff reserves the right to limit the number of beats awarded to one Contractor.

At any time during the contract's term, RCTC reserves the right to adjust Beat specifications and Beat hours to better accommodate demand for the service, or the availability of funding. These changes can occur during the course of the contract through written change orders. If warranted during the service hours of operation, the Contractor may be requested to temporarily reassign his/her FSP operators/trucks to locations outside its assigned Beat. Tow Operators may be permitted to do this only upon CHP and/or RCTC approval. FSP vehicle operators shall follow the instructions of the CHP officer at the scene of any incident within the scope of the FSP program.

The contract start date for Beats 4, 7 and 8 shall be January 4, 2022. The first day of FSP service is Tuesday, January 4, 2022. These are 5-year contracts that expire on January 3, 2027.

If awarded a contract, the Contractor shall have one hundred seventy-three (173) calendar days for Beat 4, 7 and 8, after the notice of award (notice of award tentatively expected on or around July 15, 2021), in which to acquire the required equipment and hire and train vehicle operators. The Contractor shall have the appropriate number of primary and back-up trucks ready for equipment installation and CHP inspection no later than December 15, 2021. Any company that cannot meet the above-mentioned requirements shall not be awarded the contract(s).

2.0 Beat Description/Summary

FSP operates on selected freeway segments referred to as "beats". Each beat has specific turnaround locations and designated drop locations identified by the CHP. The specific limits, number of tow trucks, number of back-up trucks and hours of operation, including the holiday schedule, are detailed below. SAFE reserves the right to add or delete holidays to the work schedule, provided that SAFE provides CONTRACTOR seven (7) days advanced notice of such addition or deletion. Travel time to and from the beat will be at the expense of the CONTRACTOR.

At any time, SAFE reserves the right to adjust beat specifications to better accommodate demand for the Services, or availability of funding. These changes can occur during the course of this Contract through written change orders. If warranted and during the hours of operation of the Services, the CONTRACTOR may be requested to temporarily reassign his/her FSP operators/trucks to locations outside the assigned beat.

5-yr Contracts: January 4, 2022 to January 3, 2027				
FSP Beat #	Beat Description	One-Way Length in Miles	# Primary FSP Trucks in both AM and PM	# Backup FSP Trucks
4	SR91 from Magnolia Ave to 60/91/215 Interchange	11.0	2	1
7	SR60 from Milliken St to Main St	11.7	2	1
8	SR60 from Central Ave to I215 at Alessandro Blvd to SR60 at Theodore St	12.3	2	1

2.1 Hours of Operation:

Monday through Thursday: 5:30 a.m. to 8:30 a.m., and from 2:30 p.m. to 6:30 p.m.

Friday: 5:30 a.m. to 8:30 a.m., and from 12:30 p.m. to 6:30 p.m.

Each Beat requires at least one backup truck available at all times. **RCTC reserves the right to change Beat hours and operational requirements during the course of the contract.**

- a. Total estimated service hours per vehicle/per year: 1,950
- b. In addition to the above service hours, at the discretion of RCTC and CHP, additional service may be requested on certain "high traffic days" on/or following certain holidays (e.g., July 4th, Labor Day, and Memorial Day). Contractor will be notified at least one week prior to when this service is to be provided.

During FSP shifts that require a 30-minute meal period break to be provided pursuant to Labor Code section 512, the Contractor shall either make arrangements for another certified FSP driver to provide the contracted FSP coverage during those breaks or not be compensated for each 30-minute meal period break during which FSP service is not provided. In no case shall the Contractor be entitled to compensation from RCTC for time during which its FSP driver is taking a 30-minute meal period break, unless the Contractor has provided another driver to cover this 30-minute meal period break.

2.2 Holiday Schedule

Proposer shall submit its cost proposal for provision of the required FSP tow services five days each week, Monday through Friday, of each year during the contract term, except for the following ten (10) holidays:

1. Martin Luther King, Jr. Day (Monday)
2. Presidents' Day (Monday)
3. Memorial Day (Monday)
4. Independence Day (July 4 - varies)
5. Labor Day (Monday)
6. Veterans Day (varies)
7. Thanksgiving Day (Thursday)
8. Day after Thanksgiving (Friday)
9. Christmas Day (December 25 - varies)
10. New Year's Day (January 1 – varies)

3.0 FSP Management and Representatives

RCTC has entered into a Memorandum of Understanding with the California Department of Transportation (Caltrans) and CHP, in order to provide peak hour freeway service patrols on selected freeway segments for traffic mitigation, as well as air quality improvement within Riverside County. RCTC, Caltrans, and CHP will jointly oversee the service. RCTC serves as the contract administrator and funding partner; Caltrans provides oversight; and CHP is responsible for the daily operations and field supervision of the program.

Authority for FSP derives from (a) Section 21718 (A) of the California Vehicle Code, which allows FSP trucks supervised by the CHP to stop on freeways for the purpose of rapid removal of impediments to traffic, and (b) Article 3, Section 91, of the Streets and Highways Code, which states that Caltrans is responsible for traffic management and removing impediments from the highways, as well as improving and maintaining the state highways.

3.1 Standard Operating Procedures

The guidelines and policies of the FSP program, which promote a safe work environment and maintain a level of professionalism, are contained in the Standard Operating Procedures (SOP) manual developed by the CHP. The SOP and any updates to it are incorporated into the contract with RCTC, therefore, the Contractor and their vehicle operators are responsible to operate and adhere to the most recent version of the SOP at all times.

Contractor shall be held responsible for maintaining an updated SOP (latest version issued with the RFP), which is incorporated herein by reference. SOP revisions and updates shall be unilaterally issued by RCTC or CHP, as deemed necessary by CHP or the FSP Technical Advisory Committee, and all changes, revisions and updates to

the SOP, if any, shall supersede all previous or existing SOPs. A copy of the SOP is included as part of the original RFP package and additional hard or soft copies can be provided to all interested parties upon request.

Vehicle operators or trucks found not to be in compliance with FSP procedures defined in the SOP may be penalized, suspended, and/or terminated from the FSP program and the company may also be assessed liquidated damages amounts for said violations as described herein. Liquidated damages are inclusive of other remedies at law and/or those described under the terms of the contract.

Refer to Proposal Pricing Form for further details on violations and penalties.

4.0 Vehicles

4.1 Tow Truck Requirements

Primary and back-up FSP tow trucks shall be exclusively dedicated to the FSP program during FSP service hours of operation. They are not required to be exclusive during non-FSP hours. All vehicle maintenance activities shall be conducted during non-Service hours. When conducting the Services on a FSP shift, the CONTRACTOR's vehicle shall display all FSP markings and the vehicle operator shall wear a FSP uniform.

The FSP will utilize, at a minimum, Class A tow trucks with a minimum gross vehicle weight rating of 14,000 pounds, dual wheel chassis, and a four (4) ton recovery equipment rating. All trucks proposed for use in the FSP Program must be less than one (1) year old with a maximum of 50,000 miles on the chassis and working parts of the truck at the onset of the contract, free of any mechanical defects or physical damage and have a clear (non-salvage) title. Extenuating circumstances dictating departure from this specification should be at the consensus of the local FSP partners. The CHP, in conjunction with Caltrans or the regional transportation agency, should verify the original purchase dates to ensure compliance. Lastly the truck shall have seating capabilities for five (5) adults.

All FSP tow trucks must be Department of Transportation (DOT) compliant, as well as California Air Resources Board (CARB) compliant. This includes an engine that has been certified by CARB, as required by law in the State of California. Any tow truck that is utilized for the FSP Program must comply with emission standards set forth by DOT and CARB, as well as all local, state, and federal laws associated with that truck and as outlined in the RFP.

Each tow truck shall be equipped in accordance with the CHP's Freeway Service Patrol Manual and Standard Operating Procedures Manual and, at a minimum, shall include the following:

- a. Equipment & Supplies (Required)

1. Wheel lift towing equipment, with a minimum lift rating of 3,000 pounds. All tow equipment shall include proper safety straps.
2. Boom with a minimum static rating of 8,000 pounds.
3. Winch Cable - 8,000 pound rating on the first layer of cable.
4. Wire rope – 100ft., 3/8 inch diameter, 6 x19 or OEM specifications.
5. Two (2) Tow chains 3/8" alloy or OEM specs., J/T hook assembly.
6. Rubber faced push bumper.
7. Mounted spotlight capable of directing a beam both front and rear.
8. Amber warning lights with front and rear directional flashing capability, with on/off switch in cab.
9. Public address system.
10. Power outlets ("hot boxes"), front and rear mounted, with outlets compatible to 12-volt booster cables.
11. Heavy duty, 60+ amp battery.
12. Radios with the ability to communicate with the Contractor's base office (Verizon).
13. Programmable scanners capable of scanning between the 39 and 48 MHz used by the CHP. Scanners need to be capable of scanning CHP Police frequencies, and must be mounted for safety concerns.
14. Suitable cab lighting.
15. Trailer hitch capable of handling a 1 7/8-inch ball and 2 inch ball.
16. One (1) 1 7/8-inch ball and one (1) 2 inch ball.
17. Rear work lights. (4)
18. Safety chain D-ring or eyelet mounted on rear of truck.
19. Motorcycle straps. (2)
20. Diesel fuel in plastic jerry cans. (5 gallons)
21. Unleaded gasoline in plastic jerry cans. (5 gallons)
22. Safety chains min. 5ft. min. 5/16" Alloy or OEM Spec. (2)
23. First aid kit (small 5" x 9"). (1)
24. Fire extinguisher aggregate rating of at least 4 B-C units. (1)
25. Pry bar - 36" or longer. (1)
26. Radiator water in plastic container. (5 gallons)
27. 4" x 4" x 48" wooden cross beam. (1)
28. 4" x 4" x 60" wooden cross beam. (1)
29. 24" wide street broom. (1)
30. Square point shovel. (1)
31. Highway flares 360 minutes min.
32. Cones 18" height, reflectorized with tape.
33. Hydraulic Floor Jack: 2-ton AND
34. 2-ton jack stand
35. Wheel chock
36. Four-way lug wrench (1 std.). (1)
37. Four-way lug wrench (1 metric). (1)
38. Rechargeable compressor or refillable air bottle, hoses and fittings to fit tire valve stems, 100 psi capacity. (1)
39. Flashlight and spare batteries. (1)

- 40. Tail lights/brake lights, portable remote with extension cord. (1 set)
- 41. Booster cables, 25 ft. long minimum, 3-gauge copper wire with heavy-duty clamps and one end adapted to truck's power outlets. (1 set)
- 42. Funnel, multi-purpose, flexible spout. (1)
- 43. Pop-Up dolly (with tow straps), portable for removing otherwise untowable vehicles. (1)
- 44. 5-gallon can with lid filled with clean absorb-all. (1)
- 45. Empty trash can with lid (5 gallon). (1)
- 46. Lock out set. (1)
- 47. Safety glasses.

b. Equipment & Supplies (Recommended)

- 48. Towing slings rated at 3,000 pounds minimum. **RECOMMENDED**
- 49. Sling crossbar spacer blocks. **RECOMMENDED** (2)

c. Tools (Required)

Each FSP truck will be required to have a toolbox with the following minimum number of tools/supplies. A tool kit for small equipment items is required. The list may be supplemented at the Contractor's option and expense.

- 50. Screwdrivers--
 - i. Standard-1/8", 3/16", 1/4", 5/16" (1 each, min).
 - ii. Phillips head - #1 and #2 (1 each, min).
- 51. Needle nose pliers (1)
- 52. Adjustable rib joint pliers, 2" min. capacity (1)
- 53. Crescent wrench - 8" (1)
- 54. Crescent wrench - 12" (1)
- 55. 4 lb. hammer (1)
- 56. Rubber mallet (1)
- 57. Electrical tape, roll (1)
- 58. Duct tape, 20-yard roll (1)
- 59. Tire pressure gauge (1)
- 60. Mechanic's wire (roll) (1)
- 61. Bolt cutters (1)

4.2 Tow Truck Appearance

FSP vehicles bearing the FSP title, logo, and vehicle identification number shall be painted white (includes the hood, fenders, doors, boom, and bed area – the entire truck is to be painted white). No trim is allowed. Lettering shall be in a blocked bold style parallel to the ground and shall be no less than 2 inches by 2 inches and no greater than 4 inches in height. Lettering can only be black in color (no other colors will be permitted). Letters shall be placed on the lower body of the truck toward the cab.

Contractor's name on the boom is prohibited. The overall look of the truck must be approved by CHP prior to service implementation; therefore, any questions regarding this policy may be discussed with CHP prior to implementing, as truck compliance with current state FSP standards is required. No other accessory equipment, signage, or advertisements (mud flaps, stickers, employment advertisement, and so forth) shall be mounted or installed without prior CHP approval. This includes, but is not limited to: bras or window tint.

It shall be the vehicle operator's responsibility to place detachable FSP markings on each vehicle during FSP service hours and to remove the detachable markings immediately upon completion of each shift. RCTC will supply each Contractor with the appropriate number of detachable markings for each Beat(s). If a marking is lost or damaged, the Contractor shall be responsible for the cost of the replacement markings. All FSP markings shall be returned at the termination of the contract. The cost of any RCTC and/or Caltrans/CHP supplied item and/or equipment not returned shall be deducted from the Contractor's final payment.

FSP markings, as well as vehicle numbers, shall be required on both sides of all trucks. The detachable markings (magnetic FSP signage) provided by RCTC, must be placed on the center of the driver and passenger doors of the vehicle. The vehicle operator shall be required to keep the title and logos clean, straight, and in readable condition throughout the FSP shift. The operator is also required to keep the magnetic signage flat (do not bend in any way), clean, and out of direct sunlight while being stored during non-FSP operational hours.

4.3 Vehicle Inspections

Prior to commencement of service, the CHP will inspect each vehicle designated for the FSP to ensure that it meets the vehicle specifications and to ensure that it meets or exceeds safety requirements. These inspections will occur prior to the start of service. Succeeding inspections will occur periodically as determined by the CHP. Documentation of the vehicle identification number and successful completion of the inspection will be kept on file at the CHP office and Contractor's base office.

Any unsafe, poorly maintained, or improperly equipped vehicle(s) shall be removed from service, and if discovered to be in such a condition during the shift said vehicle(s) shall be removed from service or repaired as directed by the CHP, and **the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments for the remainder of that shift, plus the loss of revenue for the down time.** Spare vehicles, also known as "back-ups", will be required to complete the shifts of vehicles removed from service. The Contractor will be required to have a spare FSP vehicle available for service for the duration of each and every FSP shift.

The vehicle operator shall be required to complete a pre-operation shift inspection log of the vehicle as well as inventory the required equipment prior to the start of each and every shift. The vehicle operator shall be required to complete a driver log, which is

used to track the mileage. A shift inspection/inventory log shall be completed by the vehicle operator prior to the start of each shift and be available for inspection. Any item missing must be replaced prior to the start of the shift. All equipment stored on top of the truck shall be secured to the truck.

4.4 Spare/Back-Up Vehicles

The Contractor shall be required to have one FSP Certified Back-Up tow truck available per Beat during FSP service hours that is in full compliance with the agreement, unless otherwise authorized by RCTC and CHP in writing. During FSP service hours, the spare vehicle shall be kept at the Contractor's yard or staged adjacent to the assigned beat. The FSP Certified Back-Up tow truck should be used when a Certified Primary FSP tow truck is unavailable. The FSP Certified Back-Up tow truck shall meet the same requirements for equipment, set-up, and color as the Certified Primary FSP tow truck. It shall meet all the vehicle equipment specifications. Refer to Attachment H for further details on violations and penalties.

4.5 Vehicle Breakdown and Other Missed Service

The spare vehicle must be in service on the Beat within 45 minutes of the time a permanently dedicated vehicle is taken out of service for any reason. The Contractor shall not be paid for the time period that the contractually required trucks are not in service. **If a vehicle is not made available within the required 45-minute time period, the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments for every minute that exceeds the 45 minute replacement period until a certified FSP compliant spare/back-up vehicle is provided. If a truck is not ready due to breakdown at the start of a shift, the fine time will be calculated from the start of the shift until a replacement is placed into service. If the entire shift is missed, Contractor shall be fined for the entire shift at three (3) times the hourly rate times the total minutes for the affected shift.**

Vehicle maintenance shall be performed during non-FSP service hours. In addition, not having a certified FSP "spare or back-up" vehicle operator available is not an allowable excuse for not having a spare (back-up) vehicle on the beat within the 45-minute time period. If the Contractor does not have a dedicated or spare truck on the Beat because a certified FSP vehicle operator is not available, the Contractor shall be fined three (3) times the hourly contract rate in one (1) minute increments until a certified FSP replacement vehicle operator is provided. If the entire shift is missed because a vehicle operator was not available, the Contractor shall be fined for the entire shift at three (3) times the hourly rate times the total minutes for the affected shift.

5.0 Communications Equipment and Computers

5.1 Communications Equipment

Each FSP vehicle shall be equipped with various communication devices that will enable the vehicle operator to communicate with the CHP Communications Center. All vehicles shall be equipped with an Automatic Vehicle Location (AVL) system, radios, and Data Collection Devices (DCD). The AVL system, radio, and DCD equipment shall be purchased, owned, and supplied by RCTC. RCTC shall select the equipment installation vendor.

The Contractor shall be responsible for maintaining the security of the vehicle communication equipment provided by RCTC. The Contractor shall be liable for any damage to the RCTC-owned communication equipment. The Contractor shall also be liable for the full replacement value of the communication equipment installed in the trucks while in the care, custody, and control of the equipment. RCTC will deduct repair fees as well as the full replacement cost of any RCTC equipment due to improper use or negligence by the Contractor, from any payment due to the Contractor. RCTC-supplied vehicle communications equipment shall be returned in full working condition upon contract termination. The cost of any equipment not returned within a reasonable time period shall be deducted from the Contractor's final payment.

Programmable scanners capable of scanning between the 39 and 48 MHz used by CHP shall be supplied by the Contractor and shall be installed (mounted) in all vehicles.

The Contractor is also required to use Verizon wireless cell phones with push-to-talk-plus capability, or equivalent, for communications with the CHP Communications Center and the CHP Field Supervisor. Wireless cell phones shall be purchased and maintained by the Contractor. The Contractor will also be responsible for all operating costs as well. In addition, tow operators are not permitted to take pictures, video, or capture any other images while performing FSP duties during FSP operational hours. These actions will not be tolerated, and a vehicle operator may be terminated if it is discovered they are doing so.

In addition, any input of data into the DCD shall not be allowed while the vehicle is being operated/driven. Use of other devices while driving/operating a vehicle such as cell phones is prohibited by California State Law.

The FSP vehicles shall be equipped with a public address system. The public address system shall have the capability for the driver of the disabled vehicle to hear instructions transmitted from the cab of the FSP vehicle when the FSP vehicle is directly to the rear of the disabled vehicle.

5.2 Computer Equipment

The Contractor must have and maintain a desktop computer workstation with high-speed internet access and email to communicate with RCTC staff.

The Contractor must ensure that the DCD equipment is inspected and cleaned on a quarterly basis, or more frequently if needed. All DCD equipment should have the exterior protective case cleaned (protective outside case) and screen protector shall be inspected for functionality and serviceability. Worn items shall be immediately reported to RCTC.

All DCD equipment must be kept in a secure location. **During non-FSP operational hours, DCD equipment shall not be left in a tow vehicle or go home with a vehicle operator or anyone else.** All DCD equipment must be in a designated charging area at the tow operator's facility during non-FSP operational hours. The DCD equipment shall always have enough charge to complete each shift. In order to reduce instances of technology glitches, the DCD equipment shall be turned off/turned on at least once per week. DCD equipment is to be with the vehicle operator in their FSP truck during FSP operational hours. Any other location shall not be permitted.

The Contractor shall immediately report any issues with the workstation or the DCD equipment to the RCTC FSP Program Manager or one of the FSP CHP Officers. Contractor is directly responsible to ensure their computer workstation is operating and has internet access at all times – this is a contract requirement.

The Contractor shall provide access to the DCD equipment for RCTC staff, or their designated designee, at any time during the course of the Contract. **In addition, the Contractor shall also make the workstation available to RCTC, or its designee, 30 calendar days prior to the start of the new service.**

The Contractor shall provide an annual inspection report to RCTC indicating the status of all equipment. RCTC will provide the submittal form. Tow operators should consider the accurate completion and timely return of this form as part of their contract requirements.

5.3 Equipment Tampering

Tampering with FSP communication/tracking equipment so that it does not function properly to RCTC's specifications, and/or is disconnected or moved (without FSP Management authorization) from its original installed location is strictly prohibited. This includes but is not limited to: breaking evidence tape/connection sealer on equipment connections, cutting wires or cables, moving mounted equipment (speakers, microphones, antennas, etc.), rerouting any wiring, disconnecting any connectors, Contractor/subcontractor unintentionally altering equipment or connections to equipment during vehicle maintenance or repair, or interfering with the operations of the equipment.

If tampering is suspected, FSP Management may conduct an inspection of the equipment on the Beat or the vehicle may be sent to a designated location determined by FSP Management.

1. If tampering is found while the vehicle is used during FSP operational hours, the vehicle operator and vehicle will be immediately taken out of service and the Contractor shall be fined in one (1) minute increments at three (3) times their hourly rate, until such time that the back-up truck is deployed. Please note that if tampering is discovered, the penalties (three times the hourly rate in one minute increments) shall begin immediately upon the discovery of the tampering. The normal 45-minute back-up truck time allowance will not be considered “non-penalty” time under these circumstances. The penalties shall begin immediately upon the tampering being discovered.
2. If the vehicle is suspected to have equipment that has been tampered with, it may be sent to a designated location determined by FSP Management and CHP for an inspection. If tampering is found, the Contractor will be retroactively fined three (3) times the hourly rate in one (1) minute increments from the time the tampering was first suspected. The penalties will continue until a certified FSP back-up truck is deployed. The normal 45-minute back-up truck time allowance will not be considered “non-penalty” under these circumstances.

Tampering Repairs

If tampering is discovered during FSP operational hours, the vehicle will be taken out of service and will remain out of service until the repair and the documentation can be completed by the FSP Program designated technician. FSP Management determines the designated technician. The transportation, labor, and repair costs will be the responsibility of the Contractor. Costs incurred to repair and document the equipment will be deducted from the Contractor monthly invoice.

Tampering Penalties

The Contractor will also be assessed a \$250 fine (whether the tampering is discovered while on the Beat, or if it was suspected and later confirmed) per incidence on their monthly invoice. If it is determined that the vehicle operator tampered with the equipment, the vehicle operator will be suspended for a minimum of 30 days for the initial tampering offense and subject to termination from the FSP Program for any subsequent tampering violations.

6.0 Contractor Responsibilities

6.1 Appearance at Hearings

If and when required by SAFE, Contractor shall render assistance at public hearings or other meetings related to the performance of the Services.

6.2 Damage Complaints

Upon receiving a damage complaint from a motorist assisted by the Contractor, that the Contractor damaged their vehicle while lending assistance, the Contractor shall notify CHP immediately regarding the nature of the damage complaint and its

disposition. The Contractor shall reply to the motorist by telephone within twenty-four (24) hours of receiving the damage complaint notification from CHP. If necessary, the Contractor shall send either his or her authorized representative or his or her insurance company representative to inspect the vehicle and complete an incident report within forty-eight (48) hours after receiving the damage complaint. If the investigation shows that damage to the vehicle could have been caused by the Contractor, the Contractor shall negotiate in good faith to try and resolve the issue and shall report to CHP the result of the negotiations. All complaints shall be resolved within a reasonable time-period after being received.

6.3 Complaint Review Committee

The FSP Technical Advisory Committee ("FSP TAC") is composed of voting members from CHP, SAFE, and Caltrans. Voting members of the FSP TAC are hereby designated as the members of the Damage Complaint Review Committee ("DCRC"). If the DCRC finds that justifiable complaints are not resolved within a reasonable timeframe, it can recommend that payment to the Contractor in the amount of the damage claim may be deducted from the Contractor monthly invoice.

6.4 Trend Meetings

Contractor shall attend, or send a designated management-level representative, to all trend meetings (i.e., required FSP TAC meeting which meets every other month). These trend meetings will encompass focused and informal discussions concerning, but not limited to: scope, Services, schedule, current progress of Services, relevant cost issues, and future objectives. Contractor shall be responsible for having a representative attend all meetings (i.e., FSP TAC meetings) that has the ability to make management-level decisions on the behalf of the Contractor. If the Contractor cannot have a management-level representative at a meeting, Contractor shall notify SAFE and CHP prior to the meeting. Management-level attendance at these meetings shall be considered part of the Contractor's contractual responsibility. Meetings are scheduled, and Contractor will be notified of such schedule, no later than three (3) working days prior to the meeting.

7.0 Vehicle Operators

7.1 Operator Qualifications and Performance

All potential vehicle operators shall be required to have a safe driving record and, at a minimum, a valid Class C driver's license. All vehicle operators shall be 18 years of age or older at the time of background check. Potential vehicle operators shall be subject to driving record and criminal background checks through the California Highway Patrol. Potential vehicle operators shall be sufficiently experienced in the tasks of tow truck operations and proficient with all required Freeway Service Patrol equipment to provide safe and proper service. Any certified vehicle operator from other FSP areas will be evaluated on a case-by-case basis. All potential vehicle

operators must be capable of demonstrating their tow operating abilities prior to formal CHP training, also known as proficiency testing.

Additionally, the vehicle operators will be required to exercise good, sound judgment in carrying out their duties. Vehicle operators shall be required to inform the CHP Communications Center any time they leave the assigned Beat. This includes breaks and replenishing expendable items, such as: gasoline, fire extinguisher, etc. The vehicle operator shall be required to immediately notify the CHP Communications Center upon a tow truck breakdown.

FSP vehicle operators will be responsible for accurately entering the required data into DCD equipment every shift. Each FSP vehicle operator shall complete an inspection worksheet prior to the commencement of driving the tow truck and a mileage log prior to beginning service on the Beat. The FSP vehicle operator shall be required to complete an assist record for each incident. Each assist record should be accurate. Contractors or Operators providing false or misleading information to FSP Management shall be subject to disciplinary action and will be handled on a case-by-case basis.

FSP vehicle operators shall always complete the required procedures per the SOP when handling required forms. No duplicate survey numbers should be entered into the DCD equipment at any time. Vehicle operators are required to complete in their entirety the Release of Liability form and Damage Release form when applicable. These completed forms should be handed in to RCTC at a minimum every 60 days. If it is discovered that a vehicle operator has entered duplicate survey numbers, not properly completed the release forms, or not turned the release forms in timely, the Contractor may be subject to penalties as outlined in Proposal Pricing Form.

CHP, Caltrans, and RCTC maintain strict drug and alcohol policies. Contractors shall have an alcohol and drug program that includes at a minimum, a drug and alcohol free workplace policy and an employee alcohol/drug-testing program. Any FSP vehicle operator found working under the influence of drugs or alcohol shall be immediately removed from the FSP program by the Contractor. The Contractor shall be responsible for providing a certified replacement vehicle operator for that vehicle.

The Contractor shall be an active participant in the **DMV Pull Notice Program**.

If a vehicle operator is convicted of a crime involving a stolen vehicle, stolen property, violence, drugs, or moral turpitude, fraud related to the towing business, or misdemeanor or felony driving while under the influence of alcohol or a drug, the Contractor shall permanently remove that vehicle operator from duties under the FSP program. If a vehicle operator is charged with any of the above crimes, the Contractor shall immediately suspend that vehicle operator from duties under this program pending the outcome of the criminal case. If the vehicle operator is not convicted, or is ultimately convicted of a lesser crime not described above, RCTC retains the right to

have the Contractor remove that vehicle operator from the duties under the FSP program.

7.2 Operator Training

At the Contractor's expense, all company owners, FSP vehicle operators, and back-up vehicle operators shall be required to present a certificate of completion of a SHRP 2/TIMS training course and to complete the CHP two-day training program which costs approximately \$50.00 per vehicle operator (fee is for the DL64 Tow Truck Driver Certificate and fingerprinting). Contractors shall pay all FSP operators and back-up vehicle operators for attending the training. No vehicle operator will be allowed to begin patrolling without meeting the requirements set forth in the SOP. Any vehicle operator who is found on patrol not meeting the requirements may be prohibited from further FSP service and the Contractor's contract may be terminated immediately.

Mandatory CHP refresher training classes shall be attended. A minimum of four (4) hours refresher training per year shall be required (at Contractor's expense). **Contractors shall pay all FSP vehicle operators and back-up vehicle operators for attending the required training.**

Vehicle operators will be required to utilize DCD equipment to input information about mileage, inspection, and each assist, which will include: location, vehicle make, model, license number, type of assistance provided, etc. Vehicle operators will be trained on using DCD equipment to enter data.

7.3 Operator Driving Record and Criminal History Check

As required by California Vehicle Code Section 2340, all applicants and owners are required to have a driver's license and criminal history check. Only after a completed CHP 234F is received and accepted by CHP, a driver's license and preliminary criminal history check will be performed. The driver's license check will consist of confirming that the applicant has a valid driver's license and the applicant's point count is within standards set forth in this SOP (refer to Chapter 11, Annex A).

The preliminary criminal history check will consist of a preliminary background check to determine if the applicant meets the criteria for a California Tow Truck Driver Certificate as outlined in California Public Resources Code Section 5164, California Vehicle Code Section 13377 and the FSP Contract. In addition, RCTC or the CHP may, in its sole discretion, require an Employer to replace any vehicle operator or reject a potential vehicle operator who it determines is not suitable to represent the FSP Program with the public. If the applicant passes the preliminary criminal history check, the applicant shall submit to fingerprinting.

Driver's license and preliminary criminal history checks will be completed by CHP within ten (10) working days of the acceptance of a CHP 234F.

7.4 Vehicle Operator Uniform

It shall be the responsibility of the Contractor to provide the vehicle operator with specified uniforms, black protective toe boots, nameplate, gloves and other equipment. The equipment includes navy blue coveralls or navy blue shirts and pants. If coveralls are worn, they shall have a collar with a zip front. Optionally, drivers may wear a standard navy blue (long-sleeve only) uniform shirt, with a fluorescent orange (must be only 2.5" wide) trim, with a ½" silver reflective tape down the middle. This allowed reflective tape must be on both sleeves. All uniforms shall be clean, properly maintained, and replaced whenever excessively worn.

Sleeves and pant legs shall be moderately tapered to avoid excessive fullness.

A safety vest with reflective stripes shall be worn and supplied by RCTC. RCTC will supply vests with the FSP logo patches already sewn on per CHP's required patch placement locations. A FSP logo patch is not required to be sewn on the navy blue FSP vehicle operator uniform.

A detachable brass or gold nameplate shall be worn with the first initial of the first name and full last name. Letters shall not exceed ½" tall. The nameplate shall be worn above the right chest pocket on the safety vest. The Contractor is responsible for obtaining FSP CHP approval of the driver nameplates, and the Contractor is responsible for the purchase and replacement of the FSP vehicle operator nameplate.

All FSP vehicle operators shall wear general duty black work boots with protective (steel or composite) toe.

During cold weather, a navy blue sweater or sweatshirt may be worn under the uniform shirt/coveralls. As an option, a navy blue jacket may also be worn, if it meets all the uniform specifications and is worn under the safety vest. Rain gear, if worn, shall be waterproofed material and navy blue or yellow in color. Hats, if worn, shall be baseball-type caps and navy blue in color. An "FSP" logo patch may be sewn on the hat above the brim. No other logos/names shall be accepted. A beanie may also be worn which must be navy blue in color and worn only with a jacket or long sleeve shirt under the vest.

Contractor should refer to the most current SOP to ensure they are following the most recent requirements. SOP revisions and updates shall be unilaterally issued by RCTC, as deemed necessary by RCTC management, and all changes, revisions and updates to the SOP, if any, shall supersede all previous or existing SOPs. A copy of the SOP is included as part of the original RFP package.

7.5 Local Office

The Contractor shall provide a local office for contract administration purposes. This office shall be staffed by either the Contractor or a person who has the authority to conduct business and make decisions on behalf of the Contractor. The office shall

have business hours coinciding with Contractor's Beat(s) hours of operation. Through the Proposal document shown in the Contractor Representative Form, the Contractor shall designate representatives who will be available at the office during hours of operation to make decisions on behalf of the Contractor. The office shall be established within close proximity to the Contractor's Beat(s) and the County of Riverside. Also note in the Scope of Services, Section 4.4, **a backup vehicle and a certified FSP vehicle operator must be available within a 45-minute request of the Beat area.**

This requirement may also determine if the local office is close enough to satisfy the requirements under this section.

The Contractor shall also provide **telephone and email** through which he/she, or a responsible representative who has the authority to conduct business and make decisions on behalf of the Contractor, can be contacted during the non-service hours of operation for the length of the contract. During non-business hours, an answering machine provided at the Contractor's expense, shall be available to log calls, take complaints, etc. **An email address that is monitored daily** shall be provided for notification purposes during operational and non-service hours. The Contractor will be responsible for having a company representative monitor and review messages/notices on a daily basis.

7.6 Remedies and Liquidated Damages

RCTC has a need to deal contractually with a range of failures by Contractors to meet contractual standards and requirements short of suspension or termination. Failure to meet contractual standards and requirements constitute a default under the contract and is subject to the various remedies provided in the contract, up to and including termination of the contract.

It is clear that any default that is related to service or contractor's readiness for service will either degrade service or lead to the degradation of service. The failure to meet contractual standards and requirements, therefore, causes damages to the FSP program and its participants (RCTC, CHP and Caltrans) and to the public being served by the FSP program. Because of the public service nature of the mission of the FSP, described generally in the Standard Operating Procedures (SOP), to keep traffic and commerce flowing on the regional freeways, the damages arising from contractor's failure to meet the contractual standards and requirements are impractical or extremely difficult to ascertain on an individual basis.

The contract has therefore established a series of remedies to attempt to deal with a range of defaults. The most egregious default will result in suspension or termination. Lesser defaults will result in the assessment of liquidated damages. These lesser remedies have been described in the SOP as fines, violations or penalties. This is not a correct characterization of the intent of the remedies. The remedies arise because the contractor is in default and the FSP and the public it serves is damaged by that

default. The remedies are to compensate FSP for its damages and to encourage compliance with performance requirements of the contract.

DRAFT

EXHIBIT "B"

Compensation Summary

FIRM	PROJECT TASKS/ROLE	COST
Prime Consultant:		
Pepe's Towing Service, Inc.	FSP Services for Beat No. 8	\$1,666,787.00
TOTAL COSTS		\$1,666,787.00



FREIGHTWAY SERVICE PATROL OVERVIEW



Specially marked Freeway Service Patrol tow trucks patrol the entirety of Riverside County's State Route 91, Interstate 15 from State Route 60 south to State Route 79/Temecula Parkway, State Route 60 from Milliken Avenue to Theodore Street, and the entirety of Riverside County's Interstate 215.

Freeway Service Patrol drivers will "jump start" your car if your battery is dead, refill your radiator and tape hoses, change a flat tire, or provide a gallon of gas if you run out. FSP drivers provide a variety of services **at no cost**. If they can't get your car going, they will tow it off the freeway free of charge to a location approved by the California Highway Patrol (CHP). The Freeway Service Patrol cannot tow you to a private repair facility or recommend other tow services or repair shops.

The Freeway Service Patrol operates weekdays except holidays, from 5:30 am to 8:30 am and 2:30 pm to 6:30 pm Monday through Friday. Friday afternoon service begins early and runs 12:30 pm to 6:30 pm.

The Freeway Service Patrol is funded by the State of California (Caltrans) and administered by the Riverside County Transportation Commission (RCTC) in its role as the Service Authority for Freeway Emergencies (SAFE). The CHP provides oversight for the program.

Special weekend FSP service provided on select highway segments is sponsored by the Mobile Source Air Pollution Reduction Review Committee (MSRC).

HOW TO RECOGNIZE THE FREIGHTWAY SERVICE PATROL?

All FSP tow trucks are white and display the Freeway Service Patrol logo during service hours. The drivers wear blue uniforms and yellow safety vests with the same logo. All Freeway Service Patrol drivers wear an identification badge on their yellow safety vests and are certified by the CHP.

RCTC -- FREIGHTWAY SERVICE PATROL FACTS & MYTHS

MYTH: Tow trucks must be used **ONLY** for FSP

FACT: RCTC FSP tow trucks may be used for other purposes during **NON-FSP** hours

MYTH: Low bidders always win

FACT: RCTC uses a **BEST VALUE** approach, taking into consideration relevant experience, staffing, project approach and finally, price.

MYTH: Bidders must have CHP Rotation Tow experience

NEW FACT: RCTC allows tow companies to have at least one year contracted experience with any type of law enforcement agency (or rotation tow).

MYTH: The same tow companies win every time

FACT: RCTC currently has four companies providing FSP service on 13 beats. We welcome new bidders to the process!

MYTH: Tow companies must propose the same price for the life of the contract.

NEW FACT: RCTC encourages bidders to adjust their 5 year rates to account for inflation.



FLAT TIRE



RCTC - FREIGHTWAY SERVICE PATROL

PRICING FACTS

RCTC FSP rates are a matter of public record, and currently range from \$64.71 to \$82.50, with the lowest rate actually being one of the beats that is expiring.

RCTC's FSP Contractors haven't been compensated in the \$55 range for many years.

The last SBCTA (San Bernardino County) RFP beats were awarded in the \$81-94 range.

RCTC is aware of fluctuating fuel & increasing insurance costs in the tow industry. We consider these factors when scoring proposals.

New RFPs allow for bidders to increase hourly rate annually, to account for increased costs over the life of the 5-year contract.

We want you to succeed!

POSITIVE CHANGES

RCTC Freeway Service Patrol



\$30k MOBILIZATION ASSISTANCE

Expenses are increasing in the tow industry. To assist with truck & insurance down payments at the start of the contract, we will offer to pay up to \$30k in mobilization costs.

UPDATED COST SCHEDULE FORM

We have added more line items, and added calculations, to assist you in figuring actual costs to propose an hourly rate that works best for your business success.



MULTIPLE RATES

Construction and Extra Work isn't guaranteed, but does happen. Bidders are now allowed to submit different rates for Regular Work vs. CFSP/Extra Work, to cover increased costs outside of Regular Service Hours.

PEACE OF MIND

Contracts are now for FIVE YEARS, rather than 3 with option years, and you can propose a different hourly rate for each year to cover inflation costs over the life of the contract.



LAW ENFORCEMENT

Interested bidders can now apply if they have one full year experience working under contract with ANY type of law enforcement agency.

AGENDA ITEM 6H

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	David Thomas, Toll Project Delivery Director
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	2021 State Route 91 Implementation Plan

STAFF RECOMMENDATION:

This item is for the Commission to approve the 2021 State Route 91 Implementation Plan.

BACKGROUND INFORMATION:

In 2002, AB 1010 authored by former Assemblyman Lou Correa allowed the Orange County Transportation Authority (OCTA) to purchase the 91 Express Lanes franchise from the California Private Transportation Company. OCTA completed the purchase agreement in January 2003, at a cost of \$207.5 million. AB 1010 also eliminated the existing non-compete clause in the franchise agreement that prohibited any capacity-enhancing improvements from being made to SR-91 until the year 2030. The purchase of the 91 Express Lanes and the elimination of the non-compete clause allowed much needed improvements to be planned and implemented within the SR-91 corridor. Caltrans Districts 8 and 12, the Commission, and OCTA have been coordinating these improvements.

In 2008, SB 1316's passage authorized an extension of OCTA's tolling authority to 2065 and for the Commission to impose tolls and fees for 50 years on transportation facilities and to use toll revenues to construct, operate, and maintain toll facilities on SR-91 in Riverside County. SB 1316 also required the creation of the State Route 91 Advisory Committee with specific responsibilities composed of board members from the Commission and OCTA.

SB 1316 also required the continuation of annual updates of an implementation plan of SR-91 improvements for the Legislature initially required under AB 1010. Consistent with the legislation, OCTA and the Commission in consultation with Caltrans completed the 2021 State Route 91 Implementation Plan (attached). The plan details proposed projects and completion schedules for transportation improvements to Metrolink, express bus, express lanes, freeways and interchanges, new east-west highway corridors, and high-speed rail.

SB 1316 grants the Commission the authority to expend tolls and fees on capital costs, operations and maintenance, repair and rehabilitation, debt financing costs, and administration. Any tolls and fees generated in excess of the expenditure needs (i.e., surplus) previously listed may be

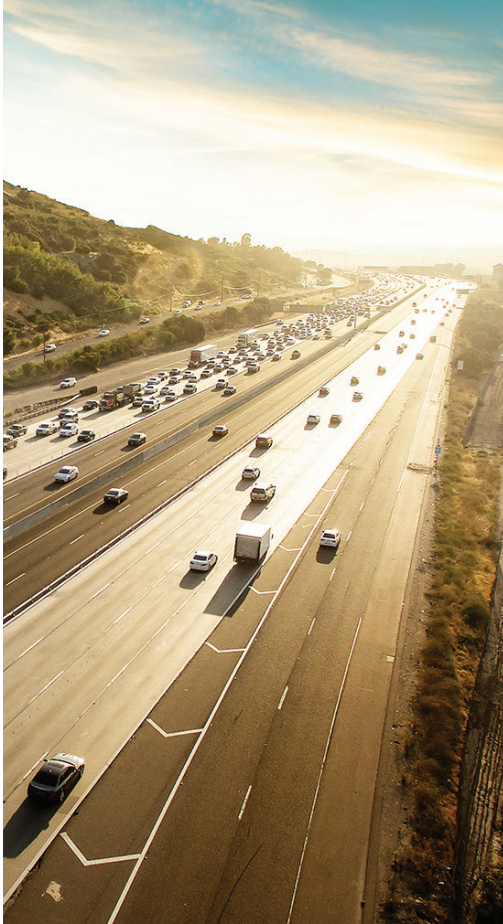
spent on transportation needs within the State Route 91 corridor from the Orange County line to Interstate 15. These transportation needs include transit capital, transit operations, and State Highway capital improvements for both toll and non-tolled improvements. As part of its annual budget approval process, the Commission approved the use of tolls and fees generated from its 91 Express Lanes operations designated as surplus for various projects.

Lastly, staff posted on the Commission's web site the SR-91 Implementation Plan for public review and comment on May 11, 2021 for 30 days per SB 1316.

Attachment: *2021 State Route 91 Implementation Plan*

STATE ROUTE 91

IMPLEMENTATION PLAN 2021



PREPARED BY:

Michael Baker
INTERNATIONAL
316



STATE ROUTE 91 (SR-91) IMPLEMENTATION PLAN

KEEPING MOTORISTS MOVING ON THE SR-91 CORRIDOR

Every year since 2003, OCTA, RCTC, and stakeholders have worked collaboratively to review a program of projects along the SR-91 corridor.

BENEFITS		<ul style="list-style-type: none"> • Provides seamless connectivity between Orange and Riverside Counties • Increases travel options • Optimizes vehicle throughput • Reinvests net 91 Express Lanes revenues on the SR-91 corridor to improve regional mobility • Investments to date: \$1.9 billion 		
COMPLETED EFFORTS		PROJECT	COST (MILLIONS)	COMPLETION
	Orange County	Eastbound Lane Addition (SR-241 to SR-71)	\$51.2	2010
		Fifth Lane Addition (SR-55 to SR-241)	\$85.2	2013
		Westbound Lane at Tustin Avenue	\$43.2	2016
	Riverside County	Green River Road Overcrossing	\$24.3	2009
		North Main Street Corona Metrolink Parking Structure	\$25	2009
		91 Corridor Improvement Project (Initial Phase)	\$1,407	2017
		La Sierra Metrolink Parking Improvements	\$6.3	2019
	Bi-County	Metrolink Service Improvements	\$249	2016
		Express Bus Service	\$6	2019
ANTICIPATED PROJECTS		PROJECT	COST (MILLIONS)	CURRENT PHASE
	Orange County	SR-91 Improvements (SR-57 to SR-55)	\$460	Final Design
		Anaheim Canyon Metrolink Station Improvements	\$29.8	Final Design
		Placentia Metrolink Rail Station	\$34.8	Final Design
	Riverside County	15/91 Express Lanes Connector	\$270	Final Design
		SR-71/SR-91 Interchange Improvements	\$121	Final Design
		Improvements East of I-15	TBD	Environmental
	Bi-County	SR-91 Corridor Operations Project	\$38	Construction
		6th General Purpose Lane Addition (SR-241 to SR-71)	TBD	Preliminary Engineering
		SR-241/SR-91 Tolloed Express Lanes Connector	\$250	Final Design
CONCEPTS	LOCATION			COST (MILLIONS)
	Elevated 4-Lane Facility (MIS Corridor A) from SR-241 to I-15 (Post-2035)			\$2,720
	Anaheim to Ontario International Airport Maglev High Speed Rail (Post-2035)			\$2,770 - \$3,200
	Irvine-Corona Expressway (ICE) 4-Lane Facility from SR-241/SR-133 to I-15/Cajalco Road (Post-2035)			\$8,855
	WB SR-91 to SB SR-55 Connector Improvements (Post-2035)			\$75 - \$150
	EB SR-91 Fifth Lane Addition at SR-241			\$31
	Fairmont Boulevard Improvements			\$76.8

TABLE OF CONTENTS

Table of Contents	i
Section 1: 2021 Status Report and Update	1
Section 2: Implementation Plan	13
Orange County Projects	14
Riverside County Projects	18
Bi-County Projects	22
Appendix A - Post-2035 and Conceptual Projects	26
Appendix B - COMPLETED PROJECT EXHIBITS	33
Appendix C - REFERENCES	43



SECTION 1: INTRODUCTION

2021 STATUS REPORT AND UPDATE

Previous law authorized the California Department of Transportation (Caltrans) to enter into franchise agreements with private companies to construct and operate four demonstration toll road projects in California. This resulted in the development of the 91 Express Lanes facility in Orange County. The four-lane, 10-mile toll road runs along the median of State Route 91 (SR-91) in northeast Orange County between the Orange/Riverside County line and State Route 55 (SR-55). Since the 91 Express Lanes carried its first vehicle on December 27, 1995, the facility has saved users tens of millions of hours of commuting time.

While the 91 Express Lanes facility has improved travel time along the SR-91 corridor, provisions in the franchise agreement between Caltrans and the private franchisee, the California Private Transportation Company (CPTC), prohibited Caltrans and county transportation agencies from adding transportation capacity or operational improvements to the SR-91 corridor through the year 2030 from Interstate 15 (I-15) in Riverside County to the Orange/Los Angeles Counties border. Consequently, the public agencies were barred from adding new lanes, improving interchanges, and adding other improvements to decrease congestion on the SR-91 freeway.

Recognizing the need to eliminate the non-compete provision of the franchise agreement, Governor Gray Davis signed Assembly Bill 1010 (Lou Correa) (AB 1010) into law in September 2002, paving the way for much-needed congestion relief for thousands of drivers who use SR-91 to travel between Riverside and Orange Counties each day. The bill allowed the Orange County Transportation Authority (OCTA) to purchase the 91 Express Lanes franchise and eliminate non-compete clause that prohibited capacity-enhancing improvements from being made to SR-91. Although the 91 Express Lanes operate within a 10-mile stretch of Orange County, between SR-55 and Orange/Riverside county lines the franchise technically allowed operation of toll lanes into Riverside County. The purchase agreement for the 91 Express Lanes was completed on January 3, 2003, placing the road in public hands at a cost of \$207.5 million. With the elimination of the non-compete

provision through AB 1010 and the subsequent 91 Express Lanes purchase by OCTA, Orange County and Riverside County public officials and Caltrans Districts 8 and 12 have been coordinating improvement plans for SR-91.

Senate Bill 1316 (Lou Correa) (SB 1316) was signed into law in September 2008 as an update to the provisions of AB 1010. SB 1316 authorizes OCTA to transfer its rights and interests in the Riverside County portion of SR-91 toll lanes by assigning them to the Riverside County Transportation Commission (RCTC) and authorizes RCTC to operate tolls for 50 years. In 2017, RCTC opened the extension of the 91 Express Lanes to traffic into Riverside County with completion of the initial phase of the SR-91 Corridor Improvement Project (see Appendix B). SB 1316 also requires OCTA and RCTC, in consultation with Caltrans, to continue to issue an annual SR-91 Implementation Plan (Plan) for SR-91 improvements between State Route 57 (SR-57) and I-15. The Plans prior to adoption of SB 1316 included a westerly project limit of SR-55. The Plan establishes a program of potential improvements to relieve congestion and improve operations in the SR-91 corridor.

The 2021 Plan fulfills the requirement to provide the State Legislature with an annual Implementation Plan for SR-91 improvements and builds on the 2020 Plan. This year's update includes concepts that were identified in the 2006 Riverside County – Orange County Major Investment Study (MIS) as well as other project development efforts, including the RCTC 10-Year Western County Highway Delivery Plan that outlines a number of projects such as the extension of the 91 Express Lanes from the Orange/Riverside County line to I-15. The projects included in the 2021 Plan have been infused with various sources of local, state, and federal funding. The 2021 Plan includes overviews, status summaries, and proposed costs and schedules for project packages to improve mobility on SR-91. Also included are conceptual lane diagrams (as appropriate), and discussions of key considerations that need to be addressed in the planning and development of each project. This Plan will provide OCTA, RCTC, and Caltrans with a framework to



implement SR-91 and other related improvements. Future annual Plan updates will continue to refine the scope, cost, and schedule of each project included in this version of the Plan.

91 EXPRESS LANES TOLL POLICY GOALS

With the completion of the State Route 91 Corridor Improvement Project's initial phase in spring 2017, there are now approximately 18 miles of Express Lanes between Orange and Riverside counties. OCTA and RCTC have adopted goals for the 91 Express Lanes to continue to maintain a safe, reliable, and predictable travel time for express lane users traversing seamlessly between the two counties. The goals below take into consideration the 91 Express Lanes as well as the SR-91 corridor at large. These guiding principles include:

- optimizing vehicle throughput at free flow speeds;
- increasing average vehicle occupancy;
- balancing capacity and demand to serve customers who pay tolls as well as carpoolers (3+) who are offered discounted tolls;
- paying debt service and maintaining debt service coverage;
- generating sufficient revenue to sustain the financial viability of the 91 Express Lanes; and
- when appropriate, reinvesting net revenues on the SR-91 corridor to improve regional mobility.

PROJECT ACCOMPLISHMENTS

Much progress has been made since the initial 2003 SR-91 Implementation Plan was approved. The 2021 Plan includes select completed project exhibits as a historical reference (see Appendix B).

Completed Construction/Improvement Projects

The following improvements have been constructed or implemented:

- ❖ Repaved and sealed pavement surfaces, restriped, and replaced raised channelizers on the 91 Express Lanes.
- ❖ On EB SR-91 the roadway was restriped, and the median barrier was reconstructed. This

project removed the CHP enforcement area and extended the EB auxiliary lane from SR-71 to the Serfas Club Drive off-ramp.

- ❖ The WB auxiliary lane was extended between the County line and SR-241. This project eliminated the lane drop at the 91 Express Lanes and extended the existing auxiliary lane from the County line to SR-241 in the westbound direction. This improvement minimized the traffic delays at the lane drop area, resulting in improved vehicle progression.
- ❖ On WB SR-91 the roadway was restriped to extend the auxiliary lane between SR-71 and the County line. This resulted in a new continuous lane between SR-71 and SR-241.
- ❖ Safety Improvements were constructed at the Truck Scales. Existing shoulders were improved, lanes were re-striped, illumination improved, and signage was modified into and out of the EB facilities.
- ❖ Green River Road overcrossing replacement (see Appendix B).
- ❖ Metrolink parking structure at the North Main Street Corona Metrolink Station (see Appendix B).
- ❖ EB SR-91 lane addition from SR-241 to SR-71 (see Appendix B).
- ❖ Additional SR-91 WB and EB travel lane between SR-55 and SR-241 (see Appendix B).
- ❖ SR-91 WB bypass lane to Tustin Avenue at SR-55 (see Appendix B).
- ❖ Metrolink Service Improvements (see Appendix B).
- ❖ Initial SR-91 Corridor Improvement Project (CIP) (see Appendix B).
- ❖ La Sierra Metrolink Parking Improvements (see Appendix B)
- ❖ Express Bus Service (see Appendix B)

These projects provide enhanced freeway capacity and/or improved mobility for one of the most congested segments of SR-91.

The completed EB SR-91 lane addition project from SR-241 to SR-71 (see Appendix B) has improved highway operations. This project reduced travel time by approximately 20 minutes during its opening year.

The Initial CIP project has provided significant benefits to drivers on SR-91. This \$1.4 billion investment project included widening SR-91 by one GP lane in each direction east of SR-71, adding collector-distributor (CD) roads and direct south connectors at I-15/SR-91, extending the 91



Express Lanes to I-15, and providing system/local interchange improvements. The new lanes and other improvements save time, offer choice and reliability, boost safety, enhance access and job creation, promote ridesharing, reduce pollution and aid the movement of goods along the region's roadways.

The WB SR-91 Widening Project completed construction in 2016 from State College Blvd to Interstate 5 (I-5). This project added one WB general purpose lane and removed the dedicated exit lane to State College Blvd from the SB SR-57 to WB SR-91 Connector that contributed to operational issues due to the short weaving distance. While this project falls just to the west of the limits for the Plan study area, it will have an influence on operations within the Plan area.

In addition, there are two projects that impact future SR-91 widening projects. The first is the \$2.8 billion U.S. Army Corps of Engineers (Corps) Santa Ana River Mainstem project that provides flood protection from the recently improved Prado Dam (near SR-71) to the Pacific Ocean. The project includes many features that have already been completed, including improvements to Seven Oaks Dam, 30 miles of levees and modifications to original project features including raising the Prado Dam embankment and installation of new, larger capacity outlet works. The Corps and Orange County Flood Control District recently amended a cooperative agreement which would allow the Corps to use federal funds under the Bipartisan Budget Act to complete select features of the project.

The other project with a direct impact to SR-91 is the \$120 million Santa Ana Regional Interceptor (SARI) sewer trunk line relocation. The existing SARI line is within the Santa Ana River floodplain and was in jeopardy of failure due to scour from the potential increased flood releases by the aforementioned Corps project. This project was completed in 2014.

SR-91 project teams have coordinated with the Corps, Orange County Flood Control District, Caltrans, and other federal, regional, and local agencies to accommodate planned SR-91 improvements adjacent to the Santa Ana River.

Completed Designs and Reports

There are various project development phase documents (Feasibility Reports, Studies, PSR, PA/ED, or PS&E) that are completed, or are in draft form and anticipated to be approved that identify mobility improvements. These

documents include:

- ❖ MIS – Final Project Report: Locally Preferred Strategy Report (January 2006).
- ❖ Renewed Measure M Transportation Investment Plan (November 2006).
- ❖ RCTC 10-Year Western County Highway Delivery Plan (December 2006).
- ❖ SR-91/Fairmont Boulevard Feasibility Study (December 2009).
- ❖ Corridor System Management Plan (CSMP) Orange County SR-91 Corridor Final Report (August 2010).
- ❖ Renewed Measure M Early Action Plan, approved August 2007 and subsequently renamed as the Capital Action Plan (April 2011).
- ❖ PSR-PDS for SR-241/SR-91 Tolled Express Lanes Connector (January 2012).
- ❖ Project Report & Environmental Document for 91 Corridor Improvement Project (October 2012)
- ❖ PSR-PDS on SR-91 between SR-57 and SR-55 (October 2014).
- ❖ SR-71/SR-91 Interchange Environmental Phase (2011) and Final Design (2015).
- ❖ 2020 Next 10 Delivery Plan approved by OCTA Board, (October 2020).
- ❖ Project Report & Environmental Document for 15/91 Express Lanes Connector (June 2019)
- ❖ Project Report & Environmental Document for 91 Corridor Operations Project (April 2020)
- ❖ Project Report & Environmental Document for SR-241/SR-91 Tolled Express Lanes Connector (April 2020).

SR-91 CORRIDOR CONDITIONS

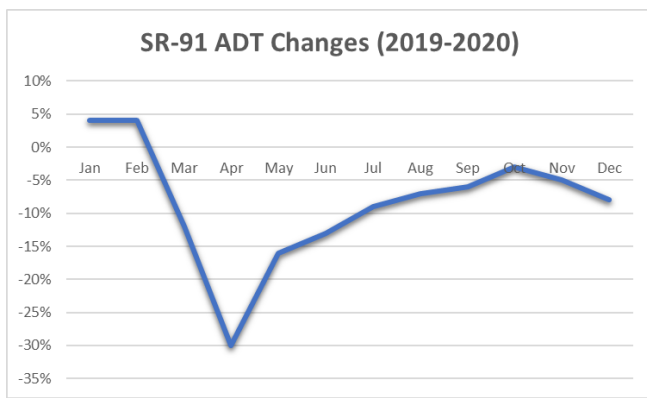
Project Limits

The project study limits encompass the segment of SR-91 from west of the junction of SR-57 and SR-91 in the City of Anaheim in Orange County, to east of the junction of SR-91 and I-15 in the City of Corona in Riverside County. The freeway segment is approximately 20.3 miles long and includes 12.7 miles within Orange County and 7.6 miles within Riverside County.

Existing Traffic Conditions Summary

Similar to other parts of the state, traffic conditions on Orange County roadways including the SR-91 corridor encountered significant variations in 2020. Due to the COVID-19 pandemic, the Stay-at-Home Order was imposed in mid-March of 2020 and this significantly influenced travel patterns. Daily travel demand on the SR-91 corridor shifted from an uptrend of 4% in January and February of 2020 compared to the same months in 2019, to a reduction of 12% in March and a reduction of 30% in April, when compared to the respective months in 2019. From May 2020 through December 2020, the SR-91 traffic demand changes ranged from 3% to 16% lower than the same months in 2019 (see Figure 1).

Figure 1



Due to the effects of the COVID-19 pandemic, the 2020 traffic patterns are not deemed as a true reflection of the typical existing conditions nor as a proper baseline to forecast the future demand and operations of the SR-91 corridor. Therefore, the 2019 traffic conditions are being utilized for the 2021 Plan.

Traffic conditions on the SR-91 corridor are expecting continued changes due to uncertainties related to the COVID-19 effect. OCTA and RCTC will continue monitoring the SR-91 traffic pattern changes throughout the year of 2021. If traffic conditions are showing a trend of normalization (reverting back to pre-pandemic conditions), then the traffic analysis will be updated for the 2022 Plan.

A review of the 2019 traffic conditions in the corridor indicates that the existing capacity of the facility is inadequate to accommodate current and future peak demand volumes. Level of Service (LOS) F

prevails in the peak direction during the entire peak period. The definition of LOS F is a density of more than 45 passenger cars/lane/mile and the worst freeway operating condition. The results also indicate that there are several physical conditions that contribute to unacceptable traffic queues.

During the weekdays, westbound SR-91 experiences heavier traffic conditions during the morning commute for travelers leaving Riverside County to employment areas in Orange and Los Angeles counties. The corridor is generally congested between the peak period of 6 a.m. to 10 a.m. in the westbound direction and the peak period of 3 p.m. to 7 p.m. in the eastbound direction. Due to the high demand, congestion in the corridor occurs before and after the peak periods. The eastbound afternoon conditions tend to be exacerbated by the lack of receiving capacity in the Riverside County portion of the SR-91 corridor. Accordingly, RCTC is working closely with Caltrans District 8 to sponsor improvements that will provide congestion relief for the eastbound afternoon condition. Some of these improvements include the 15/91 Express Lane Connector, SR-71/SR-91 Interchange, and Improvements East of I-15.

The following is a summary of the deficiencies identified along the SR-91 corridor:

- ❖ Heavy traffic volumes to/from I-15 converge with the SR-91 and increase delay during the morning and evening peak hours.
- ❖ SR-71 traffic demand as well as physical and operational constraints for the EB SR-91 to NB SR-71 connector contribute to mainline and EB SR-91 corridor delays.
- ❖ Traffic entering the WB SR-91 from the Green River Road and SR-71 on-ramps contribute to mainline congestion during the AM peak period.
- ❖ High traffic volumes entering the freeway from Gypsum Canyon Road, Santa Ana Canyon Road, Green River Road, Weir Canyon Road, Imperial Highway and Lakeview Avenue contribute to congestion on the SR-91 mainline.
- ❖ One of the two lanes from the Eastern Transportation Corridor (State Route 241) connector is dropped at the merge to EB SR-91 causing additional congestion on the EB SR-91 general purpose lanes.

- ❖ At the NB SR-55 interchange with EB SR-91, a lane on SR-91 is dropped (as a dedicated exit) at Lakeview Avenue and a second lane is dropped (as a dedicated exit) at Imperial Highway creating a weave condition.
- ❖ WB SR-91 drops two GP lanes and a 91 Express Lane to SB SR-55, contributing to mainline congestion. This drop also occurs on the left-hand side of SR-91, creating a weaving condition.
- ❖ WB traffic entering SR-91 at Lakeview Avenue traveling to SB SR-55 contributes to mainline congestion by weaving across three lanes on SR-91. The existing two-lane connector from WB SR-91 to SB SR-55 traffic volume exceeds operational capacity causing a queue on the SR-91 mainline.
- ❖ A lane drop on EB SR-91 at SB SR-241 creates a chokepoint.

Logical Project Sequencing

As noted, the SR-91 Corridor in Riverside County, in the EB direction, lacks the receiving capacity during the afternoon peak period which creates a bottleneck condition. Due to the high levels of congestion experienced on this segment of the corridor, there is sensitivity to any changes that may affect traffic operations. Without first addressing the congestion in Riverside County, any performance or capacity enhancing projects upstream would further exacerbate congested conditions causing additional delays and queueing. Therefore, projects that have the potential to impact demand and/or provide additional capacity in the EB direction should be considered in a logical sequence to ensure that there is sufficient receiving capacity in Riverside County.

In October 2019, a consensus was reached between OCTA, RCTC, Caltrans, and the TCA that would set the

stage for a series of projects to be implemented in sequential order to improve the SR-91 corridor. OCTA, RCTC, TCA, and Caltrans, Districts 8 and 12, as well as Caltrans Headquarters directors, worked through five major issues. This framework will enable the streamlining of the implementation of the SR-241/SR-91 Tolle Express Lanes Connector project while minimizing impacts to the 91 corridor. The subject matter of the multi-agency consensus is outlined below:

1. Setting priorities for SR-91 corridor projects to reduce construction-related impacts;
2. Allowing completion of the environmental approval process and updating related programming documents;
3. Clarifying lead agencies for final design, construction, and maintenance;
4. Identifying the principal funding agency for final design, construction, and maintenance; and
5. Designating lead agencies for retaining toll revenue and toll setting/operational control.

Based on the above framework, the agencies reached consensus on a 91 Corridor program of projects and sequencing as outlined below:

- ❖ 15/91 Express Lanes Connector
- ❖ SR-91 Corridor Operations Project
- ❖ SR-71/SR-91 Interchange Improvements*
- ❖ SR-241/SR-91 Tolle Express Lanes Connector

*Note: SR-241/SR-91 Tolle Express Lanes Connector is not dependent upon completion of SR-71/SR-91 Interchange Improvements

PROJECT SUMMARY

Many of the highway projects and concepts identified in this 2021 Plan are based on the MIS that was completed in January 2006. The projects are presented in the following groups: Orange County Projects, Riverside County Projects and Bi-County Projects. The stage of development for each project, such as planning, final design, construction, or procurement and implementation, varies as noted in the project summaries. Table 1 summarizes the various planned projects, concept projects, and completed projects. For details on each project refer to Section 2 for planned projects and Appendix B for selected complete projects:

- ❖ The Orange County projects have a total cost of approximately \$524 million. The projects include the SR-91 improvements between SR-57 and SR-55, Anaheim Canyon Metrolink station improvements, and Placentia Metrolink rail station.
- ❖ The Riverside County projects have a total cost of over \$391 million. The improvements include: a 15/91 Express Lanes Connector, the SR-71/SR-91 Interchange Improvements, and the SR-91 improvements east of I-15.
- ❖ The Bi-County projects benefit both Orange and Riverside Counties. The total cost for the Bi-County projects exceeds \$288 million. The improvements include: SR-91 Corridor Operations Project, a Sixth General Purpose Lane Addition (SR-241 to SR-71), and a SR-241/SR-91 Tolloed Express Lanes Connector.

Traffic Analysis

For the 2021 Plan, the traffic analysis for major SR-91 capacity projects used the Caliper TransModeler software model and traffic data calibrated to reflect existing traffic patterns of 2019 as described in the prior section. This traffic simulation model provides a better depiction of actual travel delays experienced by motorists compared to traditional travel demand models. The model can be used to analyze freeway bottlenecks sometimes neglected in traditional travel demand models. This approach is especially important given high SR-91 traffic volumes and the potential for relatively few vehicles to significantly slow down traffic. For example, a minor freeway

Table 1 – SR-91 Implementation Plan Projects

Project Summary	Cost (\$M)
Orange County Projects	
SR-91 Improvements between SR-57 and SR-55	460
Anaheim Canyon Metrolink Station Improvements	29.8
Placentia Metrolink Rail Station	34.8
SUBTOTAL	524.6
Riverside County Projects	
15/91 Express Lanes Connector	270
SR-71/SR-91 Interchange Improvements	121
SR-91 Improvements East of I-15	TBD
SUBTOTAL	391+
Bi-County Projects	
SR-91 Corridor Operations Project	38
Sixth General Purpose Lane Addition (SR-241 to SR-71)	TBD
SR-241/SR-91 Tolloed Express Lanes Connector	250
SUBTOTAL	288+
Concept Project Summary	Cost (\$M)
Conceptual Projects	
Elevated 4-Lane Facility (MIS Corridor A) from SR-241 to I-15	2,720
Anaheim to Ontario International Airport Maglev High Speed Rail	2,770 – 3,200
Irvine-Corona Expressway (ICE) 4-Lane Facility from SR-241/SR-133 to I-15/Cajalco Road	8,855
Westbound SR-91 to Southbound SR-55 Improvements	75 – 150
Eastbound SR-91 Fifth Lane Addition at SR-241	31
Fairmont Boulevard Improvements	76.8
SUBTOTAL	14,527.8–15,032.8
Completed Project Summary Since 2006 (Constructed Year)	Cost (\$M)
Green River Road Overcrossing Replacement (March 2009)	24.3
North Main Street Corona Metrolink Station Parking Structure (June 2009)	25
Eastbound Lane Addition from SR-241 to SR-71 (September 2010)	51.2
Widen SR-91 between SR-55 and SR-241 by Adding a 5 th GP Lane in Each Direction (January 2013)	85.2
SR-91 WB Lane at Tustin Avenue (April 2016)	43.2
Metrolink Service Improvements (June 2016)	249
Initial Phase CIP: Widen SR-91 by One GP Lane in Each Direction East of Green River Rd, CD Roads and I-15/SR-91 Direct South Connector, Extension of Express Lanes to I-15 and System/Local Interchange Improvements (2017)	1,407
Express Bus Service (2019)	6
La Sierra Metrolink Parking Improvements (2019)	6.3
SUBTOTAL	1,897



merging area can cause many vehicles to slow, cascading delay through the traffic stream, and rapidly decreasing both speed and volume for major segments of the freeway. The metrics reported in the Plan include travel time from the beginning to the end of the study corridor and vehicle hours of delay experienced on study corridor, which both focus on operations for vehicles on SR-91. A third metric includes vehicles served by the system in the study corridor and takes into consideration vehicles on ramps and freeways that feed into or are fed by SR-91 in the study area. The operations analysis quantified travel time savings for WB morning and EB afternoon conditions for the following major capacity enhancing projects:

Year 2030

- ❖ SR-91 Improvements between SR-57 and SR-55
- ❖ 15/91 Express Lanes Connector
- ❖ SR-71/SR-91 Interchange Improvements
- ❖ SR-91 Corridor Operations Project
- ❖ SR-241/SR-91 Tolled Express Lanes Connector

Year 2045

- ❖ Projects completed in 2030
- ❖ SR-91 Improvements East of I-15
- ❖ SR-91 Sixth General Purpose Lane Addition
- ❖ Fairmont Boulevard Improvements

Westbound Analysis

The WB morning (a.m.) traffic analysis results indicate that for the year 2030 forecasts, peak hour travel times are anticipated to improve in Riverside County (by about 6 minutes) and in Orange County (by about 11 minutes). In addition to decreasing travel time, overall vehicle hours of delay in the corridor will decrease (by about 20 percent), while the entire system is serving more vehicles (by about 9 percent). Bottlenecks are anticipated at the Orange-Riverside County line and at the SR-241 interchange/Gypsum Canyon interchange area. The main bottlenecks in Riverside County will be relieved due to the

completion of proposed projects. The bottleneck at the SR-55 interchange will also be relieved. However, with the additional vehicles traveling downstream, there is additional congestion at the SR-57 interchange. For the year 2045, travel times are anticipated to decrease (by about 16 minutes) in Riverside County, and increase (by about 23 minutes) in Orange County when compared to 2030. Overall vehicle hours of delay will increase (by about 68 percent) in the corridor, but the number of vehicles the system is serving will increase (by about 6 percent). Bottlenecks appear at SR-71 and at SR-57. Due to the SR-71 Corridor Improvement Project, there is a large increase of vehicles going to and from SR-71. Travel time in Orange County shows an increase in 2045 due to the growth in traffic, projects relieving congestion upstream allowing more vehicles to travel downstream, and no additional capacity enhancing projects in Orange County. OCTA and RCTC are exploring multi-modal opportunities on, or adjacent to, the SR-91 corridor that could provide additional congestion relief.

Express Lanes in the westbound direction operate satisfactorily in all the analysis years.

Eastbound Analysis

The EB evening (p.m.) traffic analysis indicates that for the year 2030 forecasts, peak hour travel times are anticipated to decrease (by about 7 minutes) in Riverside County and increase (by about 11 minutes) in Orange County. Although the overall travel time through the corridor will increase slightly, the vehicle hours of delay will decrease (by about 25 percent) and the number of vehicles served by the system will increase (by about 12 percent). The major bottleneck still occurs at the county line. Improvement projects near SR-55 and I-15 should alleviate congestion in those areas. For the year 2045, travel times are anticipated to increase (by about 4 minutes) in Riverside County and decrease in Orange County (by about 18 minutes) when compared to 2030. Overall vehicle hours of delay will increase (by about 40 percent) but the number of vehicles the system is serving will be greater (by about 8 percent). The main bottleneck remains at the county line. However, with the inclusion of the Sixth General Purpose Lane Addition project, the congestion at the county line will be reduced. More vehicles traveling downstream will slightly increase congestion in Riverside County near I-15.

Express Lanes in the eastbound direction operate satisfactorily in all the analysis years.

Figures 1-1 and 1-2 below summarize the westbound corridor vehicle hours of delay and systemwide served

vehicles, respectively. Figures 1-3 and 1-4 below summarize the eastbound corridor vehicle hours of delay and systemwide served vehicles, respectively.

Figure 1-1 – Westbound SR-91 from I-15 to SR-57 A.M. Peak Period Corridor Vehicle Hours of Delay

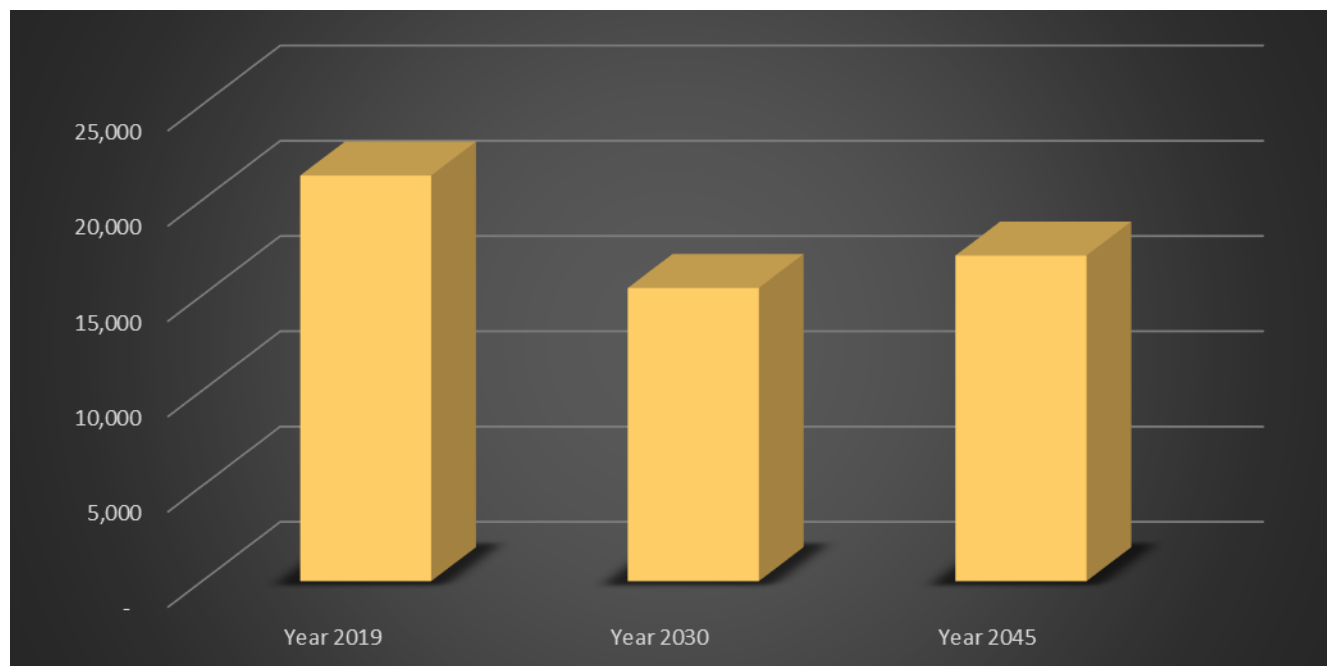


Figure 1-2 – Westbound SR-91 from I-15 to SR-57 A.M. Peak Period Systemwide Served Vehicles

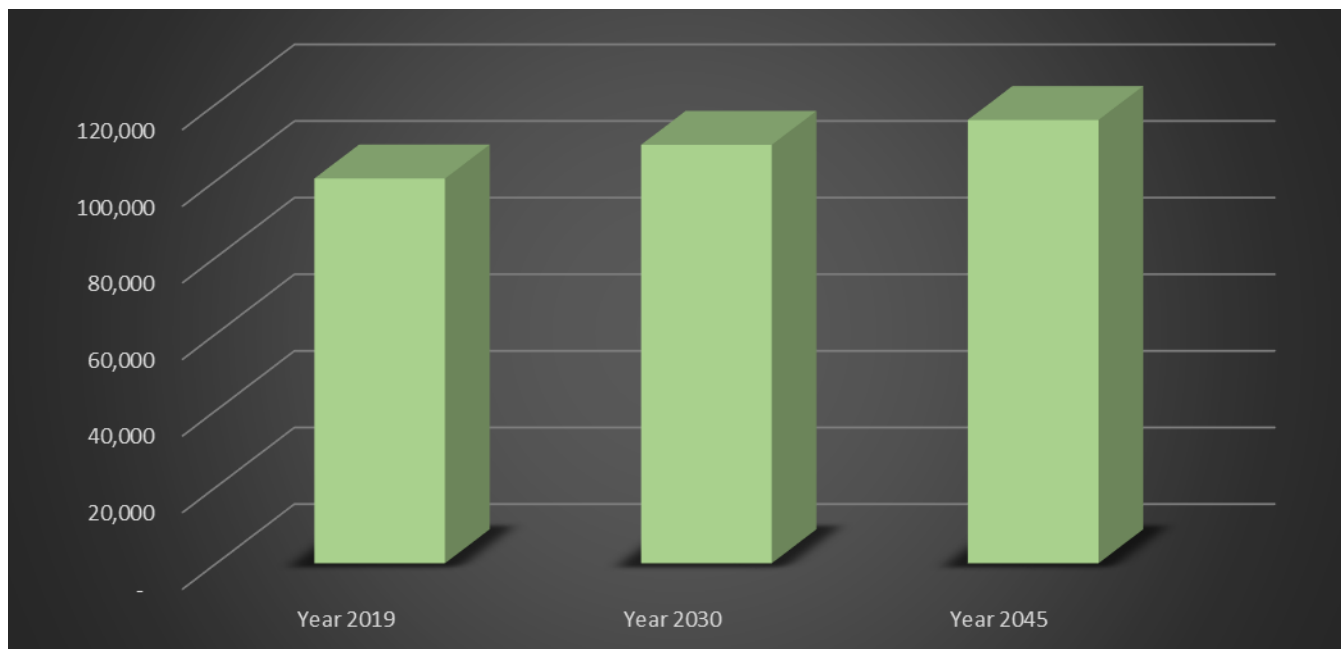


Figure 1-3 – Eastbound SR-91 from SR-57 to I-15 P.M. Peak Period Corridor Vehicle Hours of Delay

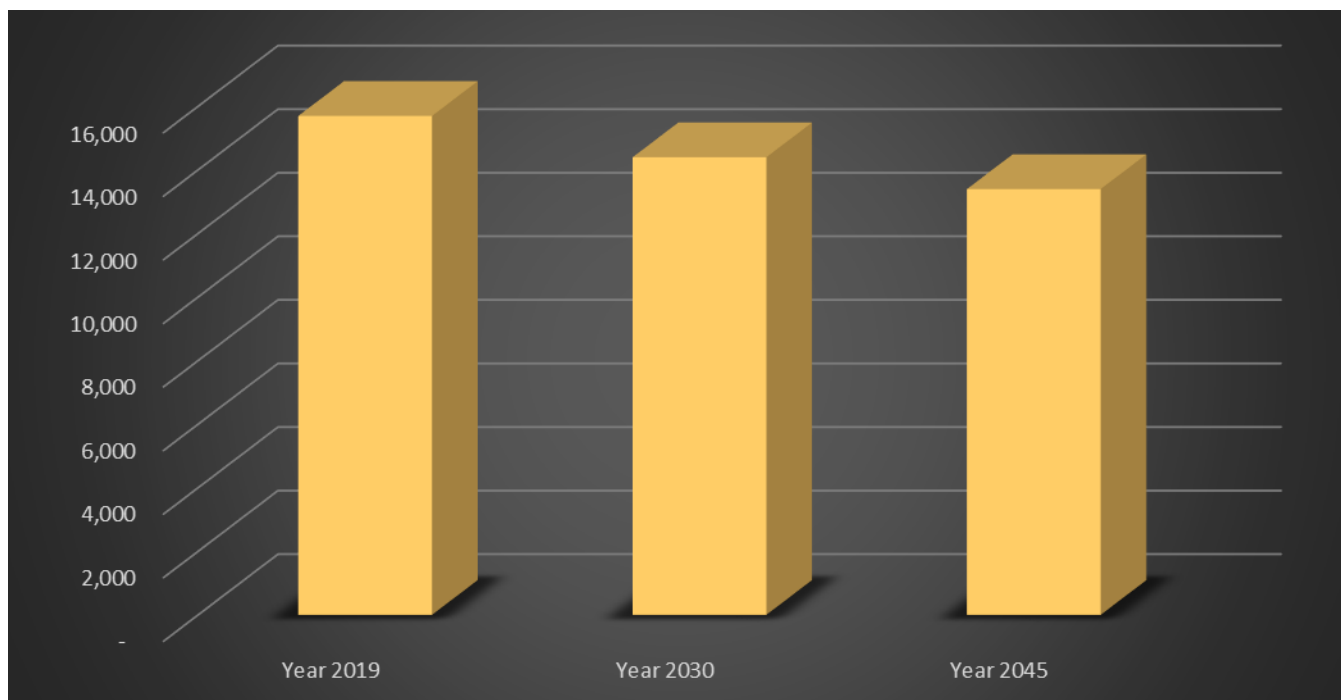
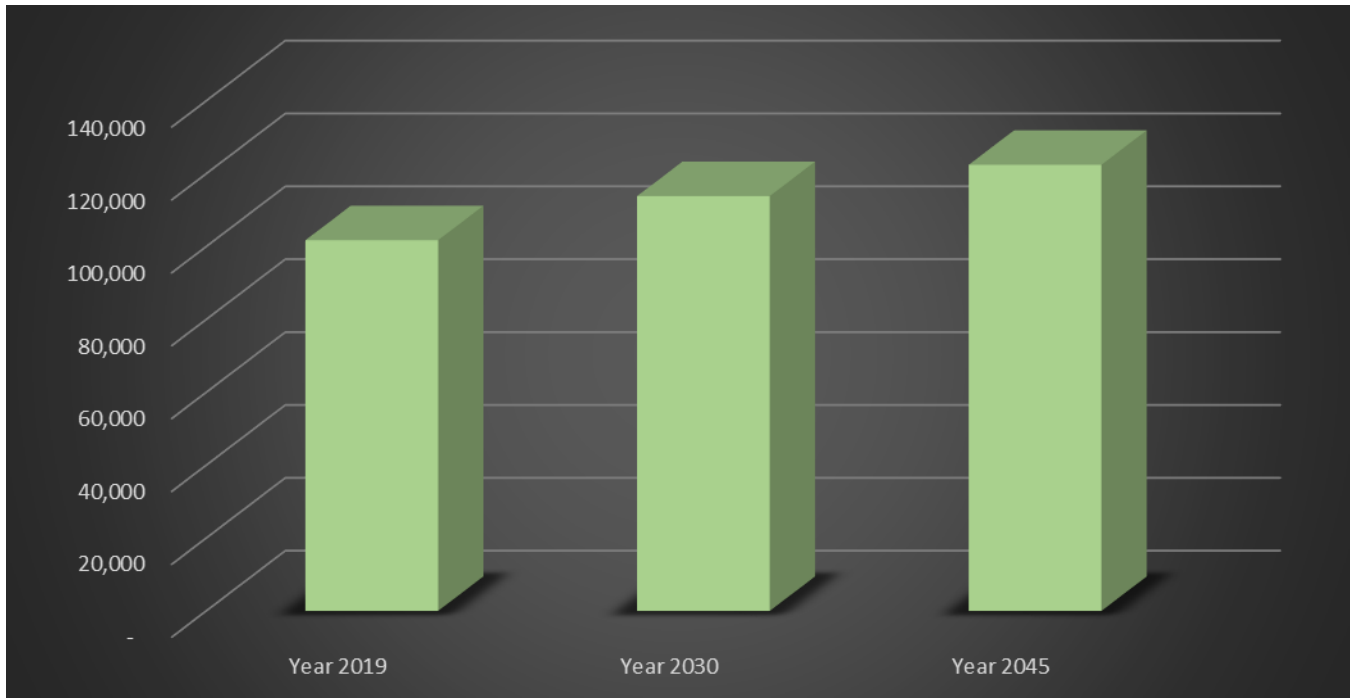


Figure 1-4 – Eastbound SR-91 from SR-57 to I-15 P.M. Peak Period Systemwide Served Vehicles



CONCEPT PROJECT SUMMARY

Many of the highway concept projects identified in this 2021 Plan are long lead time projects and/or projects without sufficient project development detail to be advanced into the Project Summary section. These potential concepts include significant environmental constraints and right of way requirements in addition to requiring a significant amount of planning, design, and future policy and public input. Many of these concept projects are multi-billion-dollar improvements that will remain a challenge to implement. Refer to Appendix A for details on each concept project.

IRVINE CORONA EXPRESSWAY STATUS SUMMARY

The Irvine Corona Expressway (ICE) concept was conceived as part of the MIS and was established as part of a suite of projects to support future peak demand volumes between Riverside and Orange Counties. The ICE was further evaluated in the 2009 ICE Feasibility Study for financial and geotechnical feasibility. Seven (7) primary feasibility issues were considered:

- ❖ Geologic, hydrogeologic/hydrologic, and geotechnical conditions.
- ❖ Corridor concepts (full tunnel and partial tunnel/partial surface road).
- ❖ Tunnel configuration.
- ❖ Tunnel excavation and support methods.
- ❖ Tunnel systems (e.g., ventilation, emergency fire system, operation building, toll system, etc.).
- ❖ Construction considerations.
- ❖ Construction, Operation & Maintenance (O&M) costs.

Per the direction of the Riverside-Orange Corridor Authority Board (ROCA) in 2010, staff has reevaluated the concept annually, as part of the preparation of this Plan, to determine if construction costs and tunneling technology have changed and become less prohibitive.

Planned and constructed tunnel projects were reviewed for insight into how tunnel construction technology is changing. Projects such as the Las Vegas

Convention Center (LVCC) Loop and the Ontario International Airport (ONT) Loop are utilizing innovative ideas that could deliver transit tunnel projects with faster construction timelines and at a lower cost. These projects propose smaller diameter tunnels (12-14 feet) and are designed to accommodate specialized vehicles with the intent of eventually incorporating autonomous vehicles. The Boring Company constructed the 1.7-mile LVCC Loop dual tunnels for \$52.5 million over approximately two years. The current estimated cost (including all phases and support) for the 4-mile ONT Loop is \$85 million.

The Boring Company plans to develop technology to construct tunnels faster and at lower cost. To accomplish this, The Boring Company plans to reduce tunnel diameters and increase the speed and efficiency of TBMs. Additional initiatives include electrifying and automating TBMs to increase safety and efficiency.

Two shorter tunnels were constructed in California with similar lane configurations to the ICE concept. The Devil's Slide Tunnel in San Mateo County and the Caldecott Fourth Bore Tunnel in Contra Costa County both opened in 2013. These tunnels used a method of drilling and blasting (known as the New Austrian Tunneling Method), rather than operating a TBM. Both tunnels were approximately 1.2 miles long and took six years and three years to construct, respectively.

Based on recent tunnel projects, the challenges that were identified in the ICE Feasibility Study were also experienced by other tunnel construction projects which provides insight into how tunneling technologies have changed. The New Austrian Tunneling Method may be a way to reduce the cost of boring for the ICE tunnel. This method was discussed in the 2009 ICE Feasibility Study but was dismissed due to the proposed length of the ICE tunnel concept. In the future, more investigation would be required to assess the feasibility of using a boring method other than a TBM, and to qualitatively assess possible impacts to the ICE corridor construction cost and duration.

Reducing the bore diameter and proposed cross section of the ICE corridor concept may be another way to reduce the cost of the project. More investigation is required to

determine how the cross section and bore size could be reduced. Additionally, there are several regulatory requirements that would likely need to be considered in designing the cross section. While it may be difficult to reduce the highway or rail tunnel cross section, a smaller diameter could be considered for an alternative design vehicle. The ONT Loop and LVCC Loop are example projects where smaller diameter bores were allowable for autonomous transit use.

The review of recent tunneling projects shows feasibility for the ICE tunnel concept is slowly improving as tunneling technology is progressing. Technology has not advanced to the point where long, wide highway tunnels can be constructed at a lower cost. However, modern boring methods have lowered the cost on smaller, shorter tunnels. If this scales to larger tunnels, then the ICE corridor could become more feasible.



OVERVIEW

The 2021 Plan describes projects, key considerations, benefits, current status, schedule, and costs (in 2021 dollars, or as noted) for major projects and concepts through Post-2035. Some of the projects and concepts identified in this Implementation Plan are based on the MIS that was completed in January 2006. The projects are grouped as follows: Orange County Projects, Riverside County Projects and Bi-County Projects.

The intent of the Implementation Plan is to present a list of projects and studies along the SR-91 corridor and highlight coordination between OCTA, RCTC and Caltrans to improve the corridor.

As part of the project development process, detailed operational analysis will need to be conducted to evaluate operational issues associated with each project. The project development phases are discussed in the status updates and are defined as follows:

- ❖ **Conceptual Engineering = Pre-Project Study Report (Pre-PSR)** – Conceptual planning and engineering for project scoping and feasibility prior to initiating the PSR phase.
- ❖ **Preliminary Engineering = Project Study Report (PSR)** – Conceptual planning and engineering phase that allows for programming of funds.
- ❖ **Environmental = Project Approval/Environmental Document (PA/ED)** – The detailed concept design that provides environmental clearance for the project and programs for final design and right of way acquisition. The duration for this phase is typically 2-3 years.
- ❖ **Design = Plans, Specifications and Estimates (PS&E)** – Provide detailed design to contractors for construction bidding and implementation.
- ❖ **Construction** = The project has completed construction and will provide congestion relief to motorists.

Figure 2-1 – SR-91 Project Study Area from SR-57 to I-15



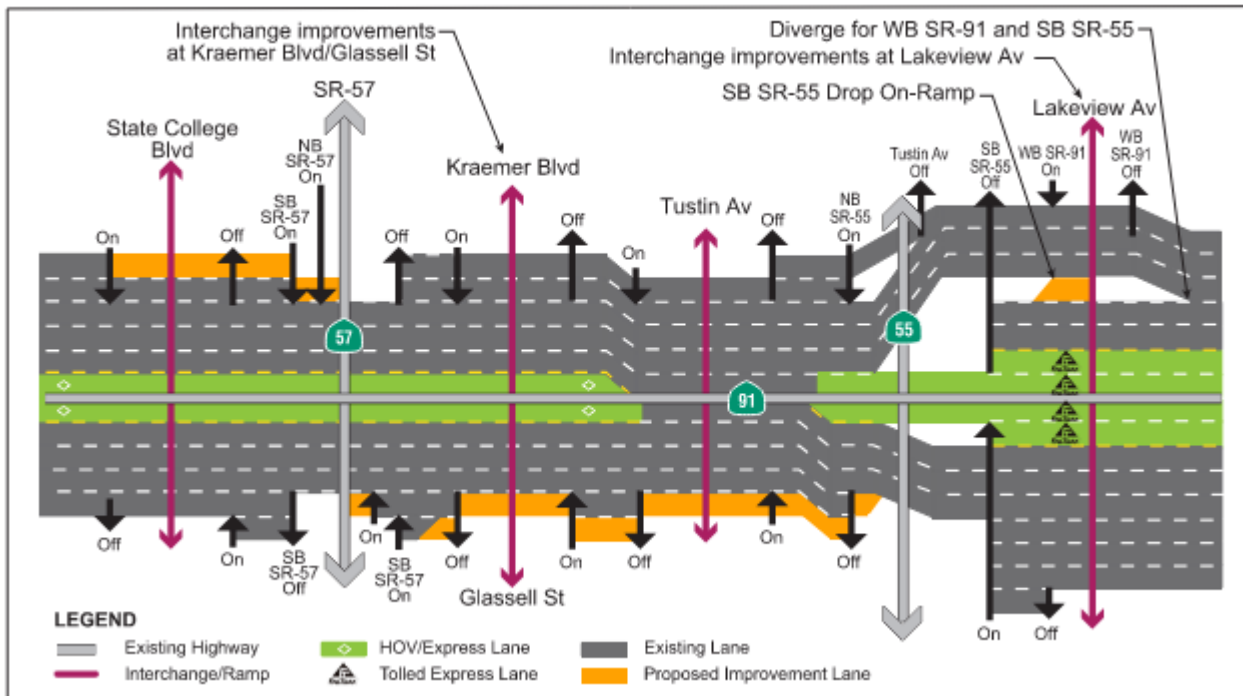
ORANGE COUNTY PROJECTS

The Orange County set of projects includes three improvements at a total cost of approximately \$524.6 million (in 2021 dollars, or as noted). The projects include: SR-91 improvements between SR-57 and SR-55, Anaheim Canyon Metrolink station improvements, and new Placentia Metrolink rail station. Further details for each of the projects are included in the following summaries.

Orange County Project Summary	Cost (\$M)
SR-91 Improvements between SR-57 and SR-55	460
Anaheim Canyon Metrolink Station Improvements	29.8
Placentia Metrolink Rail Station	34.8
SUBTOTAL	524.6



SR-91 Improvements between SR-57 and SR-55



Project Description

The project proposes to add EB capacity between SR-55 and SR-57, improve the SR-91/SR-57 and SR-91/SR-55 interchanges and local interchanges. In the SR-91/SR-57 interchange area, improvements identified in Project Approval/Environmental Document (PA/ED) phase include splitting the WB SR-91 Connector into separate exits for NB and SB SR-57 and extending an additional lane on WB SR-91 from the NB SR-57 to WB SR-91 connector through State College Boulevard and terminating at the auxiliary lane to Raymond Avenue-East Street. At the SR-91/SR-55 interchange area, a drop on-ramp from Lakeview Avenue would be constructed between realigned WB SR-91 lanes for direct access to SB SR-55, allowing for the exit to SB SR-55 to be moved further east, with a barrier separating WB SR-91 and SB SR-55 traffic west of the Lakeview Avenue bridge. The 91 Express Lanes will not be impacted by the project. In order to accommodate the improvements, the Lakeview, Tustin, Kraemer/Glassell, and La Palma bridges are proposed to be replaced. The improvements have been developed in cooperation with local jurisdictions and affected communities.

Key Considerations

The proposed project improvements on WB and EB SR-91 may require minor partial right-of-way acquisition and Temporary Construction

Easements (TCEs). In some areas, a non-standard geometric cross-section is proposed to reduce the right-of-way impacts.

Benefits

The proposed project improvements on WB and EB SR-91 between SR-57 and SR-55 include, among other features, adding one EB general purpose lane to achieve lane balancing and interchange improvements. Project improvements will reduce congestion and delay and reduce weaving.

Current Status

The project improvements were originally studied in the SR-91 Feasibility Study, which was completed in June 2009. The Project Study Report was completed in 2014 and the Project Approval/Environmental Document (PA/ED) was completed in 2020. This project was then split into three separate segments and the Plans Specifications and Estimate (PS&E) phase began in 2020 for all three segments. The proposed improvements are included in the Measure M program.

Schedule and Cost

Construction is anticipated to be completed in 2027 and the total project cost is estimated to be approximately \$460,000,000.

Anaheim Canyon Metrolink Station Improvements

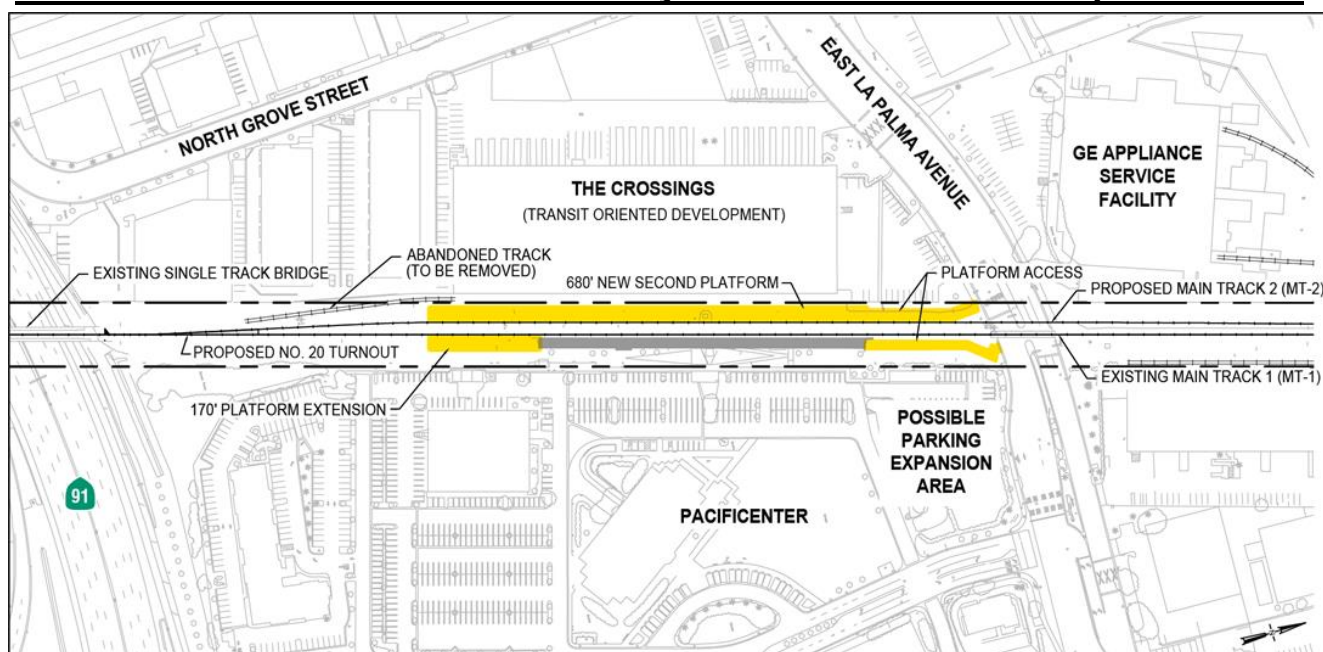


Image source:
Anaheim Canyon Station Project Definition Report, February 23, 2015

Project Description

The Anaheim Canyon Metrolink Station Improvement Project will include the addition of approximately 3,400 linear feet of secondary track; a second platform; extending the existing platform; improvements at two at-grade railroad crossings located at Tustin and La Palma; as well as new shade structures, benches and ticket vending machines. These project improvements will accommodate planned future train service and will enhance on time service and safety.

Benefits

The project will enable future Metrolink service expansion, improve train service efficiency, and foster train ridership growth in the region, which will contribute to congestion relief on SR-91.

Current Status

OCTA is the lead agency on the project. Funding for the project is programmed to use Federal Congestion Mitigation and Air Quality Improvement Program (CMAQ), 5307 Federal Formula, M2 (OC Go), and City of Anaheim funds.

Schedule and Cost

The plans were completed, and the project was advertised for bid in October 2020. Construction began in May 2021 and is anticipated to be completed in October 2022. The total project cost is estimated to be \$29.8 million.





Image source: www.placentia.org/Placentia-Metrolink-Site-Plan (Wildan Engineering)

Project Description

The new Placentia Metrolink Station will serve the Metrolink 91/Perris Valley Line, providing commuter rail service between Perris and Los Angeles, via Riverside and Orange counties. The project includes construction of a parking structure, OCTA bus access, an area for passenger pick-up and drop-off, and two station platforms.

Benefits

The station will meet the current transit demand and foster train ridership growth in the region, contributing to congestion relief on SR-91.

Current Status

The City of Placentia is the lead on right-of-way and environmental clearance, and OCTA is the lead agency for design and construction of the project. Funding for the project is programmed to use 91 Toll

Revenues, M2 (OC Go) and the City of Placentia funds for the construction phase. State Transportation Improvement Program (STIP), Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA), OC Go and City funds are programmed for the design and right-of-way costs.

Schedule and Cost

Plans are 100 percent complete, however, the construction contract cannot be advertised until a Construction and Maintenance Agreement is in place with BNSF Railway, the right-of-way owner. The project will be advertised for bids once an agreement is in place. The total project cost is estimated to be \$34.8 million.

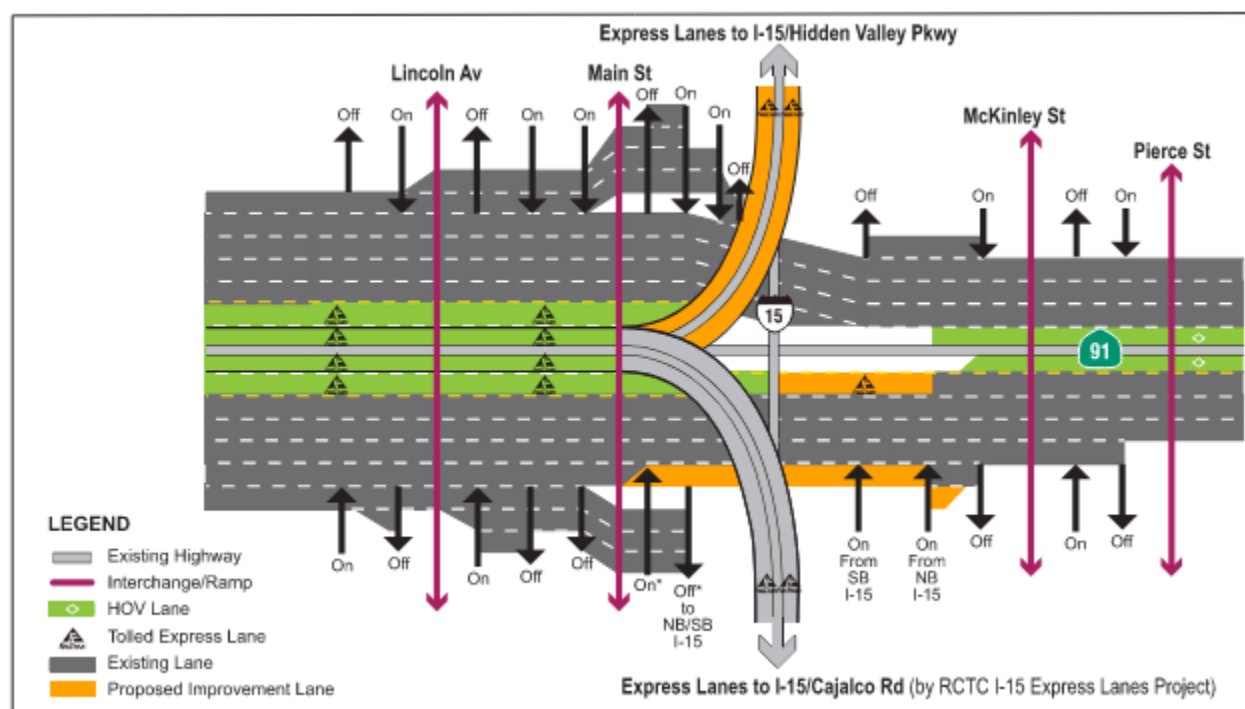
RIVERSIDE COUNTY PROJECTS

The Riverside County set of projects includes three improvements: a 15/91 Express Lanes Connector, the SR-71/SR-91 Interchange Improvements, and SR-91 Improvements east of I-15. Projects for implementation in Riverside County are anticipated to cost in excess of \$391 million (in 2021 dollars, or as noted).

Riverside County Project Summary		Cost (\$M)
15/91 Express Lanes Connector		270
SR-71/SR-91 Interchange Improvements		121
SR-91 Improvements East of I-15		TBD
SUBTOTAL		391+



15/91 Express Lanes Connector



Project Description

The Project Approval and Environmental Document (PA/ED) for the SR-91 Corridor Improvement Project (CIP), from SR-241 to Pierce Street, included the addition of a 5th lane in each direction, the addition of auxiliary lanes at various locations, the addition of collector-distributor lanes at the I-15/SR-91 interchange, the extension of the 91 Express Lanes from the Orange County line to I-15, the construction of a SR-91 Express Lanes median direct connector to and from I-15 South, a SR-91 Express Lanes median direct connector to and from I-15 North (15/91 Express Lanes Connector, the subject project), and the construction of one Express Lane in each direction from the I-15/SR-91 interchange southerly to I-15/Cajalco Road (now part of RCTC I-15 Express Lanes Project), and easterly to east of McKinley Street. Due to funding constraints, a Project Phasing Plan was developed to allow an Initial Phase, with reduced improvements, to move forward as scheduled, with the remaining ultimate improvements to be completed later. Subsequently, the proposed 15/91 Express Lanes Connector improvements (the subject of this project) have been pulled out from the CIP as a standalone project.

Key Considerations

Coordination among many of the SR-91 freeway projects that overlap the project limits is critical to successfully delivering these projects on schedule and within budget. Designing to accommodate future projects is a recurring theme for each of these projects. Minimizing conflicts in scope between projects requires direct coordination between each

project team. Additionally, future projects frequently have multiple alternatives under study, each with differing scope and construction footprints. Specifically, the project improvements need to continue to be coordinated with the SR-71/SR-91 interchange, the SR-241/SR-91 Tolled Express Lanes Connector, and RCTC's I-15 Express Lanes Project.

Benefits

The 15/91 Express Lanes Connector project will reduce congestion and operational delays by providing direct median-to-median access between the SR-91 Express Lanes and I-15 Express Lanes. Traffic operations will improve by eliminating weaving conflicts and out-of-direction travel along SR-91 and I-15 by the use of the direct connectors. The project will provide motorists a choice to use the 15/91 Express Lanes Connector for a fee in exchange for time savings.

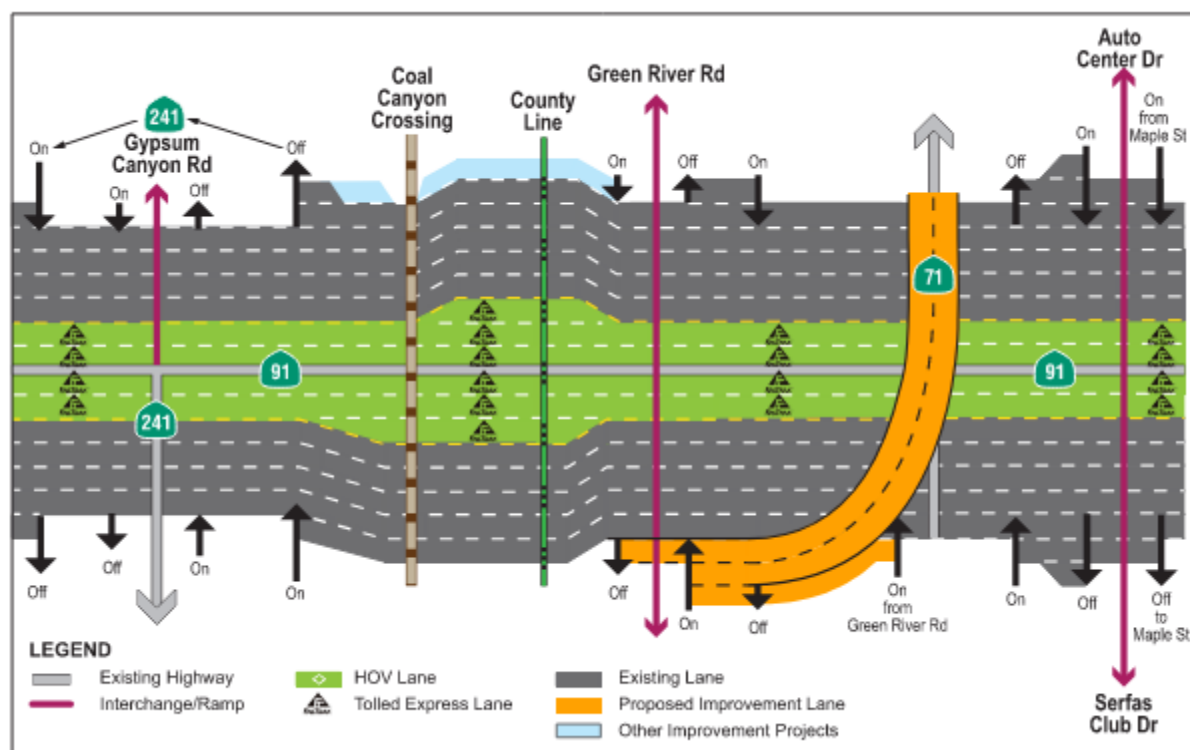
Current Status

The 15/91 Express Lanes Connector is currently discussed in the environmental document for the SR-91 CIP that was completed in 2012. An environmental revalidation was completed in 2019. A Design-Build contract was awarded in Spring 2020.

Schedule and Cost

Construction is planned to be completed in 2023. The total project cost is estimated to be \$270,000,000.

SR-71/SR-91 Interchange Improvements



Project Description

The current project includes a new two-lane direct connector from eastbound (EB) SR-91 to northbound (NB) SR-71 and realignment of the existing Green River Road SR-91 EB on-ramp to provide connection to NB SR-71 and EB SR-91.

Key Considerations

Project improvements must be coordinated with the following projects: the SR-91 Sixth GP Lane Addition and the SR-241/SR-91 TOLLED EXPRESS LANES Connector. Close coordination with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and California Department of Fish and Wildlife will also be required as the connector crosses the Santa Ana River west of the Prado Dam.

Benefits

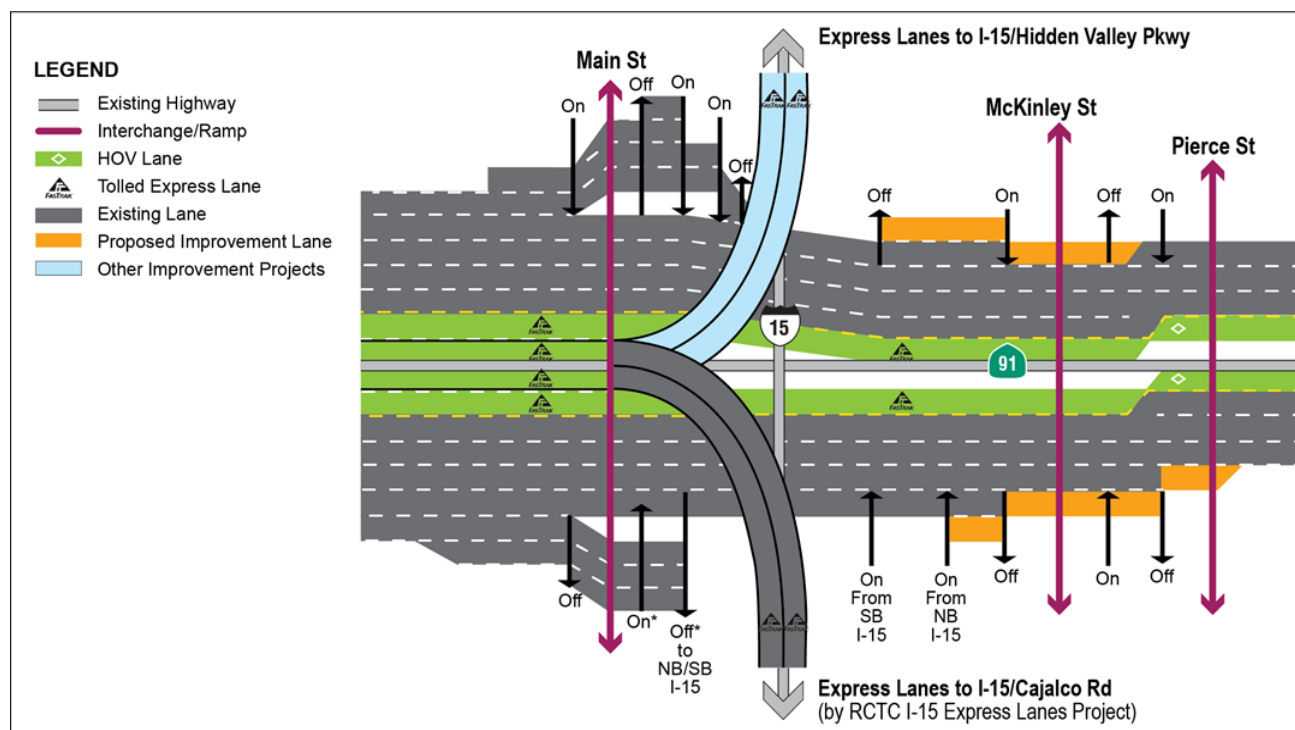
The project will provide a new direct connector improvement from EB SR-91 to NB SR-71, replacing the geometric choke point created by the existing loop connector. The project will also improve traffic operations and operational efficiency by eliminating or minimizing weaving conflicts through the use of auxiliary lanes.

Current Status

The environmental phase was completed in 2011 and final design in 2015. An environmental revalidation and update to the final design is underway.

Schedule and Cost

Construction is planned for completion in 2024. Construction cost is estimated to be \$121,000,000.



Project Description

The Project Approval and Environmental Document (PA/ED) for the SR-91 Corridor Improvement Project (CIP), from SR-241 to Pierce Street, included the addition of a 5th lane in each direction, the addition of auxiliary lanes at various locations, the addition of collector-distributor lanes at the I-15/SR-91 interchange, the extension of the 91 Express Lanes from the Orange County line to I-15, the construction of a SR-91 Express Lanes median direct connector to and from I-15 South, a SR-91 Express Lanes median direct connector to and from I-15 North, and the construction of one Express Lane in each direction from the I-15/SR-91 interchange southerly to I-15/Cajalco Road (now part of RCTC I-15 Express Lanes Project), and easterly to east of McKinley Street. Due to funding constraints, a Project Phasing Plan was developed to allow an Initial Phase, with reduced improvements, to move forward as scheduled, with the remaining ultimate improvements to be completed later. The SR-91 improvements east of I-15, which includes extending an Express Lane east of McKinley Street and adding a general purpose lane to Pierce Street in each direction (the subject project), is a component of the SR-91 CIP that was not constructed with the Initial Phase.

Key Considerations

Coordination among many of the SR-91 freeway projects that overlap the project limits is critical to successfully delivering these projects on schedule and within budget. Designing to

accommodate future projects is a recurring theme for each of these projects. Minimizing conflicts in scope between projects requires direct coordination between each project team. Additionally, future projects frequently have multiple alternatives under study, each with differing scope and construction footprints. Specifically, the project improvements need to continue to be coordinated with the SR-71/SR-91 interchange, the SR-241/SR-91 Tolled Express Lanes Connector, 15/91 Express Lanes Connector, and RCTC's I-15 Express Lanes Project.

Benefits

The SR-91 Improvements east of I-15 will reduce congestion and delays by providing additional SR-91 capacity from I-15 to Pierce Street.

Current Status

Preliminary engineering is complete but may need to be revisited at a future date. The SR-91 Improvements east of I-15 is currently discussed in the SR-91 CIP environmental document for the SR-91 that was completed in 2012.

Schedule and Cost

Anticipated project completion and cost are to be determined.

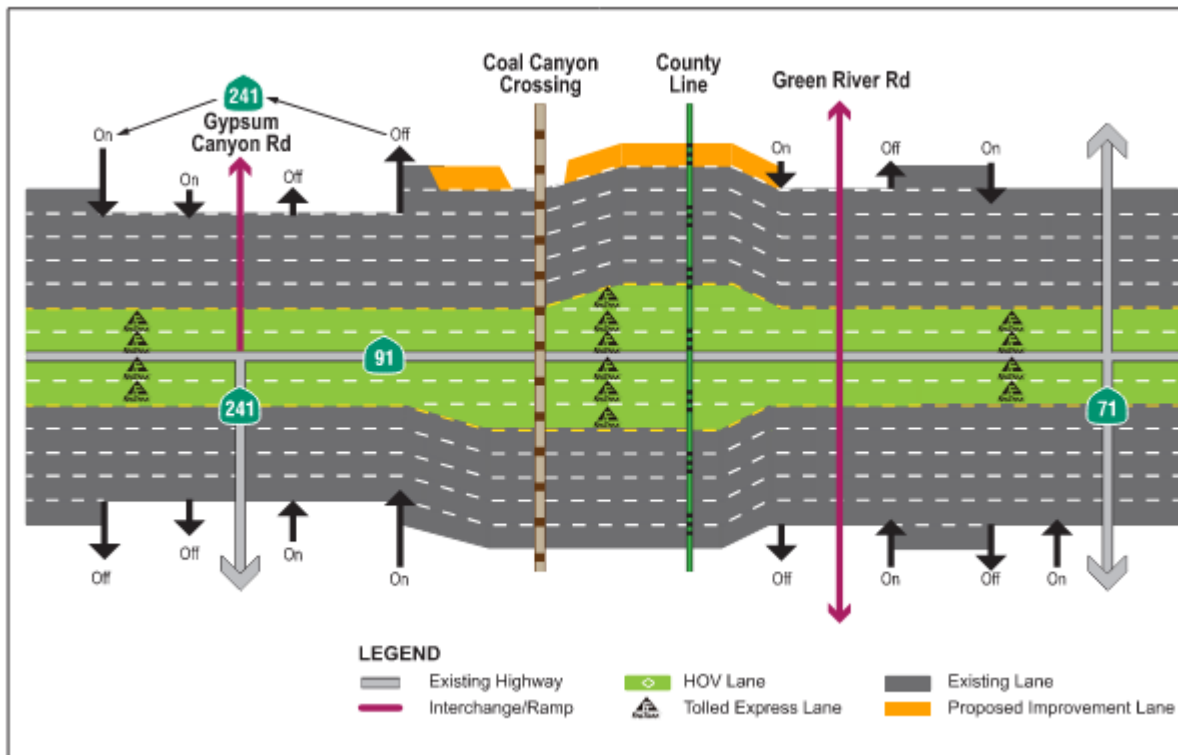
BI-COUNTY PROJECTS

There are three Bi-County improvement projects that will benefit both Orange and Riverside Counties. These projects include: SR-91 Corridor Operations Project, a Sixth General Purpose Lane Addition (SR-241 to SR-71), and the SR-241/SR-91 Tolled Express Lanes Connector. The total cost for the three projects is expected to be more than \$288 million (in 2021 dollars, or as noted).

Bi-County Project Summary	Cost (\$M)
SR-91 Corridor Operations Project	38
Sixth General Purpose Lane Addition (SR-241 to SR-71)	TBD
SR-241/SR-91 Tolled Express Lanes Connector	250
SUBTOTAL	288+



SR-91 Corridor Operations Project



Project Description

The Riverside County portion of the 91 Express Lanes began operation in March 2017. Throughout the first year of operation, RCTC made minor operational improvements to improve the SR-91 corridor travel between State Route 241 (SR-241) and McKinley Street. In November 2018, RCTC implemented additional striping and signage improvements to westbound SR-91 at the McKinley entrance to the 91 Express Lanes as well as the County Line access location to further enhance efficiency along the westbound SR-91 corridor between McKinley Street and SR-241. In December 2018, the RCTC Commission authorized its staff to proceed with a project to construct an additional westbound lane along SR-91 between Green River Road and SR-241 (the subject of this project). This new project is now known as the SR-91 Corridor Operations Project (91 COP).

Key Considerations

The goal of this project is to implement a substantial operational improvement that is cost effective and timely to address the peak period bottleneck conditions along westbound SR-91 near the County Line. Key considerations

include reducing impacts to adjacent land and local streets by the use of retaining walls and minimizing throw-away costs with future projects. Specifically, the project improvements need to be coordinated with the SR-241/SR-91 TOLLED Express Lanes Connector and the SR-91 Sixth GP Lane Addition projects.

Benefits

The 91 COP will reduce congestion and delays along westbound SR-91 between McKinley Street and SR-241.

Current Status

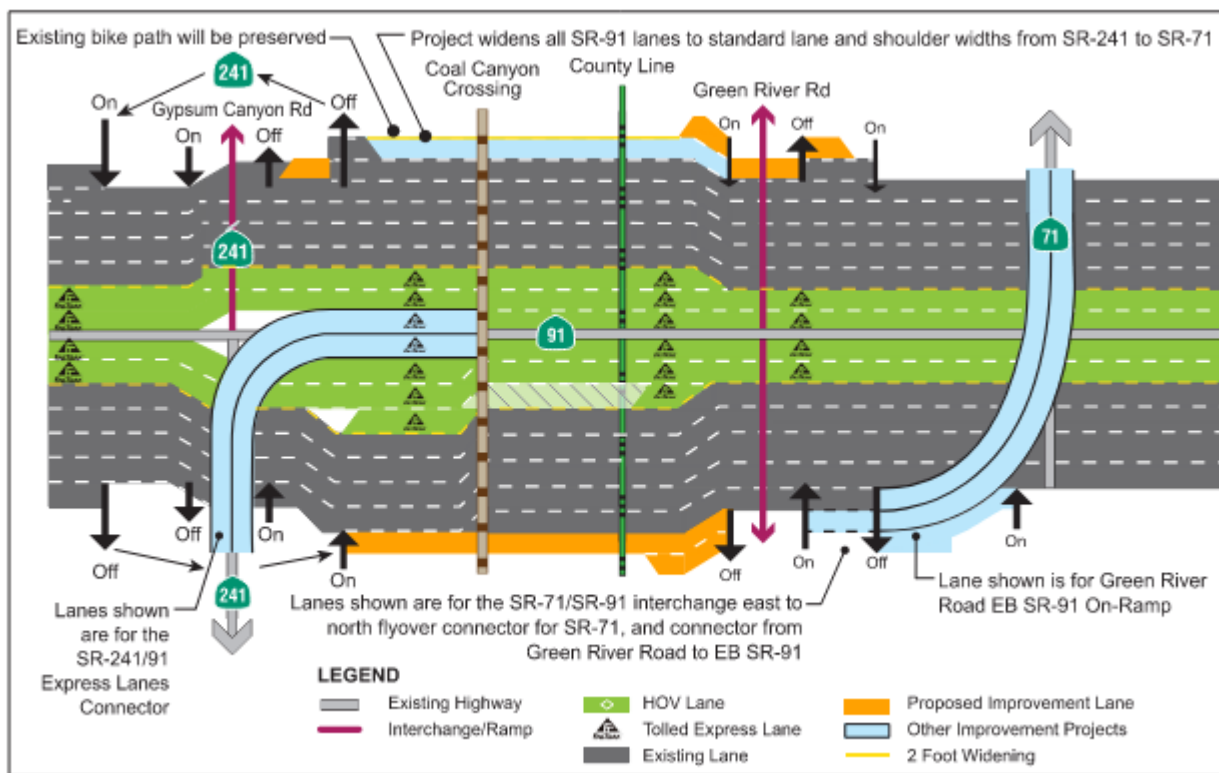
This project is within the footprint of the SR-91 Sixth GP Lane Addition project that was an element of the SR-91 CIP environmental document approved in 2012. An environmental revalidation for the 91 COP was completed in Spring 2020. Construction began in November 2020.

Schedule and Cost

Construction is planned for completion in 2022. The total project cost is estimated to be \$38,000,000.



Sixth General Purpose Lane Addition (SR-241 to SR-71)



Project Description

The Project Approval and Environmental Document (PA/ED) for the SR-91 Corridor Improvement Project (CIP), from SR-241 to Pierce Street, included the addition of a 5th lane in each direction, the addition of auxiliary lanes at various locations, the addition of collector-distributor lanes at the I-15/SR-91 interchange, the extension of the 91 Express Lanes from the Orange County line to I-15, the construction of a SR-91 Express Lanes median direct connector to and from I-15 South, a SR-91 Express Lanes median direct connector to and from I-15 North, and the construction of one Express Lane in each direction from the I-15/SR-91 interchange southerly to I-15/Cajalco Road (now part of RCTC I-15 Express Lanes Project), and easterly to east of McKinley Street. Due to funding constraints, a Project Phasing Plan was developed to allow an Initial Phase, with reduced improvements, to move forward as scheduled, with the remaining ultimate improvements to be completed later. The SR-91 sixth general purpose lane in each direction between SR-241 and SR-71 (the subject of this project) is a component of the SR-91 CIP that was not constructed with the Initial Phase.

Key Considerations

Coordination among many of the SR-91 freeway projects that overlap the project limits is critical to successfully delivering these projects on schedule and within budget. Designing to accommodate future projects is a recurring theme for

each of these projects. Minimizing conflicts in scope between projects requires direct coordination between each project team. Additionally, future projects frequently have multiple alternatives under study, each with differing scope and construction footprints. Specifically, the project improvements need to continue to be coordinated with the 91 COP, SR-71/SR-91 interchange and the SR-241/SR-91 Tolle Express Lanes Connector.

Benefits

The SR-91 Sixth General Purpose Lane Addition will reduce congestion and delays by providing additional SR-91 capacity from SR-241 to SR-71.

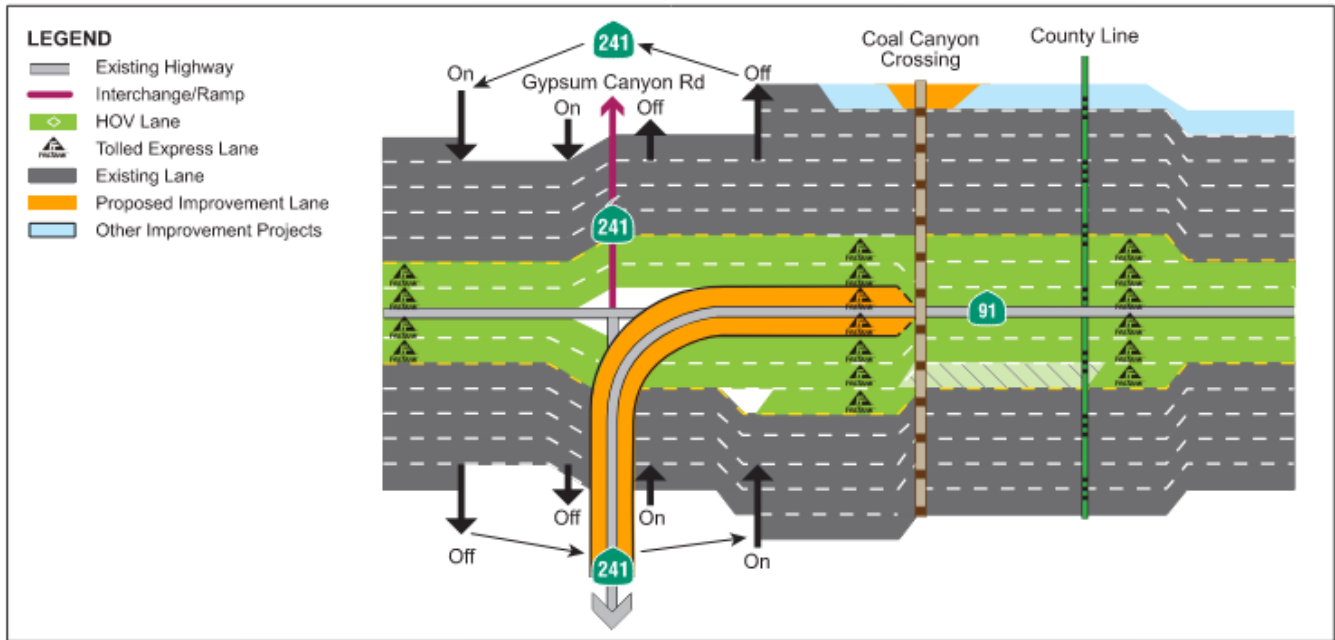
Current Status

An Alternatives Analysis (to be completed in 2021) is being performed to evaluate potential alternatives. Prior preliminary engineering was completed but may need to be revisited at a future date. The SR-91 Sixth General Purpose Lane Addition is currently discussed in the SR-91 CIP environmental document for the SR-91 that was completed in 2012.

Schedule and Cost

Anticipated project completion and cost are to be determined

SR-241/SR-91 Tolled Express Lanes Connector



Project Description

The SR-241/SR-91 Tolerated Express Lanes Connector will consist of a direct connector between the 241 Toll Road and 91 Express Lanes, carrying northbound 241 Toll Road traffic to the eastbound 91 Express Lanes and westbound 91 Express Lanes traffic to the southbound 241 Toll Road.

Key Considerations

The purpose of the project is to implement the build out of the Eastern Transportation Corridor as approved in 1994 in order to improve traffic operations on the northbound 241 Toll Road and the SR-91 general-purpose lanes while also maintaining reliable travel times and free flow speeds during peak periods on the 91 Express Lanes which were all key considerations in Caltrans' approval of the project. The project will require widening of SR-91 to accommodate the direct connector and associated Express Auxiliary Lanes in the median. The project's planned construction is aligned with the implementation of other planned improvements in the area including the 15/91 Express Lanes Connector, SR-91 Corridor Operations Project, and SR-71/SR-91 Interchange Improvements. Coordination will be conducted with local agencies to ensure the project avoids impacts to planned bicycle and trail connections on Gypsum Canyon Road per the City of Anaheim General Plan and OCTA Commuter Bikeways Strategic Plan.

Benefits

The project will provide connectivity between the 91 Express Lanes and the 241 Toll Road, which will enhance

operations along the SR-91 general purpose lanes while also improving traffic operations on the northbound 241 Toll Road.

Current Status

Preliminary engineering concepts for a SR-241/SR-91 Tolerated Express Lanes Connector have been developed by the Foothill/Eastern Transportation Corridor Agency (F/E TCA) and Caltrans, which were utilized for the environmental analysis. The 91 Express Lanes Extension and SR-241 Connector Feasibility Study was completed in March 2009 and was initiated to evaluate various alternatives. A Project Study Report was initiated in January 2011 and was completed in January 2012. The Draft Environmental Document was circulated for public review from November 7, 2016, through January 9, 2017. Caltrans's approval of the project with the Record of Decision was completed in March 2020. Final design is in progress.

Schedule and Cost

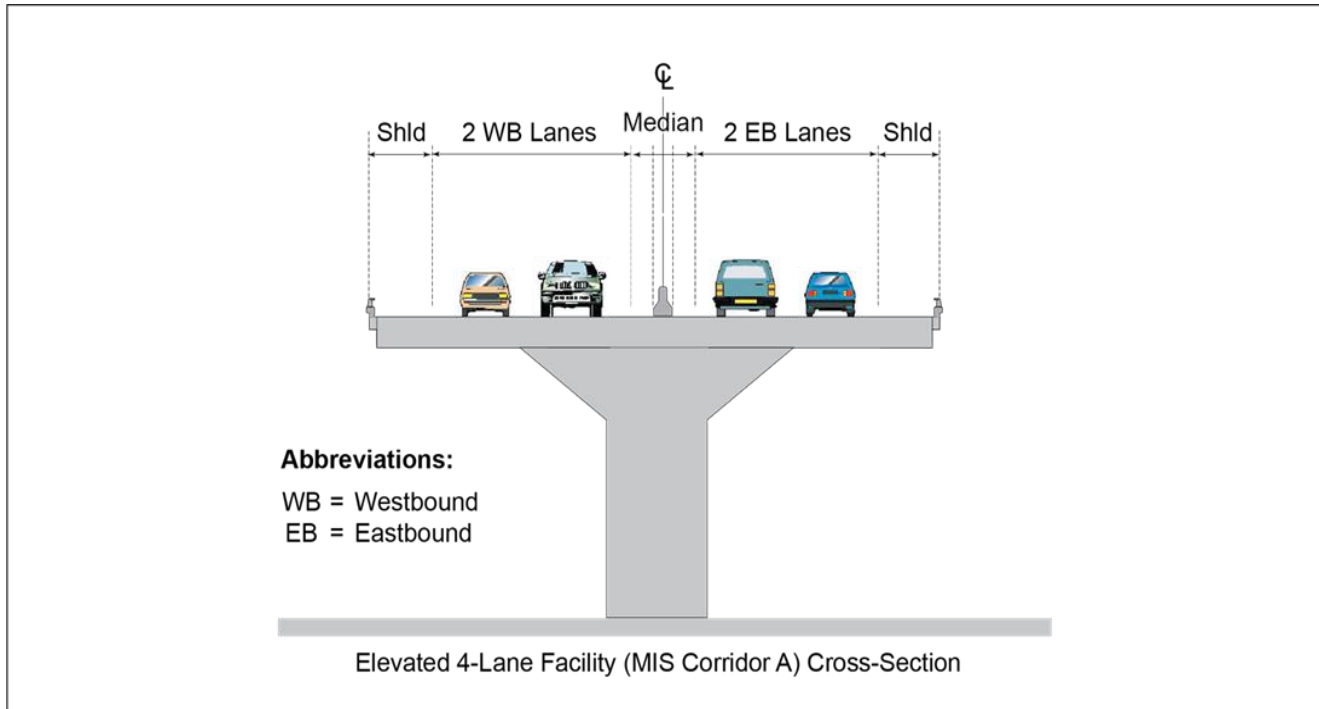
Agreements to document roles and responsibilities for F/ETCA funding, Caltrans construction, and OCTA/RCTC tolling operation of the project are under development by the multi-agency team. Final Design is expected to be completed in 2022. Construction is anticipated to last approximately 26 months beginning in 2023 with project opening in 2025. The total cost of the project will be approximately \$250,000,000.

APPENDIX A - POST-2035 AND CONCEPTUAL PROJECTS

Concepts for potential Post-2035 implementation (potentially earlier if funding becomes available) focus on longer-lead time projects. This multi-billion dollar program may include: an elevated 4-lane facility (MIS Corridor A) from SR-241 to I-15; the Anaheim to Ontario International Airport Maglev High Speed Rail; the Irvine-Corona Expressway (ICE) 4-lane facility from SR-241/SR-133 to I-15/Cajalco Road (formerly known as MIS Corridor B), Westbound SR-91 to Southbound SR-55 Connector Improvements, Eastbound SR-91 Fifth Lane Addition at SR-241 and Fairmont Boulevard Improvements. These potential concepts include significant environmental constraints and right of way requirements in addition to requiring a significant amount of planning, design, and future policy and public input.

Concept Summary	Cost (\$M)
Elevated 4-Lane Facility (MIS Corridor A) from SR-241 to I-15	2,720
Anaheim to Ontario International Airport Maglev High Speed Rail	2,770-3,200
Irvine-Corona Expressway (ICE) 4-Lane Facility from SR-241/SR-133 to I-15/Cajalco Road	8,855
Westbound SR-91 to Southbound SR-55 Connector Improvements	75-150
Eastbound SR-91 Fifth Lane Addition at SR-241	31
Fairmont Boulevard Improvements	76.8
SUBTOTAL	14,527.8– 15,032.8

Elevated 4-Lane Facility from SR-241 to I-15 (MIS Corridor A)



Concept Description

The improvements primarily consist of constructing a new 4-lane elevated expressway near or within the Santa Ana Canyon with freeway-to-freeway connectors at SR-241 and I-15. The facility may include managed lanes and potential reversible operations.

Key Considerations

Choice of alignment will be key to determining net capacity increase. Extensive right-of-way (R/W) will be required to implement the improvements if the alignment is not in the SR-91 corridor. When median connector projects or HOV/HOT projects are constructed and this 4-lane elevated facility is proposed within the median of SR-91 through Corona, then extensive managed lane closures would be required during construction (thus temporarily reducing SR-91 capacity during construction).

An alternative could be studied for the median Corridor A viaduct along with reduced SR-91 geometric standards to minimize R/W impacts. Also, direct connectors (such as for High Occupancy Vehicle (HOV) / High Occupancy Toll (HOT) at I-15/SR-91) to/from the median could be precluded by Maglev columns located within the same median area. Caltrans and Maglev highway R/W, maintenance, safety, and operations considerations would need to be analyzed if shared use with a Maglev facility were pursued. Additional mitigation costs may be

required for improvements to SR-241 and SR-133 as a result of additional Corridor traffic volumes. Corridor A as managed lanes, with the extension of 91 Express Lanes to I-15, this project concept may affect traffic distribution due to “parallel” tolled facilities.

Benefits

The concept would provide significant congestion relief by allowing vehicles to bypass the at-grade freeway lanes and local arterial interchanges between SR-241 and I-15. Connections are proposed directly between SR-91, SR-241, and I-15.

Current Status

This concept is identified in the Riverside County - Orange County Major Investment Study (MIS) as part of the Locally Preferred Strategy to improve mobility between Riverside County and Orange County. No project development work is planned at this time.

Schedule and Cost

Anticipated project completion is post-2035 and construction cost is estimated to be \$2,720,000,000 (2005 dollars).

Anaheim to Ontario International Airport Maglev High Speed Rail



REPRESENTATIVE ALIGNMENT SHOWN FOR ILLUSTRATIVE PURPOSES ONLY

LEGEND

- Existing Highway
- High Speed Rail Representative Alignment

Concept Description

Proposals for a new super-speed train corridor from Anaheim to Ontario are included in this concept. This concept includes an alternative that would use SR-91 right-of-way or would be aligned adjacent to SR-91 right-of-way or could potentially be co-located with the Major Investment Study (MIS) Corridor A alignment. Another alignment opportunity is being investigated along SR-57.

Key Considerations

Alternative alignment impacts to SR-91 right-of-way envelope and/or Santa Ana River are undetermined. The choice of alignment will potentially impact MIS Corridor A. Right-of-way (R/W) will be required to implement the improvements. Potential considerations for co-locating the Magnetic Levitation (Maglev) train adjacent to Corridor A (and also SR-91) include providing a two-column structure with a barrier between the trains and vehicles. Caltrans and Maglev highway R/W, maintenance, safety, and operations considerations would need to be analyzed if shared use with a Maglev facility were pursued. See the MIS Corridor A project for additional considerations. Coordination with Metrolink improvements will be required.

Benefits

The concept would provide congestion relief by providing a direct high-speed/high-capacity connection with Ontario International Airport for Orange County air passengers and business next-day deliveries. Maglev will make the trip in just 14.5 minutes. Relieves congestion on SR-91 by providing additional capacity in the corridor.

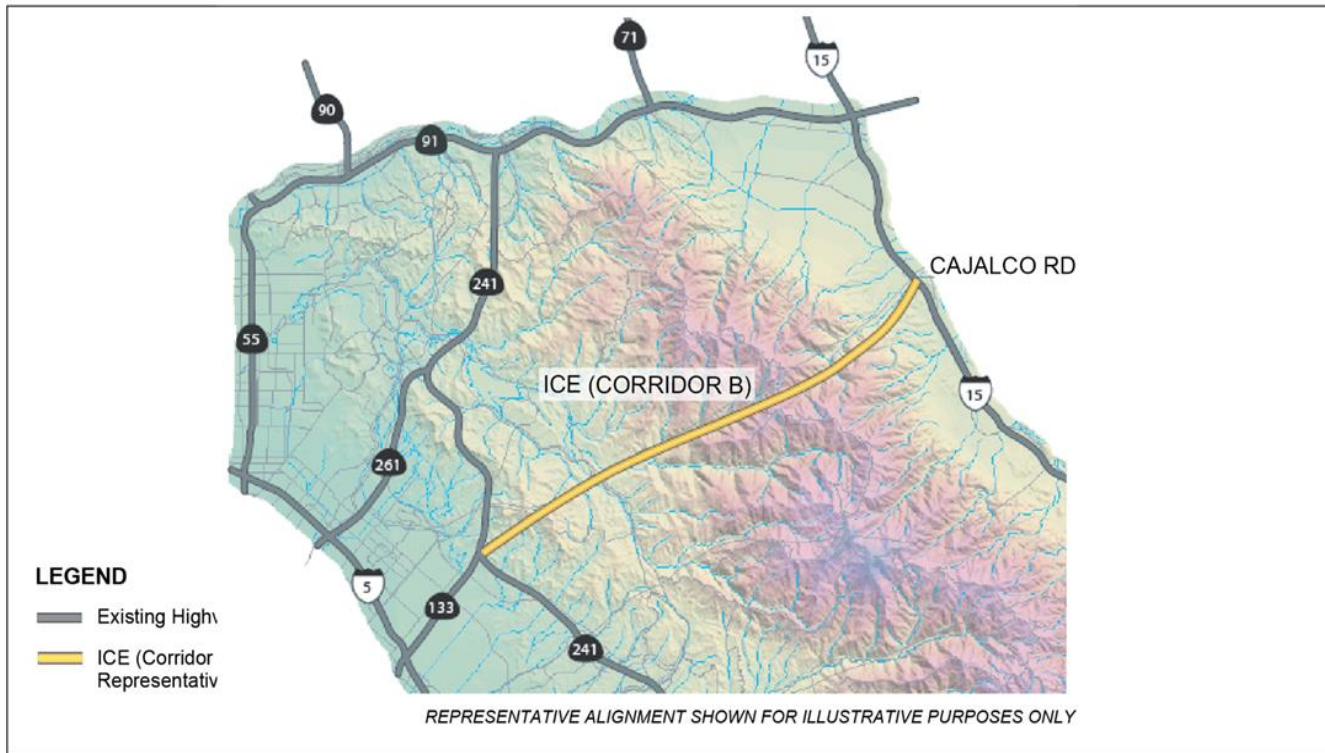
Current Status

Since 2012, no progress on this project has occurred. Preliminary design, engineering and Phases 1 and 2 of a Preliminary Environmental Impact Statement/Environmental Impact Statement (PEIS/EIS) are completed. Congress approved \$45M in SAFETEA-LU for the environmental phase of the project. Construction funding of up to \$7 billion was identified through a loan commitment from the China Export-Import Bank.

Schedule and Cost

Anticipated project completion is to be determined and construction cost is estimated to be from \$2,770,000,000 to \$3,200,000,000 (2012 dollars).

Irvine-Corona Expressway (ICE) from SR-241/SR-133 to I-15



Concept Description

The improvements primarily consist of constructing a highway and rail facility through the Cleveland National Forest with freeway-to-freeway connectors at SR-241/SR-133 and I-15/Cajalco Road. The facility would essentially be a continuation of SR-133 on the west end of the corridor, to I-15 on the east end.

Key Considerations

The tunnel concept is technically feasible based on the geotechnical investigation completed in December 2009. The initial project phase would be the construction of one 2-lane highway tunnel and one rail tunnel. The second project phase would include construction of a second 2-lane highway tunnel. Additional technical studies and geotechnical borings would be needed to refine the tunnel alignments and grades. Costs associated with the Irvine-Corona Expressway (ICE) tunnels are based on the Feasibility Evaluation Report completed in December 2009. A financial analysis will be needed for the construction, operations and toll requirements of the ICE tunnels.

Benefits

The concept would provide significant congestion relief by providing an alternative route between Orange and Riverside counties and would allow vehicles to bypass SR-91 between SR-241 and I-15. The concept would not disrupt SR-91 traffic during construction and would allow for additional route selection for incident management, emergency evacuation, and for continuity of the highway network by linking SR-133 to I-15.

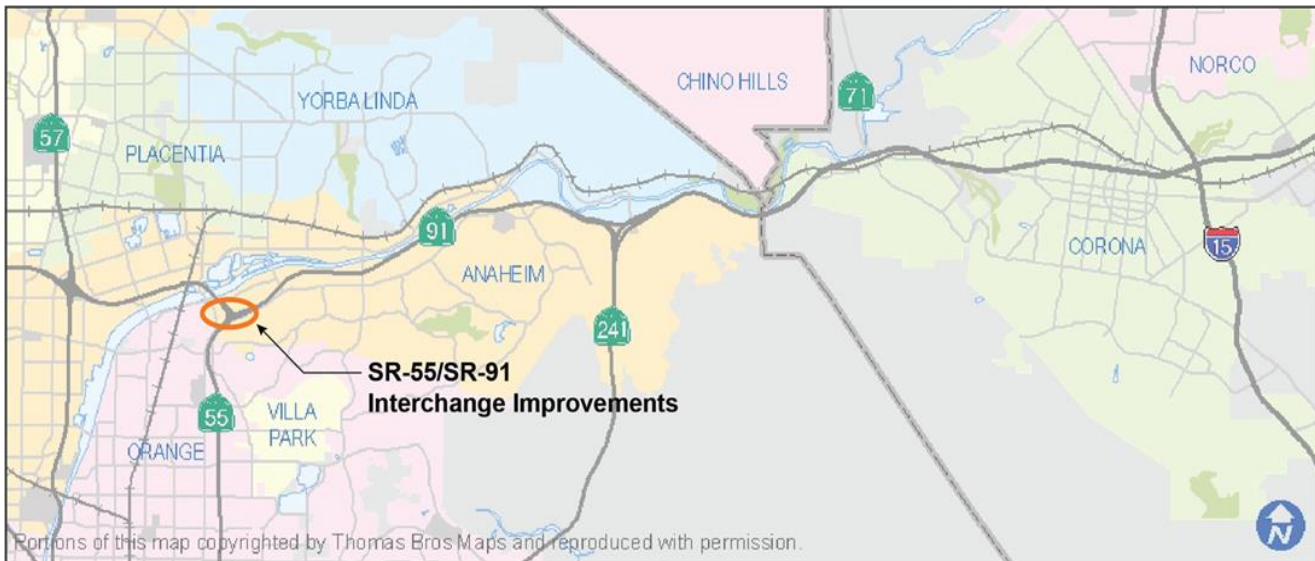
Current Status

On August 27, 2010 the Riverside Orange Corridor Authority Board took action to defer additional study of the ICE concept until such time as financial considerations improve and/or technological advancements warrant reexamination. Review of the concept shall be done annually through the SR-91 Implementation Plan update to determine if any of the major assumptions about financial considerations, private sector interest, or technological advancements have changed to make the tunnel financially viable. (See "ICE status summary" for further discussion).

Schedule and Cost

Anticipated project completion is post-2035 and construction cost is estimated to be \$8,855,000,000 (2009 dollars).

Westbound SR-91 to Southbound SR-55 Connector Improvements



Concept Description

The project consists of operational improvements by modifying the connector to SB SR-55 from WB SR-91. The improvements would extend to Lakeview Avenue to the east and would include a new connector from WB SR-91 to SB SR-55 as a potential right-hand exit.

Key Considerations

Right-of-way impacts, detailed SR-55/SR-91 interchange improvements, and downstream impacts to SR-55 require further evaluation in a subsequent phase of project development. Conceptual design of SR-55/SR-91 would be coordinated with completed improvements at SR-91 and Tustin Avenue, and with the SR-91 Environmental Study Improvements from SR-57 to SR-55. This study is currently being conducted.

Operational enhancements between SR-55 and Lakeview Avenue will provide some benefit for SR-55/SR-91 by addressing WB SR-91 weaving issues. In addition, the proposed WB drop-ramp from Lakeview AV has been designed to accommodate three WB through lanes on either side in order to reduce throwaway costs in the future should the SR-91 be shifted to accommodate a right-hand exit for SB SR-55.

Benefits

Interchange improvements are anticipated to provide congestion relief for WB SR-91 traffic and potentially improve the connection from WB SR-91 to SB SR-55.

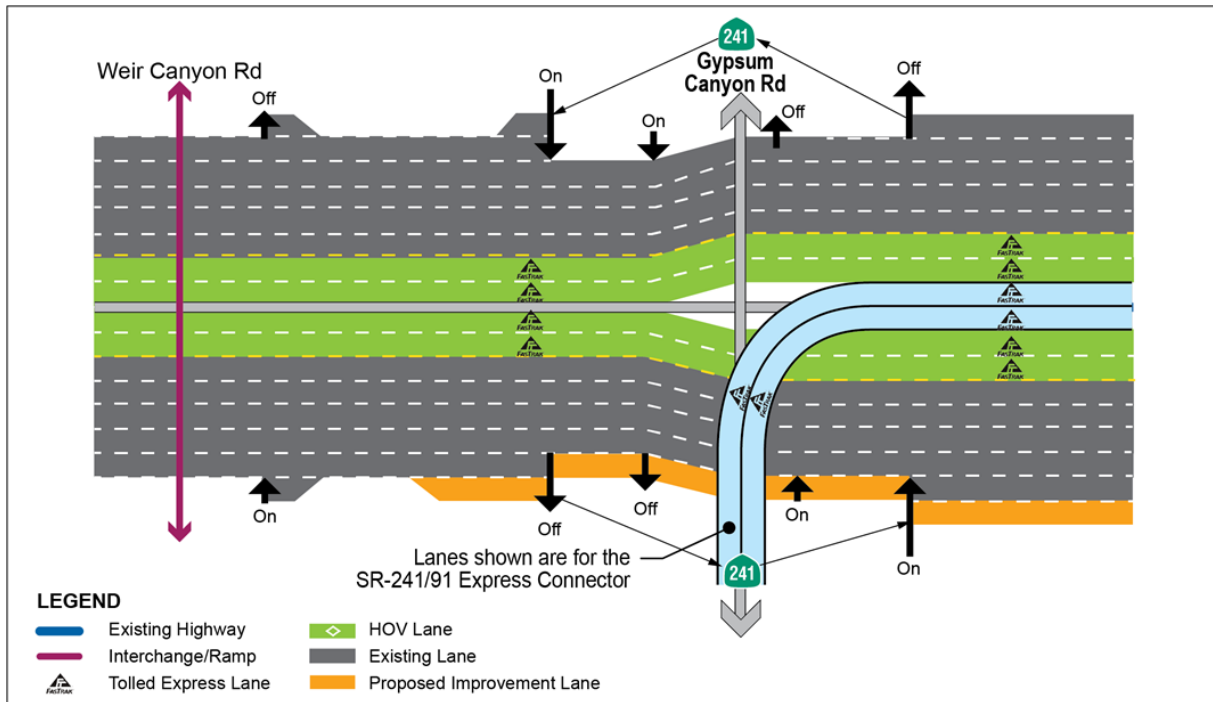
Current Status

SR-55/SR-91 project information was derived from the Final Alternatives Evaluation and Refinement Report, December 2005, by the Riverside County - Orange County Major Investment Study (MIS). Focused SR-91/SR-55 conceptual engineering needs to be scheduled. However, initial conceptual engineering was also studied as part of the SR-91 Feasibility Study Between State Route 57 and State Route 55 Interchange Areas in June 2009, and as part of the SR-91 Environmental Study Improvements from SR-57 to SR-55.

Schedule and Cost

Anticipated project completion is post-2035 and construction cost is estimated to be from \$75,000,000 to \$150,000,000 (2014 dollars).

Eastbound Fifth Lane Addition at SR-241



Concept Description

The location of the proposed EB SR-91 fifth general purpose (GP) lane addition (The Segment) is on EB SR-91 from Weir Canyon Road to the NB SR-241 Connector. The Segment consists of four GP lanes and two managed lanes (91 Express Lanes).

Upstream (westerly) from The Segment the EB SR-91 has 5 GP lanes and the 5th lane drops to the SB SR-241 Connector as some traffic volume exits to the SB SR-241. Downstream from The Segment the EB SR-91 gains the 5th lane back as the NB SR-241 Connector merges with SR-91 in a dedicated lane addition. This 5th lane continues beyond the Riverside County line providing enhanced mobility.

Key Considerations

This segment with four GP lanes might be creating a traffic choke point due to the decrease of capacity, potentially contributing to significant traffic delays passing through this segment along with other traffic issues such as queue jumping, weaving, merging and operational speed differential. However, additional traffic from NB SR-241 to EB SR-91 and Gypsum Canyon Rd on-ramp suggest balancing the number of lanes should be carefully examined. As such, additional capacity will enhance EB freeway operations along this Segment.

Benefits

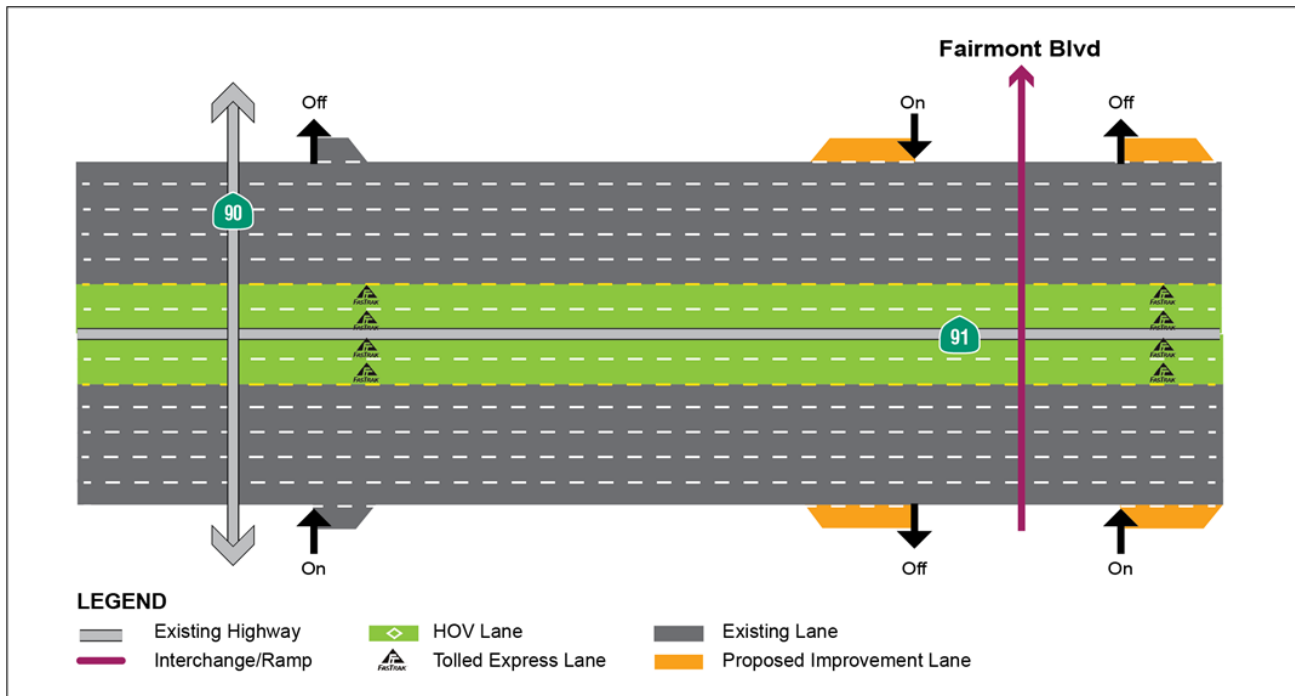
- 1) Extends the existing 5th EB GP lane easterly and ties it to the existing 5th lane downstream. This could provide capacity enhancement and may result in removing an existing choke point. Significant delay savings is anticipated.
- 2) Potentially eliminate queue jumping in this area from EB SR-91 as well as Weir Canyon Rd.
- 3) Potentially reduce speed differential between through lanes, thus creating a more balanced flow.
- 4) Potentially provide balanced lane utilization at high traffic demand area.

Current Status

Additional traffic analysis and study is required to confirm the benefits to EB SR-91 by the proposed improvements. This location was identified by Caltrans as a high congestion location in the County. The concept is intended to improve the choke point that exists due to the presence of a 4-lane segment between 5-lane freeway segments.

Schedule and Cost

Total project cost, based on Caltrans' estimate, is \$31.25 million. Project schedule has not been determined.



Project Description

The project would provide a new interchange with SR-91 at Fairmont Boulevard. On and off ramps will connect Fairmont Boulevard from the north to eastbound (EB) and westbound (WB) SR-91. The proposed interchange does not include a vehicular Fairmont Boulevard connection to Santa Ana Canyon Road to the south. A pedestrian/bicycle connection is also proposed between La Palma Avenue and Santa Ana Canyon Road. This bridge and pathway will allow for direct Santa Ana River Trail access from both Anaheim south of SR-91 and from Yorba Linda.

Key Considerations

Interchange spacing and weaving issues (to SR-55) need to be evaluated. Widening of SR-91 may be needed to accommodate interchange ramps. Proximity of the Santa Ana River may require that the WB ramp junction be located north of the river. New connection requirements and interchange spacing needs to be considered. Ramp and bridge placement needs to take pedestrian/bicycle bridge into account, or incorporate the pedestrian/bike path into the design beyond the vehicular access limits of the project.

Benefits

The interchange is expected to relieve congestion at Imperial Highway (SR-90), Lakeview Avenue, and Weir Canyon Road Interchanges. Preliminary traffic modeling shows a 10-15% decrease in volumes at Weir Canyon and SR-90 interchanges with the interchange alternative.

Current Status

The City of Anaheim completed a conceptual engineering study in December 2009 for the interchange. Multiple alternatives have been developed as part of the conceptual engineering study. Bicycle/pedestrian bridge is currently in initial planning stages. Project development is pending funding identification. On July 24, 2017, OCTA staff along with a senior staff member of WSP presented the findings of a 91 Express Lanes intermediate access study. The study provided various alternatives, traffic modeling, and financial impacts of the additional access. At the conclusion of the discussion, the OCTA Board of Directors did not authorize additional analysis for the intermediate access.

Schedule and Cost

Anticipated project completion is post 2035 and construction cost is estimated to be \$76,800,000 (costs from 2009 Feasibility Study). R/W cost is undetermined. Cost excludes any potential impact to Santa Ana River.

APPENDIX B- COMPLETED PROJECT EXHIBITS

The following exhibits represent completed projects from previous Plans since 2006 and are intended to be used as a reference to illustrate the progress made since the inception of the Plan. Note: some projects listed in the Plan as completed (see Section 1, Project Accomplishments) are not included herein since there was no exhibit created or necessary for use with prior Plans (such as for restriping projects, various safety enhancements, minor operational improvements, etc.).

Project Improvements	Constructed
Green River Road Overcrossing Replacement	March 2009
North Main Street Corona Metrolink Station Parking Structure	June 2009
Eastbound Lane Addition from SR-241 to SR-71	September 2010
Widen SR-91 between SR-55 and SR-241 by Adding a 5 th GP Lane in Each Direction	December 2012
SR-91 WB Lane at Tustin Avenue	April 2016
Metrolink Service Improvements	June 2016
Initial Phase CIP: Widen SR-91 by One GP Lane in Each Direction East of Green River Rd, CD Roads and I-15/SR-91 Direct South Connector, Extension of Express Lanes to I-15 and System/Local Interchange Improvements	July 2017
Express Bus Service	2019
La Sierra Metrolink Parking Improvements	February 2019



Green River Road Overcrossing Replacement

Appendix Project No: B-1

Actual Completion: March 2009

Project Costs

Capital Cost	\$ 21,000,000
Support Cost	\$ 3,000,000
R/W Cost	\$301,000
Total Project Cost	\$ 24,301,000

Project Schedule

Preliminary Engineering	Completed
Environmental	Completed
Design	Completed
Construction	Completed

Project Schedule Caltrans Equivalents:

Preliminary Engineering = PID

Environmental = PA/ED

Design = PS&E

Abbreviations:

CD = Collector Distributor Lane

FTR = Future

HOV = High Occupancy Vehicle

SHLD = Shoulder

Project Description

Improvements primarily consist of replacing the existing Green River Road overcrossing with a new six-lane wide, 4-span overcrossing to accommodate future widening of SR-91. The interior spans will accommodate up to eight mainline lanes in each direction including two HOV lanes. The exterior spans can accommodate two lanes, either for auxiliary lanes or collector distributor roads. Entrance and exit ramps will be realigned and widened to accommodate the new bridge, yet the interchange will retain its current configuration. New signals will be installed at the ramp intersections. Ramp and bridge improvements will be constructed within existing right of way.

Key Considerations

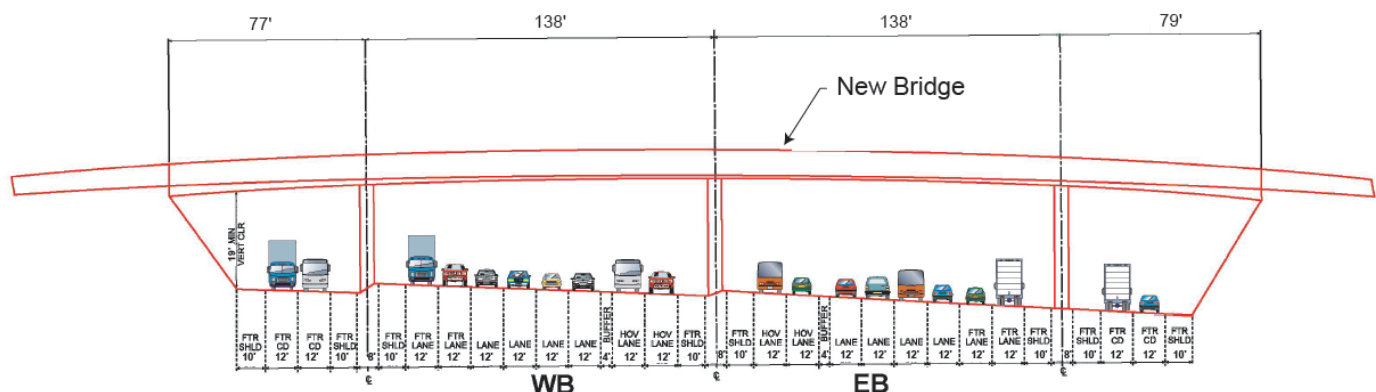
Design interface is required with the Eastbound Lane Addition from SR-241 to SR-71, SR-71/SR-91 Interchange Improvements, SR-91 Corridor Improvement Project, and SR-241/SR-91 HOV/HOT Connector.

Benefits

The project will improve the level of service at ramp and local street intersections at the interchange. Improvements will reduce ramp queues that extend into the freeway's general purpose lanes, thus contributing to congestion relief on SR-91.

Current Status

The project began construction in March 2007 and was completed in March 2009.



GREEN RIVER BRIDGE CROSS-SECTION

NOTE: All dimensions are approximate



North Main Street Corona Metrolink Station Parking Structure

Appendix Project No: B-2

Actual Completion: June 2009

Project Costs

Capital Cost	\$ 20,000,000
Support Cost	\$ 5,000,000
R/W Cost	\$0
Total Project Cost	\$ 25,000,000

Project Schedule

Preliminary Engineering	Completed
Environmental	Completed
Design	Completed
Construction	Completed

Project Description

The project provides a six level parking structure with 1,065 parking stalls. The construction is within the existing North Main Street Metrolink station property in Corona.

Key Considerations

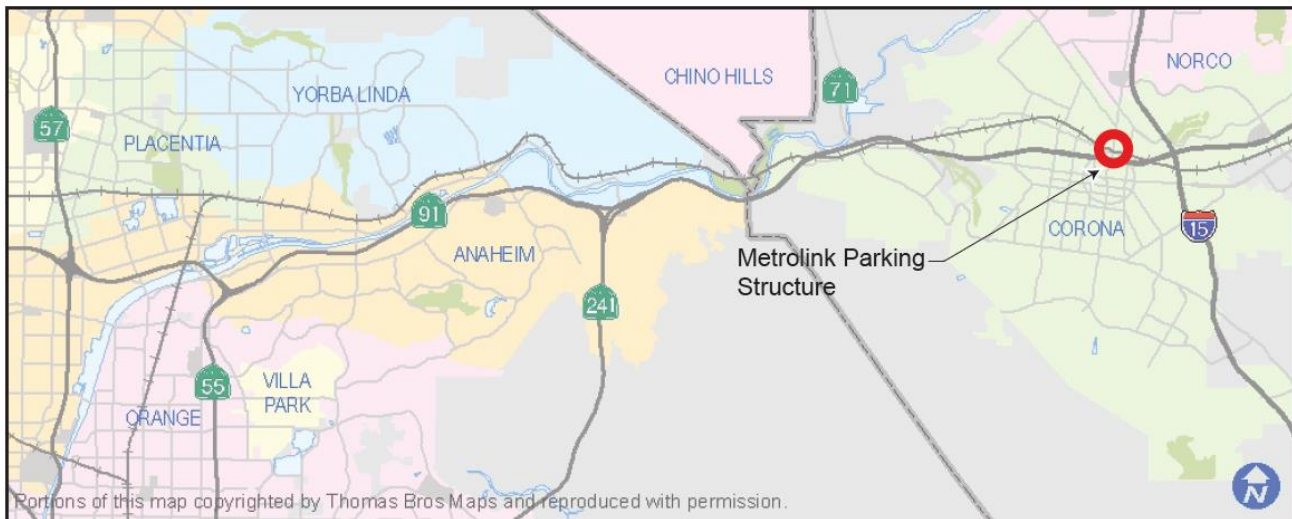
Proposed improvements were constructed within existing right of way. Currently there are 700 users of the facility, 200 more that were previously able to accommodate. Additionally RCTC has opened up the lot to park and ride carpools and vanpools and has issued over 120 permits for carpools to use the expanded station. This shows an added benefit of supporting carpooling as well as transit to offset congestion on SR-91.

Benefits

Demand for parking currently exceeds the capacity at the North Main Street Corona station. New parking capacity will allow Metrolink ridership to increase thereby diverting vehicle trips from SR-91.

Current Status

Construction was initiated in January 2008 and was completed in June 2009. The project was funded with Federal Congestion Management and Air Quality (CMAQ) funds.



Eastbound Lane Addition from SR-241 to SR-71

Appendix Project No: B-3

Actual Completion: September 2010

Project Cost Estimate

Capital Cost	\$ 41,000,000
Support Cost	\$ 8,000,000
R/W Cost	\$ 2,200,000
Total Project Cost	\$ 51,200,000

Project Schedule

Preliminary Engineering	Completed
Environmental	Completed
Design	Completed
Construction	Completed

Project Description

The project will provide an additional eastbound (EB) lane from the SR-91/SR-241 interchange to the SR-71/SR-91 interchange and will widen all EB lanes and shoulders to standard widths.

Key Considerations

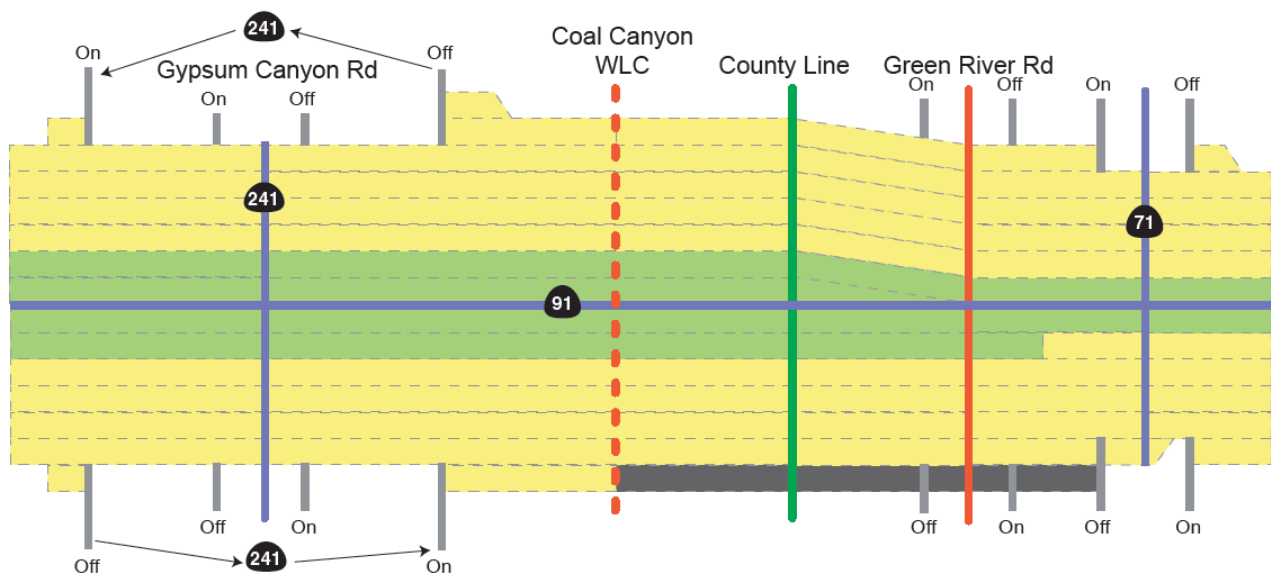
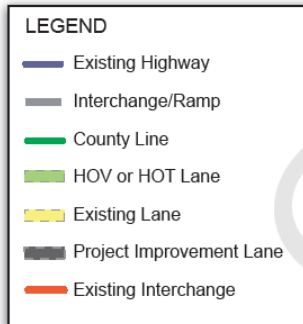
Coordination with the SR-91 Corridor Improvement Projects (Project #3 and #11) will be required. Staged construction would be required for all ramp reconstruction and freeway widening. Freeway operations would most likely be affected by this project, however, freeway lane closures are not anticipated. An EB concrete shoulder will be constructed with a 12 foot width to provide for future widening as contemplated by Project #3 and #11.

Benefits

The lane addition would help to alleviate the weaving condition between SR-241 and SR-71, as well as remove vehicles from the SR-91 mainline that would be exiting at Green River Road and SR-71.

Current Status

Funding is from the American Recovery and Reinvestment Act (ARRA) with \$71.44M approved, and the balance of project costs are from other sources. Construction began in late 2009 and was completed in September 2010.



Widen SR-91 between SR-55 and SR-241 by Adding a 5th GP Lane in Each Direction

Appendix Project No: B-4 Actual Completion: January 2013

Project Costs

Capital Cost	\$ 65,005,000
Support Cost	\$ 19,639,000
R/W Cost	\$ 573,000
Total Project Cost	\$ 85,217,000

Project Schedule

Preliminary Engineering	Completed
Environmental	Completed
Design	Completed
Construction	Completed

Project Description

This project proposes capacity and operational improvements by adding one general purpose (GP) lane on eastbound (EB) SR-91 from the SR-55/SR-91 connector to east of the Weir Canyon Road interchange and on westbound (WB) SR-91 from just east of Weir Canyon Road interchange to the Imperial Highway (SR-90) interchange. Additionally, this project would facilitate truck traffic approaching the truck scales in both directions.

Key Considerations

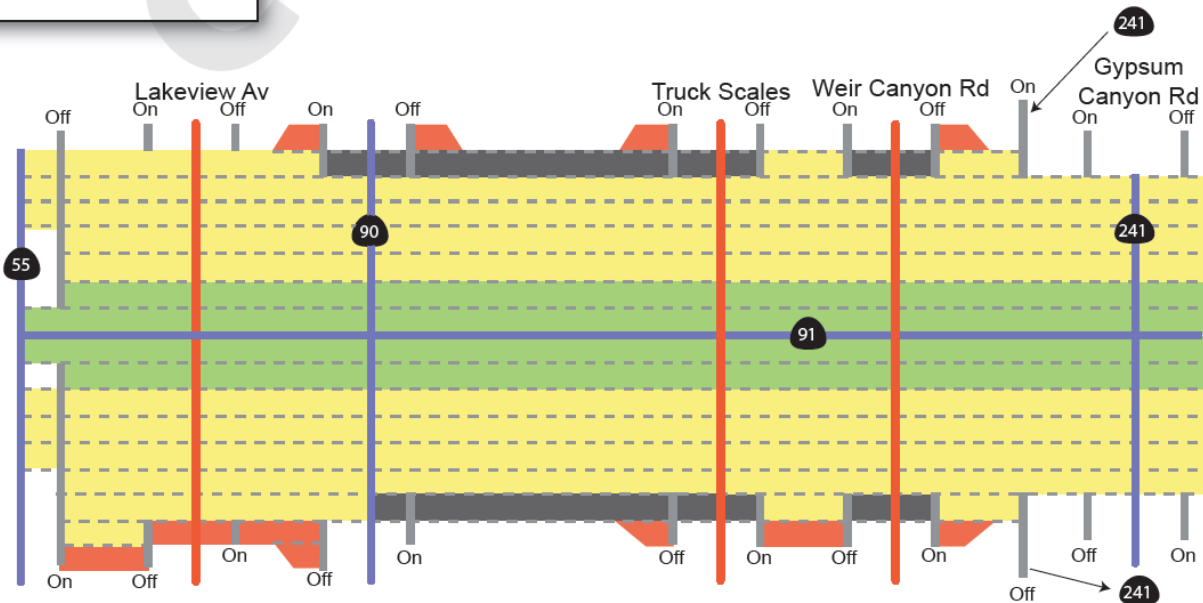
Caltrans is not considering relocation of the truck scales at this time.

Benefits

Alleviates congestion on WB SR-91 by eliminating the lane drop at the truck scales and providing a continuous GP lane to SR-90. Alleviates congestion on EB SR-91 by eliminating the lane drop for northbound (NB) SR-55 at SR-91 by providing an auxiliary lane to Lakeview Avenue, and at SR-90 by providing a continuous GP lane through Weir Canyon

LEGEND

- Existing Highway
- Interchange/Ramp
- Existing Interchange
- HOV or HOT Lane
- Existing Lane
- Project Improvement Lane
- Auxiliary Lane



NOTE: FAIRMONT BLVD IS CONTINGENT UPON IMPLEMENTATION OF THE PROJECT



SR-91 WB Lane at Tustin Avenue

Appendix Project No: B-5 Actual Completion: April 2016

Project Cost Estimate*

Capital Cost	\$ 22,218,000
Support Cost	\$ 16,382,000
R/W Cost	\$ 4,682,000
Total Project Cost	\$ 43,282,000

Project Schedule

Preliminary Engineering	Completed
Environmental	Completed
Design	Completed
Construction	Completed

Project Description

The project will add a westbound (WB) auxiliary lane on SR-91 beginning at the northbound (NB) SR-55 to WB SR-91 connector through the Tustin Avenue interchange. This project includes approximately 1.1 lane miles.

Key Considerations

Build Alternative 3 was selected from the Project Study Report (PSR), *On Westbound (WB) SR-91 Auxiliary Lane from the Northbound (NB) SR-55/WB SR-91 Connector to the Tustin Avenue Interchange*, and requires additional right-of-way. City of Anaheim utilities are within close proximity of the proposed widening section. Widening of the Santa Ana River bridge is required. Coordination with the City of Anaheim occurred for widening of Tustin Avenue and the WB SR-91 Off-Ramp that was completed in early 2011.


Benefits

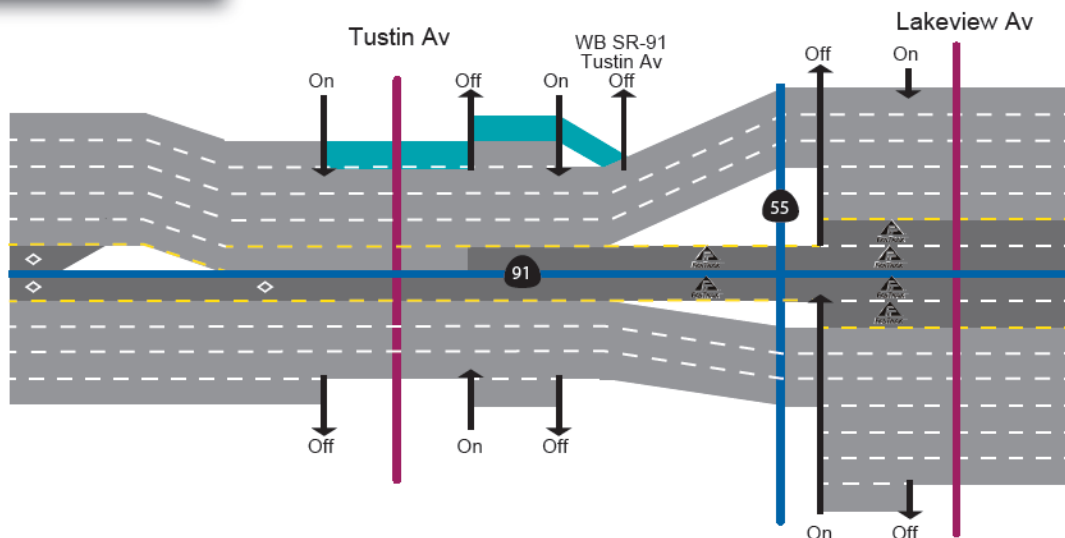
The project would reduce or eliminate operational problems and deficiencies on this section of WB SR-91 including weaving and merging maneuvers. This project would also address choke-point conditions, which are caused primarily by extensive weaving between the NB SR-55 to WB SR-91 connector and the WB SR-91 off-ramp to Tustin Avenue.

Current Status

Preliminary engineering was completed and approved by Caltrans. The environmental phase was completed in November 2010, and design was completed in mid-2013. Construction was initiated in February 2014. The project received \$14M from the Proposition 1B State-Local Partnership Program (SLPP), \$14M from Measure M, with the balance from Regional Improvement Program (RIP) funds. Contract acceptance and open to traffic in May 2016.

LEGEND

- Existing Highway
- Interchange/Ramp
- County Line
- ◇ HOV Lane
-  Tolloed Express Lane
- Existing Lane
- Proposed Improvement Lane



Metrolink Service Improvements

Appendix Project No: B-6

Actual Completion: 2016

Project Cost Estimate*

IEOC Service Cost	\$ 1,160,000
Perris Valley Line Cost	\$ 248,000,000
Total Metrolink Costs	\$ 249,160,000

Project Schedule

Complete 2016

* Costs from OCTA and RCTC
(in 2015 dollars)

Project Description

There are sixteen daily trains that run on the IEOC Line and nine trains running on the Los Angeles to Riverside portion of 91/Perris Valley (91/PV) Line for a total of 25 daily trains. The long-term service improvements will include 24 IEOC trains by 2030.

The Perris Valley portion of the 91 Line extends Metrolink service southeast by 25 miles, from Riverside to Perris. The project is located within the right of way of the existing San Jacinto Branch Line through Riverside, Moreno Valley and Perris. Construction began in October 2013, cost approximately \$248 million, and the extension opened to the public in June 2016. The inaugural schedule (December 2015) includes nine trains through to Los Angeles and 12 between Perris and Riverside.

Key Considerations

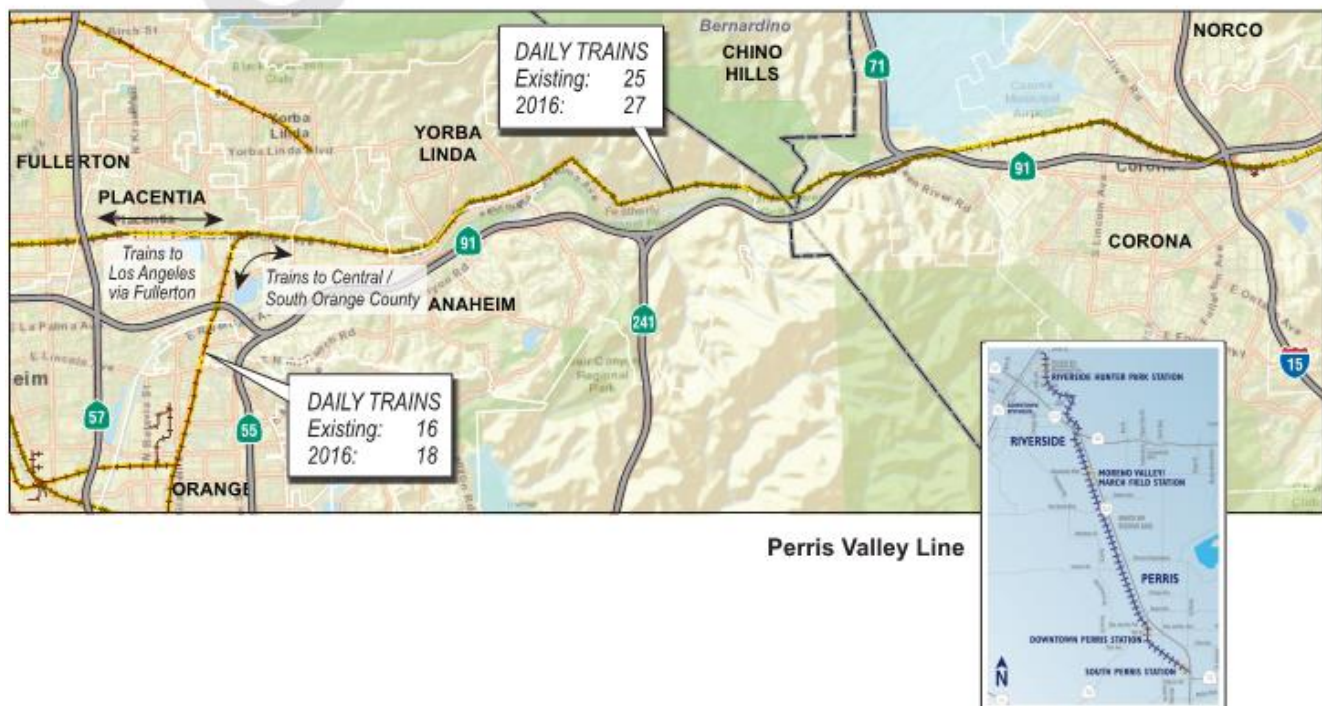
Construction of the new Placentia Metrolink station will improve passenger access to the 91/PV Line, by creating a station between Fullerton and Corona. Improvements at the Anaheim Canyon station are designed to account for future expansion of the IEOC rail service.

Benefits

Enables development of expanded Metrolink service, improved efficiency, and fosters train ridership growth in the region, which will contribute to congestion relief on SR-91.

Current Status

Two additional IEOC Line roundtrips were added in late 2015, and in mid-2016, nine trains began service on the Perris Valley extension to the 91/PV Line.



Initial Phase CIP: Widen SR-91 by One GP lane In Each Direction East of Green River Road, CD Roads and I-15/SR-91 Direct South Connector, Extension of Express Lanes to I-15 and System / Local Interchange Improvements

Project No: B-7
Actual Completion: 2017

Project Cost Estimate*	
Total Capital Cost	\$ 1,161,000,000
Support Cost	\$ 246,000,000
Total Project Cost	\$ 1,407,000,000

Project Schedule**	
Preliminary Engineering	Completed
Environmental	Completed
Design/Construction	2013-2017

* Cost obtained for Initial Phase is from RCTC (2014 dollars)
 ** Schedule for Initial Phase; subsequent phase for Ultimate Project anticipated in 2035

Project Description

The approved Project Study Report (PSR) for the SR-91 Corridor Improvement Project (CIP), from SR-241 to Pierce Street, includes the addition of a 5th general purpose lane in each direction, the addition of auxiliary lanes at various locations, additional lanes at the SR-71/SR-91 interchange (Project #5), and collector-distributor (CD) lanes at the I-15/SR-91 interchange. Subsequently, the Riverside County Transportation Commission's (RCTC) 10-Year Delivery Plan recommended the following in addition to the PSR recommended improvements: the extension of the 91 Express Lanes from the Orange County line to I-15, the construction of SR-91 (EB/WB)/I-15 (SB/NB) Express Lanes median direct connectors, and the construction of one Express Lane in each direction from the I-15/SR-91 interchange southerly to I-15/Cajalco Road, and northerly to I-15/Hidden Valley Parkway. An Express Lanes ingress/egress lane is also planned near the County Line. Due to economic conditions, a Project Phasing Plan was developed to allow an Initial Phase with reduced improvements to move forward as scheduled, with the remaining ultimate improvements to be completed later. The following is a summary of the deferred ultimate improvements: I-15/SR-91 median North Direct Connector, and I-15 Express Lanes North to Hidden Valley Parkway (Project #9); general purpose lanes and Express Lanes from I-15 to Pierce Street; and general purpose lanes from SR-241 to SR-71. The I-15 Express Lanes to be extended from Ontario Avenue to Cajalco Road are included in RCTC's I-15 Express Lane Project with an anticipated completion in 2020.

Key Considerations

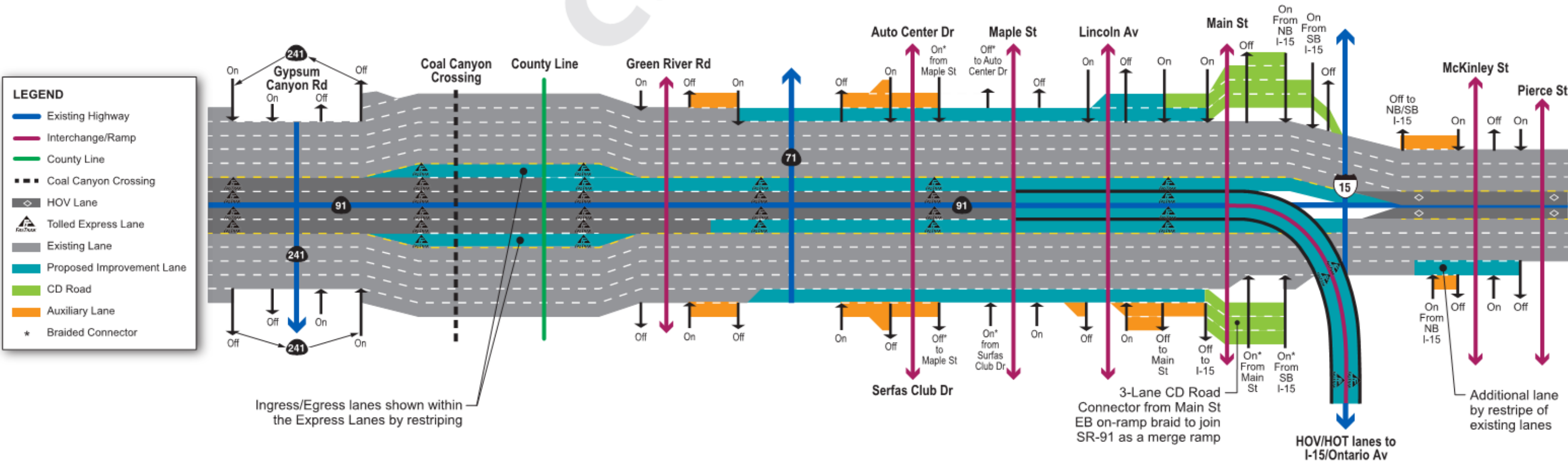
Coordination among many of the SR-91 freeway projects that overlap the project limits is critical to successfully delivering these projects on schedule and within budget. Designing to accommodate future projects is a recurring theme for each of these projects. Minimizing conflicts in scope between projects requires direct coordination between each project team. Additionally, future projects frequently have multiple alternatives under study, each with differing scope and construction footprints. Specifically, the project improvements need to continue to be coordinated with the SR-71/SR-91 Interchange, the SR-241/91 Express Connector, and RCTC's I-15 Express Lane Project.

Benefits

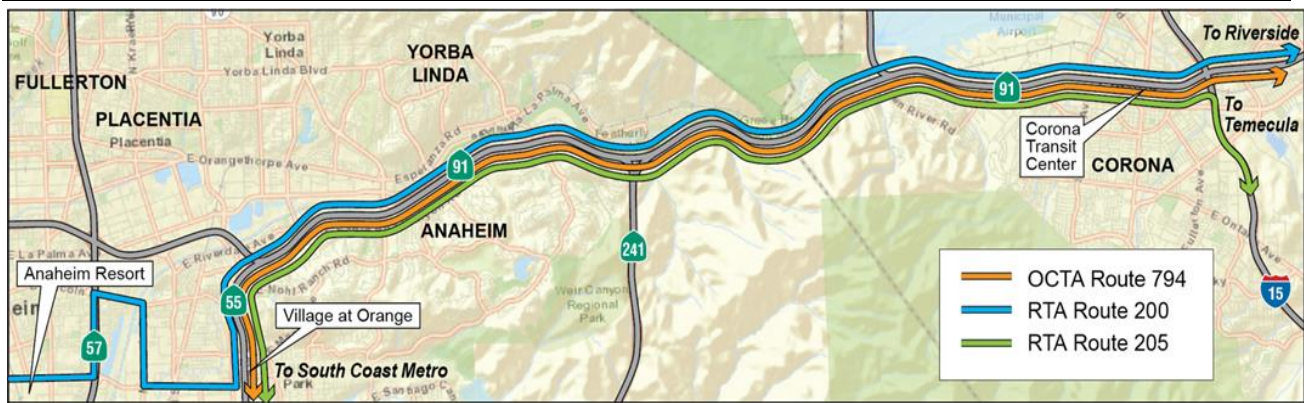
The Initial Phase and Ultimate CIP projects will reduce congestion and delays by providing additional SR-91 capacity from SR-241 to Pierce Street, along I-15 from SR-91 to Cajalco Road to the south, and to Hidden Valley Parkway to the north. Traffic operations will improve by eliminating or reducing weaving conflicts along SR-91 and I-15 by the use of CD roads and auxiliary lanes. The project will provide motorists a choice to use Express Lanes for a fee in exchange for time savings.

Current Status

The environmental phase was completed in Fall 2012. A Design-Build contractor was selected in May 2013 and construction activities began in early 2014 for the Initial Phase. The project is anticipated to open to traffic in Spring 2017 with final project acceptance anticipated at the end of 2017.



Express Bus Service Improvements



Project Description

Orange County Transportation Authority (OCTA), working with the Riverside County Transportation Commission (RCTC) and the Riverside Transit Agency (RTA), operate Express Bus service between Riverside and Orange counties. Commuters lack direct transit connections to some Orange County employment centers not served by Metrolink. The Express Bus service provides this connection.

Existing Service

OCTA has operated Route 794 since 2006 from Riverside County to Hutton Centre and South Coast Metro (shown in orange above). On Route 794, OCTA removed trips to Corona in February 2018 based on low ridership. OCTA currently operates six morning westbound trips and five afternoon eastbound trips to/from the La Sierra Metrolink Station. Two new Express Bus routes were implemented by RTA in January 2018 between Riverside County and Orange County including RTA Route 200 (shown in blue above) from San Bernardino/Riverside to the Anaheim Resort. The route provides hourly service on weekdays and 90-120 minute service on weekends with a fleet of six buses. RTA Route 205 (shown in green above) from Lake Elsinore/Temecula/ Corona to the Village at Orange includes three AM and three PM roundtrips with 3 buses.

New Service

The Express Bus Routes have been fully implemented as of FY19 and there are no planned service additions. Changes to routes may be made in the future based on available funding and ridership demand.

Key Considerations

Intercounty Express Bus service is effective between locations where transit travel times by Express Bus would be more competitive than Metrolink and connecting rail feeder buses.

Benefits

Express Bus services contribute to congestion relief on SR-91.

Current Status

Since completion of the 91 Express Lanes, RTA more than doubled its Express Bus service on SR-91. Currently, OCTA operates 11 bus trips per day on SR-91. RTA now operates 47 trips on weekdays (up from 18 trips that Route 216 provided weekdays) and 18 trips on weekends (up from 8 trips provided by Route 216) on SR-91 Express Lanes. Service hours for this expansion is an extra 21,445 hours per year and is being served by five new coaches added to the RTA fleet.

Schedule and Cost

The Express Bus Routes have been fully implemented as of FY19. Ongoing operating costs average \$4,892,000 per year and capital costs average \$1,174,000 per year (2019 dollars). The annual capital cost was increased in 2019 to reflect the future cost of complying with the new Innovative Clean Transit regulation.

La Sierra Metrolink Parking Improvements



*Image source:
Riverside Transit Agency, April 2019*

Project Description

There are currently 1,000 spaces available. RCTC is implementing a parking lot expansion to include an additional 496 spaces and six bus bays to accommodate RTA Express Lane Service 200 that originates at Metrolink San Bernardino Transit Center with stops along Riverside Downtown Metrolink Station, Metrolink La Sierra, the Village at Orange, ARTIC, Disneyland, and Anaheim Convention Center, as well as other potential bus routes in the future.

Benefits

The 496 parking spaces will provide for existing and future demand. The parking lot expansion will provide for ADA parking, RTA express service, commuter rail, and vanpool.

Current Status

Construction and project implementation has begun.

Schedule and Cost

Construction was completed in February 2019. The project cost is estimated to be \$6,260,000.

APPENDIX C - REFERENCES

The following documents and resources were used in the development of the 2021 Plan. Data was provided by OCTA, RCTC, Caltrans Districts 8 and 12, Transportation Corridor Agencies (TCA), other agencies, and online resources.

-
- Measure M Next 10 Delivery Plan (Next 10 Plan), November 14, 2016
- Riverside Transit Agency, Ten-Year Transit Network Plan, January 22, 2015
- PSR-PDS on Route 91 Between SR-57 and SR-55, October 2014
- PS&E for “Westbound State Route 91 Auxiliary Lane from the NB SR-55/WB SR-91 Connector to the Tustin Avenue Interchange”, 2014
- PS&E for Initial SR-91 CIP Project, 2014
- California Transportation Commission, Corridor Mobility Improvement Account (CMIA), Amended December 2012
- M2020 Plan (Measure M), September 2012
- PSR-PDS for SR-241/SR-91 Tolloed Express Lanes Connector, January 2012
- Project Report and Environmental Document (EIR/EIS) for SR-91 CIP from SR-241 to Pierce Street Project, October 2012
- PS&E “On State Route 91 Between the SR-91/SR-55 Interchange and the SR-91/SR-241 Interchange in Orange County”, April 2011
- Corridor System Management Plan (CSMP) Orange County SR-91 Corridor Final Report, August 2010
- Project Study Report/Project Report “Right of Way Relinquishment on Westbound State Route 91 Between Weir Canyon Road and Coal Canyon”, May 2010
- SR-91/Fairmont Boulevard Feasibility Study, December 2009
- Feasibility Evaluation Report for Irvine-Corona Expressway Tunnels, December 2009
- Plans, Specifications and Estimates (PS&E) for Eastbound SR-91 lane addition from SR-241 to SR-71, May 2009
- PSR “On State Route 91 Between the SR-91/SR-55 Interchange and the SR-91/SR-241 Interchange in Orange County”, April 2009
- 91 Express Lanes Extension and State Route 241 Connector Feasibility Study, March 2009
- PSR/PR “On Gypsum Canyon Road Between the Gypsum Canyon Road/SR-91 Westbound Off-Ramp (PM 16.4) and the Gypsum Canyon Road/SR-91 Eastbound Direct On-Ramp (PM 16.4)”, June 2008
- Orange County Transportation Authority Renewed Measure M Transportation Investment Plan, November 2006
- Riverside County-Orange County Major Investment Study (MIS) – Final Project Report: Locally Preferred Strategy Report, January 2006
- California – Nevada Interstate Maglev Project Report, Anaheim-Ontario Segment; California-Nevada Super Speed Train Commission, American Magline Group, August 2003
- Route Concept Reports for SR-91, Caltrans Districts 8 and 12
- Various Preliminary Drawings and Cross Sections, Caltrans Districts 8 and 12



AGENDA ITEM 7

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Budget and Implementation Committee Jillian Guizado, Planning and Programming Director
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	2022 State Transportation Improvement Program Funding Distribution and Draft Fund Estimate

BUDGET AND IMPLEMENTATION COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to approve the 2022 State Transportation Improvement Program (STIP) funding distribution among the three geographic areas in Riverside County per the adopted STIP intracounty Memorandum of Understanding (MOU).

BACKGROUND INFORMATION:

The STIP is a five-year program of projects administered by the California Transportation Commission (CTC). It is updated every two years outlining the commitment and programming of transportation funds for the State's multimodal transportation system, including: highways, rail, transit, local roads, and bike and pedestrian facilities. In June of every odd year, Caltrans is required to prepare a draft STIP Fund Estimate (FE) that estimates how much funding will be available for programming for the next five-year period. The CTC released the 2022 STIP FE at its June 23, 2021 meeting.

The 2022 STIP will cover Fiscal Years 2022/23 through 2026/27. Each STIP cycle adds on two years with most of the programming capacity available in the last two years. STIP funds are allocated into two broad programs – the Regional Improvement Program (RIP) receives 75 percent of the total STIP funds, and the remaining 25 percent is directed to Caltrans for its Interregional Transportation Improvement Program. The 75 percent RIP funding is further subdivided by formula into county shares. County shares are available solely for projects nominated by regional agencies. The 2022 STIP FE also establishes funding levels for the State Highway Operation and Protection Program, which Caltrans prepares in consultation with the regions.

STIP Intracounty Formula Distribution

Per the Commission's STIP intracounty formula distribution approved in 1998 through an MOU among the Commission, Coachella Valley Association of Governments, and Western Riverside Council of Governments, STIP funds are allocated to Western County, Coachella Valley, and Palo

Verde Valley based on the most recent fiscal year taxable sales by geographic area used for Measure A allocations. The geographic area percentages of taxable sales applied to the 2014 through 2022 STIPs demonstrates a growing trend in Western County compared to Coachella and Palo Verde Valleys:

Geographic Area	2014 STIP	2016 STIP	2018 STIP	2020 STIP	2022 STIP
Western County	75.17%	75.76%	77.30%	78.12%	78.14%
Coachella Valley	24.12%	23.54%	22.11%	21.45%	21.42%
Palo Verde Valley	0.71%	0.70%	0.59%	0.43%	0.44%

Per the STIP intracounty distribution formula, each geographic area will receive funding based on the above percentages. In addition, STIP guidelines allow up to five percent of RIP funding for planning, programming, and monitoring (PPM) activities. However, the Commission's policy is to set aside two percent for PPM activities to fund Project Study Reports, planning, and staff costs associated with STIP funding and programming. PPM funding is available for Coachella Valley Association of Governments (CVAG) and Commission activities.

DISCUSSION:

Draft 2020 STIP FE

On June 23, 2021, the CTC adopted the Draft 2022 STIP FE, which identifies county share targets for each region in the state. Statewide, \$727,761,000 of new STIP capacity is available in the 2022 STIP; of this amount, \$32,349,000 is identified for Riverside County. The new STIP capacity is only be available in the last two years of the 2022 STIP cycle, FYs 2025/26 and 2026/27.

The table below reflects how the Riverside County STIP funds should be distributed according to the STIP intracounty MOU.

Draft 2022 STIP FE – Riverside County Share Target		
Total Riverside County Share		\$ 32,349,000
Less: 2 percent PPM		646,980
Total New Project Programming		<u>\$ 31,702,020</u>
Western County	78.14 percent	\$ 24,771,958
Coachella Valley	21.42 percent	\$ 6,790,573
Palo Verde Valley	0.44 percent	\$ 139,489

2022 STIP Project Selection Process

Western Riverside County

Western Riverside County projects are nominated by staff. Recommendations for current and new projects for STIP funds will be considered and based on the 2019-29 Measure A Highway Delivery Plan and other high priority projects approved by the Commission.

Coachella Valley and Palo Verde Valley

CVAG nominates its projects and notifies Commission staff for final concurrence and submittal to the CTC. Staff will review the programming process and timeline with CVAG staff and present CVAG's recommended projects to the Commission for inclusion in the 2022 STIP submittal.

Palo Verde Valley projects are nominated by the city of Blythe (Blythe); however, given the minor amount of funding typically available and the complexity in processing these funds, the Commission and Blythe have executed MOUs in past STIP cycles trading Palo Verde Valley STIP funds with Measure A Western Riverside County Highway funds. Blythe is required to include the STIP traded funds in its Measure A Local Streets and Roads Capital Improvement Plan. Upon CTC's adoption of the 2022 STIP in March 2022, staff will move forward with preparing the 2022 STIP MOU with Blythe if there is funding available.

Status of Current 2020 STIP Programming

The current 2020 STIP projects for Riverside County include the following environmental, right of way, and construction phases as follows:

2020 STIP – Riverside County (Approved by CTC in March 2020)								
Agency	Project	Phase	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	Total STIP
Temecula	I-15/French Valley IC	C	\$47,600,000					\$47,600,000
RCTC	71/91 IC	C			\$66,377,000			66,377,000
Coachella	I-10/Ave 50 IC	C				\$2,000,000		2,000,000
CVAG	CV Regional Signal Synch, Ph 2	C		\$2,472,000				2,472,000
RCTC/ CVAG	PPM	C	1,000,000	900,000	900,000	396,000		3,196,000
		Totals	\$48,600,000	\$3,372,000	\$67,277,000	\$2,396,000	\$0	\$121,645,000
				C = Construction IC = Interchange PPM = Planning, Programming, and Monitoring				

Temecula's I-15/French Valley Parkway IC project in FY 2020/21 from the above table is on a 12-month extension due to delays working with Caltrans to revalidate the environmental document on the project before moving to the right of way phase. The PPM funds were allocated

in August 2020. Projects programmed in FY 2021/22 are expected to be allocated as scheduled. Projects programmed in FYs 2022/23 and 2023/24 will be reviewed for carryover into the 2022 STIP.

The CTC is anticipated to adopt the Final STIP FE at its August 18-19, 2021 meeting. There is a possibility that the Final FE will differ from the Draft FE; therefore, staff will report any changes at the September Commission meeting. The 2022 STIP submittal is due to the CTC by December 15, 2021. CTC adoption of the 2022 STIP is scheduled for March 2022.

FISCAL IMPACT:

There is no fiscal impact to the Commission related to the adoption of the 2022 STIP funding distribution.

Approved by the Budget and Implementation Committee on June 28, 2021

In Favor: 12 Abstain: 0 No: 0

AGENDA ITEM 8

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Budget and Implementation Committee Lorelle Moe-Luna, Multimodal Services Director Eric DeHate, Transit Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Countywide Transit Report: Fiscal Years 2017/18 through 2019/20

BUDGET AND IMPLEMENTATION COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to receive and file the Countywide Transit Report for Fiscal Year 2017/18 through FY 2019/20.

BACKGROUND INFORMATION:

The Commission as the regional transportation planning agency and county transportation commission provides funding oversight and administration of multiple transit programs within Riverside County through various Public Utilities Codes (PUC), ordinances and regulations. Most of the regulations regarding transportation funding for transit operators in California are governed by the Transportation Development Act (TDA) of 1971. As required under PUC Section 99244, the Commission is required to regularly monitor and provide recommendations for productivity and performance improvements of the transit services receiving TDA funding. This is conducted through the Short Range Transit Plans updates submitted annually, annual audits, and triennial TDA performance audits.

In addition to complying with the minimum requirements set forth by TDA, the Commission began the compilation of an annual Countywide Transit Report in 2014 to provide a “state of transit” overview. The report is a standalone review of transit services based primarily on annual audited financial data and is inclusive of not only TDA-funded public transit services but also local Measure A funded programs such as the Specialized Transit Program.

DISCUSSION:

The FYs 2017/18 – 2019/20 Countywide Transit Report (Attachment 1) provides a high-level picture of the public transit network in Riverside County with factsheets for five modes of transportation: commuter rail, fixed-route bus, demand response/paratransit bus, specialized transit, and vanpool. Key performance metrics that are highlighted include the following:

- Farebox Recovery Ratio;
- Passenger Boardings;

- Operating Costs;
- Revenue Service Hours;
- Passengers Per Revenue Hour; and
- Other indicators relevant by mode such as train service miles and subsidy per trip.

Additionally, the report provides highlights of major ridership trends, future strategies to meet demand, and marketing initiatives underway as the transit providers enter the recovery phase to regain ridership.

How Are We Doing?

The network of nine public transit service providers and 18 human service operators carried approximately 16.9 million passenger trips in FY 2017/18, 17.2 million passenger trips in FY 2018/19, and over 14.7 million passenger trips in FY 2019/20. For several years between about 2014 through 2018 transit ridership was declining not only in Riverside County but throughout the nation. In 2019, ridership was starting to show signs of re-growth upon the implementation of various marketing initiatives and service enhancements; however, in March 2020, when the Coronavirus pandemic and stay-at-home orders were issued statewide, ridership again tumbled drastically in the months to come, up to 80 percent by route in some cases. Farebox recovery ratios were being met until FY 2018/19, but the pandemic also left farebox recovery ratios short of the state-required 20 percent for urban areas and 10 percent for rural areas in FY 2019/20. Annual operating costs for public transit services in FY 2019/20 for the county exceeded \$150 million, with revenues comprised of 50 percent from state, 32 percent from federal, and 18 percent from local funding sources.

Transit operators have prioritized numerous marketing initiatives as the region moves toward a recovery phase. Enhanced safety and cleaning protocols have remained a top priority to protect the public and employees. Strategic planning is underway for many transit operators to add back previously reduced service levels; additional community engagement with major employers and colleges and university is being conducted; and free ride programs to attract youth, college students, and veterans have been implemented.

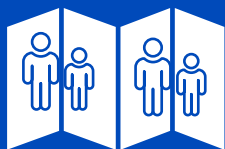
The report gives a glimpse of where these modes of transit are heading. Only a portion of the impacts of COVID-19 can be captured in the FY 2019/20 numbers as stay-at-home orders were issued in the last quarter of FY 2019/20 (April-June). A better understanding of the impact of COVID-19 on transit will likely be gleaned in the next edition of the report which will include final audited data for FY 2020/21.

FISCAL IMPACT:

This item does not have any budgetary impacts to the Commission.

Attachment: Countywide Transit Report: Fiscal Years 2017/18 - 2019/20

Riverside County Facts



**7,200
Square Miles**

**2.5 million
Residents**

The Countywide Transit Report presents a high-level picture of the public transit network in Riverside County and the relative efficiency and costs of services.

Riverside County has an extensive network comprised of commuter rail, fixed-route and demand response bus, specialized transportation services, and a vanpool services. These services include nine public transit service providers and 18 community-based service operators.

The last several years has brought great change and opportunities in public transit. Ridership declines between 2014 and 2018 were occurring in southern California and throughout the nation. Researchers from UCLA studied trends and determined that increased car ownership contributed to the lost of public transit ridership. Transit agencies in the county remained engaged and implemented various initiatives to attract new riders and in 2019 saw promising results to reverse the trend. Unfortunately, in March 2020, the Coronavirus pandemic resulted in stay-at-home orders, causing ridership to plummet up to 80% on some services. Transit agencies adapted to public health orders swiftly, implemented additional safety standards, and modified service levels as necessary to be cost effective and meet customer demand.

Looking Forward - Recovery Initiatives in Riverside County

Since the initial drop in ridership, transit operators have prioritized safety and cleaning protocols to protect the public. The focus is now on recovery initiatives to regain ridership and meet the growing population in Riverside County.

Marketing initiatives such as free rides for youth and college students, and in some cities the general public, are underway throughout the county to welcome back riders and encourage new users.

Strategic plans such as Comprehensive Operational Analyses are being developed to determine how transit operations can best navigate changing customer travel patterns while achieving productivity goals.

Zero-emission vehicle planning and implementation will continue to be a capital priority. Transit operators such as SunLine are paving the way in research and development, and by 2023 all operators in the county will have developed zero emission bus roll-out plan

5 Modes of Public Transit



Rail



**Fixed-Route
Bus**



**Public Demand
Response**
(advance reservation
services)



**Specialized
Transportation**



Vanpool Services

Breakdown of Total Operating Costs by Fund Source

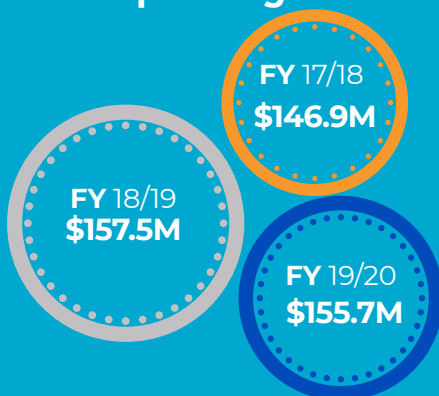
**Includes federal stimulus funds*

**Local
Funds
18%**

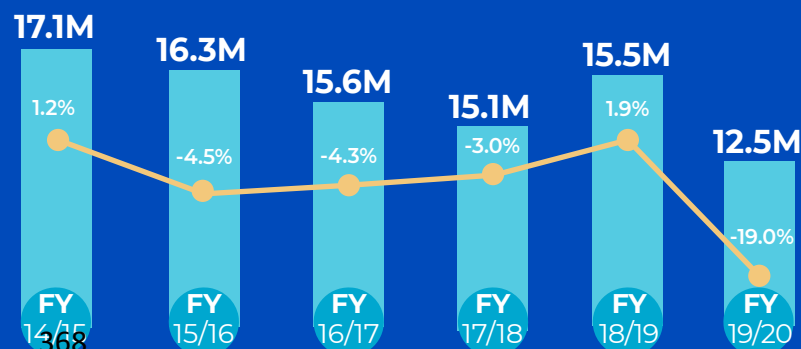
State Funds 50%

**Federal
Funds*
32%**

Total Operating Costs



Public Transit Ridership Annual Passenger Trips



The Commission is a member agency of the Southern California Regional Rail Authority, which provides commuter rail service better known as Metrolink. Metrolink provides seven commuter lines, three of which serve Riverside County. Metrolink is an effective alternative for commuters within the southern California region traveling to major employment and destination centers, taking pressure off freeways and reducing congestion.

RCTC owns and maintains all nine Metrolink stations and rail property along the Perris Valley Line in the county. The stations are multimodal transit centers with regional and local bus connections that also serve as park & ride locations to encourage rideshare. Station rehabilitation projects continue to be a priority, using more environmentally sustainable methods while maintaining the highest standards of safety and security.

Riverside Line Riverside to Los Angeles



59
Route
Miles

12
Trains on
Weekdays

Inland Empire-Orange County Line San Bernardino to Oceanside

100
Route
Miles

16
Trains on
Weekdays

4
Trains on
Weekends



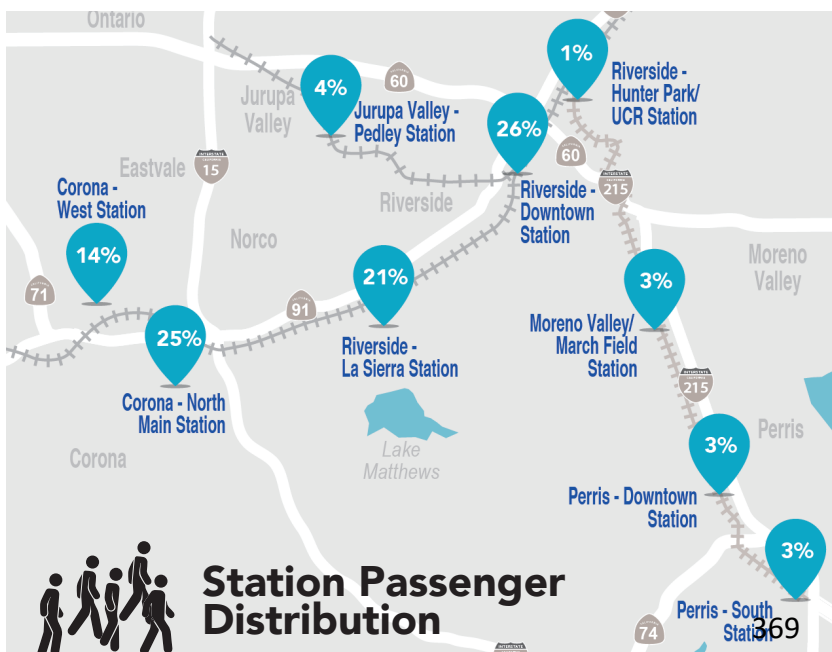
91/Perris Valley Line Perris Valley to Los Angeles via Fullerton



84
Route
Miles

15
Trains on
Weekdays

4
Trains on
Weekends



Station Passenger Distribution

Passenger Boardings

for Lines Transversing Riverside County



3,265,614
passengers

FY
17/18



3,170,251
passengers

FY
18/19



2,453,579
passengers

FY
19/20

Station Operations & Maintenance Cost



FY
17/18

\$5.5 million



FY
18/19

\$5.3 million



FY
19/20

\$6.5 million



Metrolink Operating Subsidy for Riverside County

FY
17/18

\$17.7M



FY
18/19

\$19.7M



FY
19/20

\$21.3M



Service Miles



769,432

FY 17/18

758,136

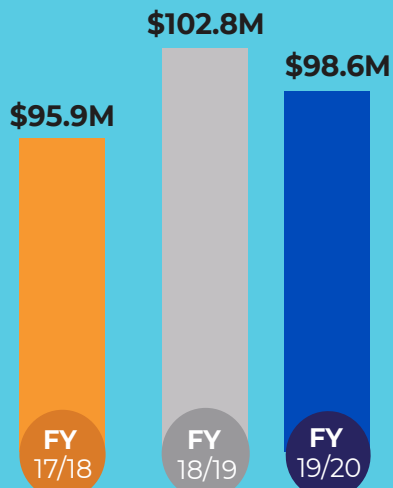
FY 18/19

809,328

FY 19/20



Total Operating Costs



Riverside County has six operators that provide local, intercity, and express fixed route bus services. These services provide an environmentally friendly alternative for residents to travel to work, school, medical appointments, and other essential tasks.

Transit operators continue to partner with one another and local jurisdictions to seek new funding opportunities to expand services.



Increased Bus Use in 2019 College Pass Programs



Farebox Recovery Ratio

Farebox recovery ratio is a key performance indicator that is state-mandated. Farebox recovery minimums vary by operator, generally 20% for urban areas and 10% for rural areas. Due to Covid-19, legislation was enacted in 2020 to waive farebox recovery requirements

22.8%

FY 17/18

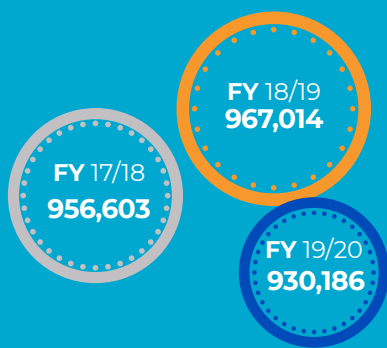
21.7%

FY 18/19

23.1%

FY 19/20

Revenue Service Hours



Average Passengers per Hour

13.2 passengers

FY 17/18

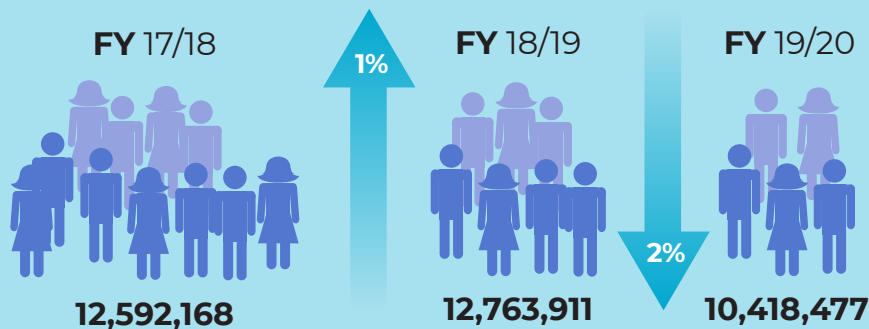
13.2 passengers

FY 18/19

11.2 passengers

FY 19/20

Passenger Boardings



Demand response, or paratransit services, in the county are modeled as shared ride public transportation system with advance reservations, enabling routes and schedules to be structured to transport multiple passengers to their destinations.

Complementary paratransit service is provided within 3/4 of a mile from a local fixed-route service. These services are typically provided to seniors and those who qualify under the Americans with Disabilities Act, and are intended for individuals who are unable to use the fixed-route bus system.

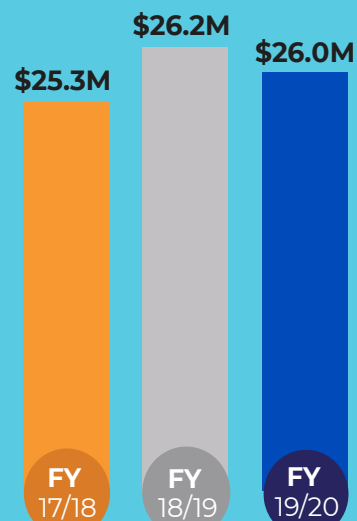
Public demand response riders are among the most vulnerable users in the transportation network. It is anticipated that even after Covid-19 restrictions are lifted, ridership recovery for the senior and disabled population on paratransit services will take longer than fixed-route services.

Similar to fixed route services, farebox recovery for paratransit service is closely monitored. The farebox recovery ratio requirement is 10% for demand response services.

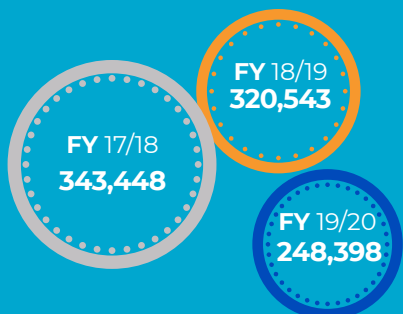
Travel training programs such as RTA's Freedom to Go have been successful at teaching Dial-A-Ride users and others to utilize fixed-route services, enabling passengers to gain more independence and mobility choices while creating cost savings.



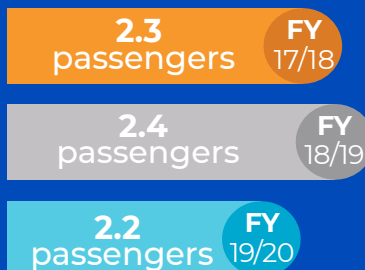
Total Operating Costs



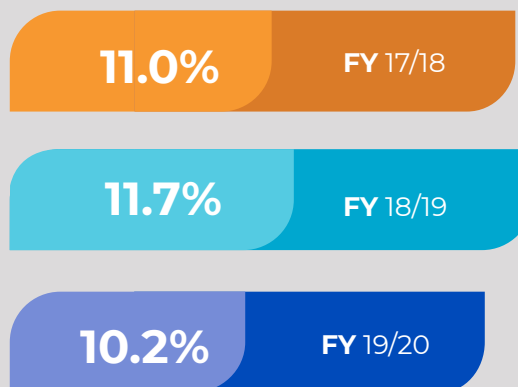
Revenue Service Hours



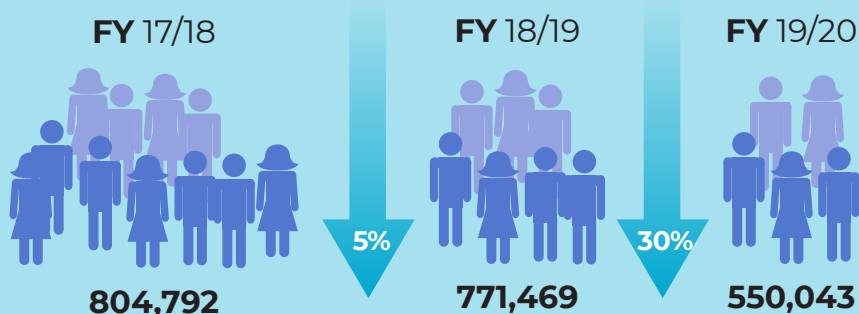
Average Passengers per Hour



Farebox Recovery Ratio



One-way Passenger Boardings



Specialized Transit Program

Western Riverside County

A portion of Measure A, the ½-cent local sales tax revenues are used for specialized transit services. In Western Riverside County, RCTC awards funding to public and human service providers of transit services for persons with disabilities, low income, seniors, and veterans through the Specialized Transit Program. These specialized services meet the needs of the most vulnerable population that are either outside of the fixed-route bus and senior and disabled public demand response service areas, or have specific needs that cannot be met using traditional services. These services expand mobility options for individuals who cannot drive, have no one to drive them or have difficulty using public transit.

In the Coachella Valley, Measure A transit funds are allocated to SunLine, and are also used to expand transit options and keep costs low for seniors and the disabled.



Measure A Subsidy for Western Riverside County

FY 17/18 \$2.2M

FY 18/19 \$2.4M

FY 19/20 \$2.2M


19 Specialized Transit Programs in 5 Categories

- Demand response services**
Operating assistance for services for individuals who cannot be served by existing public transit.
- Mileage reimbursement programs**
reimbursing volunteer drivers per mile for authorized trips they provide
- Bus pass programs**
distributing day passes for the county's fixed-route bus system to human service agencies to assist with clients' urgent transportation needs
- Mobility management programs**
assisting clients by providing information on how to use the transportation options that are available to them
- Travel training programs**
teaching riders how to plan trips, navigate and use the public transit fixed-route bus system

Passenger Boardings


Inclusive of travel training and bus pass program trips.

 214,894 passengers FY 17/18


 262,174 passengers FY 18/19

 225,901 passengers FY 19/20

Average Subsidy Per Boarding

FY 17/18 \$10.29 

FY 18/19 \$9.10 

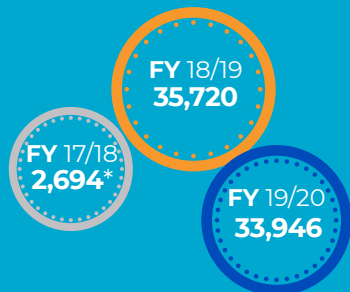
FY 19/20 \$9.73 

In May 2018, RCTC initiated a new Vanpool program for Western Riverside County called VanClub. Vanpool programs are highly effective at reducing traffic and vehicle emissions by reducing the number of vehicles traveling daily. VanClub was created to support long-distance commuters, by offering a subsidy of up to \$400 per month towards the cost of the vanpool leases.

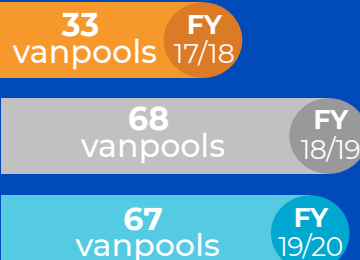
They also serve as a public transportation alternative in areas that are hard to serve by transit and can be an amenity for employers to attract and retain employees.

RCTC VANCLUB

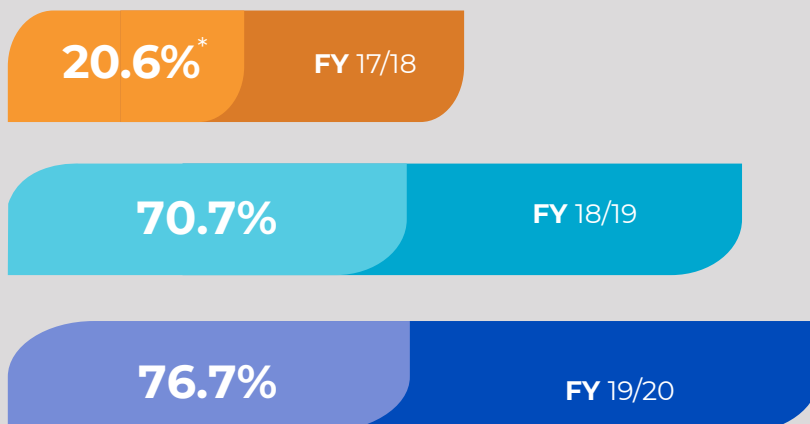
Revenue Service Hours



Average Vanpools per Month



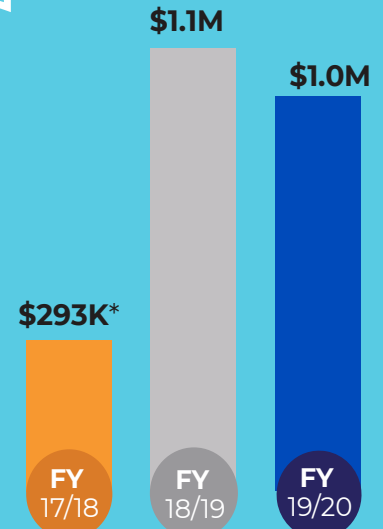
Farebox Recovery Ratio



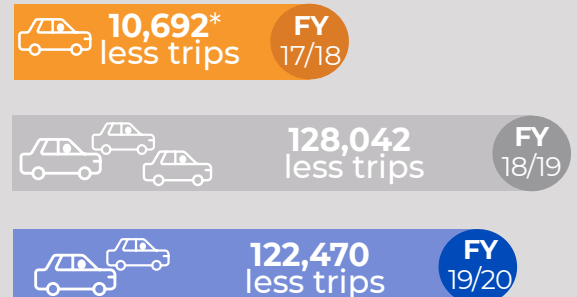
*FY 17/18 only includes 2 months of information



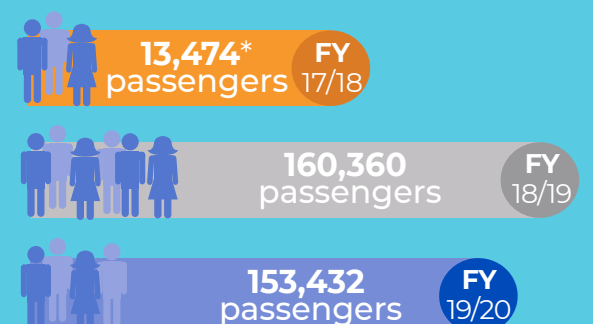
Total Operating Costs



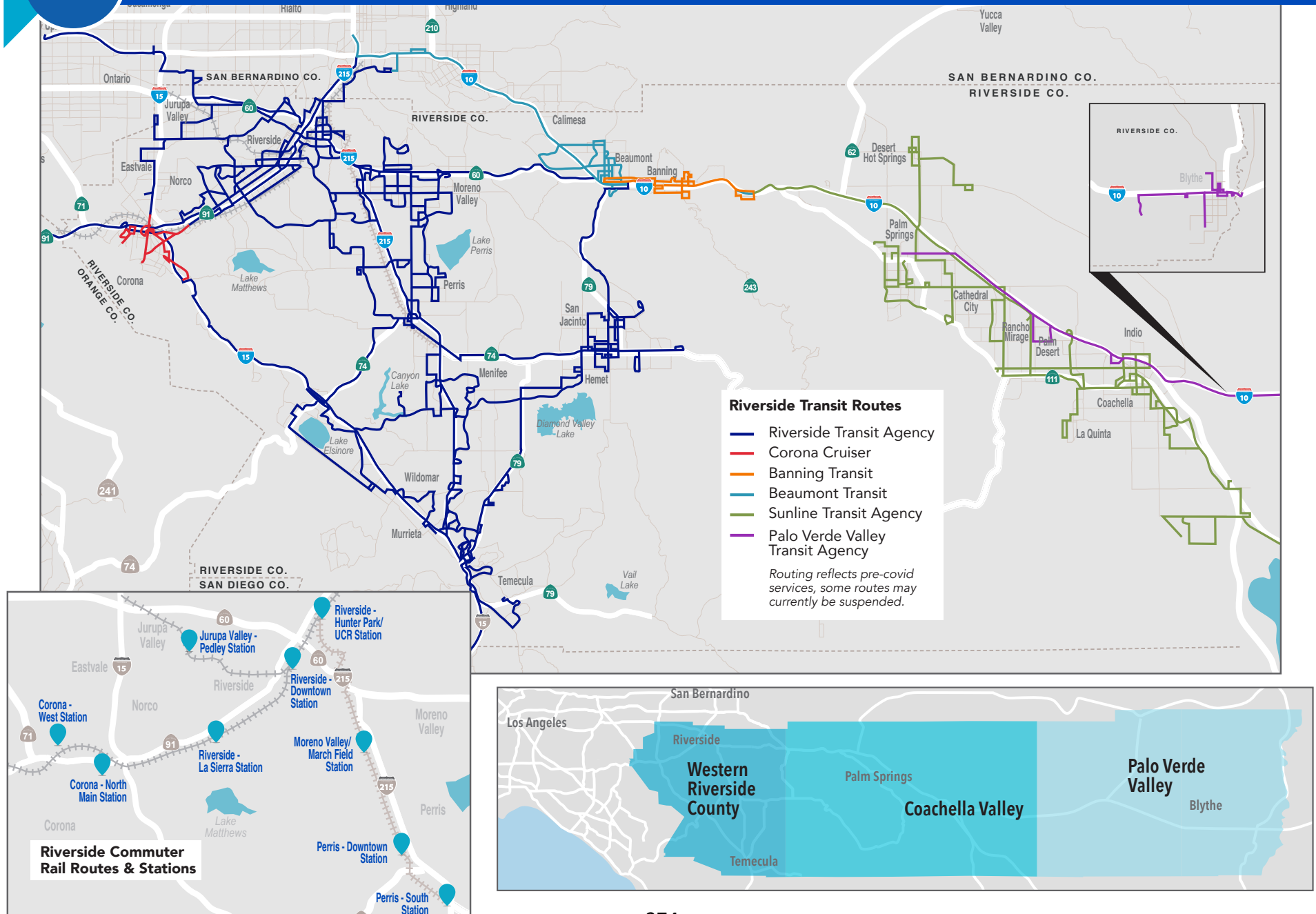
Single Occupancy Vehicle Trips Eliminated



Passenger Boardings in Western Riverside County



Riverside County Transit Routes



AGENDA ITEM 9

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	July 14, 2021
TO:	Riverside County Transportation Commission
FROM:	Budget and Implementation Committee Brian Cunanan, Commuter & Motorist Assistance Manager
THROUGH:	Anne Mayer, Executive Director
SUBJECT:	Fiscal Year 2021/22 Commuter Assistance Program Recommendations

BUDGET AND IMPLEMENTATION COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

- 1) Approve Agreement No. 21-41-123-00 among the Riverside County Transportation Commission (Commission), San Bernardino County Transportation Authority (SBCTA), Los Angeles County Metropolitan Transportation Authority (LACMTA), Orange County Transportation Authority (OCTA), and Ventura County Transportation Commission (VCTC), for a total contract amount of \$977,719 for Regional Rideshare Software over a three-year term, including the Commission's total share of \$186,444 inclusive of \$18,000 in contingency;
- 2) Approve Agreement No. 20-41-090-01, Amendment No. 1 to Agreement No. 20-41-090-00, with SBCTA for Rideshare Program Implementation, removing Rideshare and Vanpool Software expenses from the Scope of Work and incorporating them into Agreement No. 21-41-123-00;
- 3) Approve Memorandum of Understanding No. 21-41-122-00 between LACMTA, OCTA, RCTC, SBCTA, and VCTC to merge and consolidate the agencies' rideshare databases;
- 4) Adopt Resolution No. 21-013, *"Resolution of the Riverside County Transportation Commission Adopting Amended Guidelines for the Administration of the Measure A Funded Commuter Incentive Projects as Part of Its Commuter Assistance Program"*; and
- 5) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreements on behalf of the Commission.

BACKGROUND INFORMATION:

While much of the Commission's work focuses on enhancing transportation infrastructure, there is significant value in ensuring the transportation systems are used efficiently. To foster more efficient use of the transportation network, the Commission's Commuter Assistance Program (CAP) works to increase the awareness and consideration of all commute options and incentives available to commuter constituents and to increase consideration for alternative modes of transportation such as riding a bus or train, carpooling, vanpooling, walking, bicycling, or teleworking. As such, the Commission implemented the CAP as a specific requirement under the

2009 Measure A Western County Public Transit program to address congestion mitigation. In addition to improving mobility overall, commuter assistance or ridesharing helps improve the quality of life on the commuter front, helps to lower costs and increase productivity on the employer front, and has a positive impact on the environment.

Inland Empire Commuter Programs

High volumes of intercounty travel and proximity between Riverside and San Bernardino counties serve as the foundation for bi-county commuter programs between the Commission and SBCTA. SBCTA has contracted with the Commission to develop, implement, and manage a CAP for San Bernardino County since 1993.

Rideshare Program Administration

Administration and outreach for this bi-county effort is coordinated and funded between Commission and SBCTA staff and ultimately performed through consultant services. In May 2015, following a competitive bid, the Commission awarded an agreement to WSP for CAP administration and marketing. In 2018, the contract was amended to include the implementation and ongoing operation of the Commission's vanpool program (VanClub). WSP's program administration and outreach scope includes:

- **Program Outreach** – Outreach targeting employers to establish rideshare programs at worksites throughout Riverside and San Bernardino counties. Marketing campaigns are provided to employer partners and distributed to their respective employee base. Online advertising, social media, events, and regional promotions such as Rideshare Week engage commuters directly.
- **Employer Services** – Various services to employers in the bi-county area including the provision of marketing promotions, rideshare survey processing, employer network meetings, and event support. The program administrator also assists employers with average vehicle ridership calculations related to the South Coast Air Quality Management District Rule 2202 requirements for employers with 250 or more employees.
- **Rideshare Incentives** – Incentives focused on increasing consideration for alternative commute modes including: (a) \$2/Day Rideshare Incentive for new rideshare participants that try ridesharing to work for a three-month trial period; (b) Rideshare Plus rewards for consistent rideshare behavior with access to discounts to local and national merchants, powered by Entertainment®; and (c) Rideshare Rewards Spotlight monthly rewards random drawing to encourage commuters to continue ridesharing and logging their rideshare miles.
- **Guaranteed Ride Home** – A guaranteed ride home at no cost to employees who rideshare to work in the event of an emergency or unexpected overtime by them or the driver of their rideshare arrangement (maximum two per year).
- **Ridematching and Information Services** – Commuter and employer access to online tools and resources, call center (866-RIDESHARE) and chat services during business hours for

those interested in assistance with ridematching or transit options and to address general rideshare questions.

- IE Commuter – The online system and brand launched in FY 2014/15 under which employer and commuter rideshare services are provided in western Riverside County and San Bernardino County.
- VanClub – The Commission’s vanpool program subsidizing eligible vanpools destined for worksites in western Riverside County.
- Telework Employer Assistance – Provision of telework resources and incentives.

This suite of commuter incentives, employer programs, and outreach is designed to reduce the number of single-occupant vehicle miles related to work commutes and to help improve regional mobility and air quality. Based purely on IE Commuter rideshare incentive participation alone, it is estimated that WSP’s efforts to date have translated into approximately 34.9 million miles reduced and 49.7 million pounds of pollutant emissions reduced.

Rideshare/Vanpool Software and Database

In addition to the administration and outreach elements of the program, another critical component of the CAP is the web-based system that hosts the commuter database, facilitates ridematching, and provides a variety of features and tools to commuters, employer partners, and consultant staff to support rideshare and vanpool program efforts.

In June 2019, the Commission approved the current agreement with SBCTA continuing a bi-county program and added the first step toward regionalization of the rideshare system and database. Traditionally, this agreement is a one-way reimbursable agreement with SBCTA reimbursing the Commission for program administration. The current agreement established a two-way reimbursable agreement that added reimbursement to SBCTA for rideshare software, which transitioned the Commission’s and SBCTA’s bi-county Inland Empire (IE) Commuter rideshare program and the Commission’s vanpool program to the same rideshare software that LACMTA, OCTA and VCTC utilize, (regional rideshare software).

The Commission and SBCTA fully transitioned the IE Commuter rideshare program and the Commission’s vanpool program to the regional rideshare software in July 2020, available at IECommuter.org and VanClub.net, respectively. Now that the regional rideshare agencies operate on the same software, focus has shifted to merging the regional rideshare agencies’ rideshare databases, also referred to as the “consolidated database”.

DISCUSSION:

The Commission has approved efforts toward regionalization of commuter services elements that are cost effective and enhance value and service to commuter constituents and employer partners. The following discussion and recommendations reflect additional steps toward that end and layers in additional recommendations to help ramp transit back up and consideration for all alternative modes of transportation.

Recommendation for Regional Agreements

The last step toward a consolidated database for the region is to merge the current regional rideshare databases (Riverside/San Bernardino County and Los Angeles/Orange/Ventura County databases). As such, staff recommends approval of Agreement No. 21-41-123-00 for Regional Rideshare Software that will authorize SBCTA to make the regional rideshare software available to the Commission, LACMTA, OCTA, and VCTC through June 30, 2024. Incorporating the regional rideshare software and database under one contract will assist in future coordinated efforts and modifications to the regional rideshare software and database, including jointly procuring future software and database services, with no interruptions to the consolidated database. The cost for the Regional Rideshare Software is \$977,719 and will be shared among the agencies based on county population share, similar to how the regional rideshare agencies implement other activities. Accordingly, the Commission's cost is \$186,444, which includes an \$18,000 contingency amount for Commission-specific or regional modifications and/or enhancements.

Concurrent with approval of the Regional Rideshare Software Agreement, staff also recommends approval of Amendment No. 1 to Agreement No. 20-41-090-00 between the Commission and SBCTA for the bi-county commuter assistance program administration and rideshare software. This amendment removes SBCTA's provision of that portion of the rideshare software that is now incorporated in the five-party Regional Rideshare Software Agreement.

Lastly, staff recommends approval of Memorandum of Understanding (MOU) No. 21-41-122-00 among the Commission, SBCTA, VCTC, OCTA and LACMTA to merge and consolidate the agencies' rideshare databases. This MOU sets forth the data ownership, privacy, confidentiality and responsibilities of the regional rideshare agencies as users of the regional rideshare consolidated database.

In addition to providing a more cost-effective framework while enhancing the service to commuter and employer constituents, the agreements associated with the regional rideshare program will allow the regional rideshare agencies to be on the same contract terms, share costs in software modifications as needed and more easily jointly procure software and maintenance of the regional rideshare consolidated database going forward.

The aforementioned recommendations set the stage for regional consistency of the rideshare system and database used by thousands of worksites and hundreds of thousands of commuters throughout the five-county southern California region. The following recommendation seeks to establish consistency for Commission CAP operated programs, services, and incentives to employers and commuter constituents throughout the County.

Recommendation for Countywide Commuter Assistance Program in Riverside County

Transportation Demand Management (TDM) efforts to transition SOV drivers to rideshare and/or telework arrangements has a significant and beneficial impact on mobility by significantly reducing regional trips, vehicle miles traveled, and emissions emitted. As such, the Commission's

CAP was implemented in Western Riverside County as a specific requirement under Measure A to help address congestion mitigation related to work commutes. Through the distribution of commute information and incentives, IE Commuter is a TDM tool of the CAP that supports increasing awareness and consideration for rideshare and/or telework amongst single occupancy vehicle (SOV) drivers.

While the Commission does make an effort to work with Coachella Valley employers through the IE Commuter program, due to differences in Measure A funding streams, the Commission is currently not able to offer its \$2/day Rideshare Incentive to Riverside County commuter constituents outside of Western Riverside County. This leaves the CAP without a valuable tool in to help motivate ridesharing arrangements and reduce SOV behavior amongst Coachella Valley employers or employers with Coachella Valley residents. Another consequence is confusion and inequity for employers with employees from Riverside County but not eligible for the same incentive because they live in different geographic areas of the same county. Expanding the IE Commuter incentive's eligibility can address this confusion and help stimulate rideshare activity in eastern Riverside County based on success leveraging the incentive by employers with eligible commuter employees from western Riverside County and San Bernardino County and from direct feedback received by IE Commuter consultant staff from Coachella Valley employers.

Staff requested an estimate from WSP to expand the IE Commuter program to support a concerted effort to engage, recruit, and administer IE Commuter program participation from new employer partners and commuters in eastern Riverside County. The total estimate of \$359,300 is comprised of labor, travel, and incentives. The labor portion of \$180,300 supports the addition of one full-time WSP Employer Services Representative that would focus on eastern Riverside County, and the incentive portion of \$173,000 reflects projected incentive amounts passed through directly to commuter participants.

Staff recommends revising WSP's scope of work via an administrative amendment to support an eastern Riverside County expansion and to update incentive eligibility requirements (addressed in next section). Based on the balance available in the WSP contract and projected expenses for FY 2021/22 to support the core CAP, no additional authorization to the contract value is needed to accommodate the one-year pilot program expansion. Funding to support this demonstration effort has been allocated from Service Authority for Freeway Emergency (SAFE) funds in the recently approved FY 2021/22 budget. SAFE funds are traditionally applied to the Commission's Motorist Assistance programs such as Freeway Service Patrol, Call Box, and 511 traveler information services; however, TDM is also an eligible application. Staff will monitor and report on IE Commuter employer recruitment, incentive participation, resulting trips, miles, and emissions reduced while exploring sustainable funding options toward a permanent Countywide CAP program beyond FY 2021/22.

Recommendation for Measure A Resolution

The next 12 months mark a critical window of opportunity as employers and commuters continue to navigate past the COVID-19 pandemic and an eventual transition back to the worksites (or not)

in the new “normal.” For returning employees with a commute, full or part-time at the worksite, the CAP seeks to maximize consideration and adoption of alternative transportation modes before they can settle back in to a permanent SOV pattern.

As such, concurrent with approval of recommendations supporting a Countywide CAP in Riverside County, staff also requests adoption of a Measure A resolution to strengthen the incentives available in western Riverside County while expanding eligibility to eastern Riverside County commuter constituents. The resolution is structured such that the expansion may continue beyond the one-year pilot term should non-Measure A funding options be available and at the Executive Directors discretion. Below is a summary of the recommendations reflected in the attached resolution:

- Replace the \$2/Day Rideshare Incentive with a new \$5/Day Rideshare Incentive: The purpose of the new incentive is to stimulate consideration for ridesharing by providing a compelling incentive for commuters to try ridesharing for a minimum of three months. Staff also recommends establishing a maximum payout of \$125 per eligible participant. Incentives are provided in gift cards (Amazon, Stater Bros, or Target) to the employer transportation coordinator to distribute to eligible employees. This incentive structure establishes a more compelling offering while maintaining a cap commensurate with the current incentive.
- Allow concurrent participation in \$5/Day Rideshare Incentive and vanpool subsidy programs: As currently structured, Riverside County commuters who join or start a new vanpool that is subsidized (group benefit) are excluded from participating in the startup rideshare incentive (individual benefit). All forms of transit, including subsidized vanpools, experienced significant decreases in ridership due to the COVID-19 pandemic. This recommendation seeks to undo this restriction to assist in new vanpool formation and to align with the SBCTA’s guidelines which allow for stacking and for consistency within the IE Commuter program.
- Provide an extra \$100 subsidy for eligible VanClub vanpools that are also zero emission: Commute with Enterprise, an approved VanClub vanpool vendor has added a zero-emission vanpool option available to participants. Adoption of this vehicle option helps reduce congestion while also providing the highest emission reduction benefit; however, zero emission vanpool vehicles are more costly to lease. As such, staff recommends an incremental incentive to help foster adoption of zero emissions vanpools for VanClub and for parity with other local vanpool subsidy programs such as SBCTA’s SB Loop and Sunline’s SolVan programs. Concurrent with the approval of this specific recommendation, staff will administratively amend the scope of existing VanClub vanpool vendors to reflect the special subsidy amount for zero emission vanpool vehicles.
- Expand eligibility of all CAP incentives to eastern Riverside County commuter constituents: Riverside County is the only county with a bifurcated TDM program. The goal of this recommendation is to demonstrate the potential for a standardized CAP and

eligibility of incentives across all of Riverside County in FY 2021/22 while exploring funding options to maintain this countywide CAP going forward. Riverside County commuters are burdened with some of the longest commutes in the region and have the most to gain from discovering and converting to an alternative commute to work. Ridesharing as opposed to driving oneself to work can have a profound impact to an individual's quality of life, particularly those with longer commutes. Funding has been identified and included in the FY 2021/22 budget to support a one-year term for this expansion.

- Expand eligibility (temporary basis only) of the \$5/Day program to out of county participants: In addition to updating the resolution to incentivize commuters originating from any part of Riverside County, staff recommends expanding eligibility to also include incentivizing commuters, regardless of their county origin, commuting to worksites in Riverside County, on a temporary basis in FY 2021/22. The temporary nature of this "promotion" generates urgency and helps to stimulate a rideshare reset reducing congestion both in to and out of the county.

The proposed restructuring of the incentives and eligibility with the adoption of the attached resolution will provide a compelling incentive package to help support CAP goals through FY 2021/22. Major objectives for the CAP include restarting rideshare/transportation programs amongst core employer partners, expanding beyond the CAPs traditional target markets to grow the number of and participation from a broader based of employers and commuters in the region, and to help ramp up all forms of transit.

FISCAL IMPACT:

All expenses pertaining to the recommendations are reflected in the CAP approved FY 2021/22 budget. Staff does not anticipate requiring any contract cost modifications to the WSP contract or budget adjustments to support staff recommendations, but staff will report on performance and reassess during the mid-year budget adjustment process.

Financial Information						
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$429,608 \$116,136	
Source of Funds:	2009 Measure A Western County Commuter Assistance and SAFE funds			Budget Adjustment:	No N/A	
GL/Project Accounting No.:	002126 65520 00000 0000			263 41 65520	\$132,618	
	002187 65520 00000 0000			263 41 65520	\$53,826	
	632107 81001 00000 0000			263 41 81001	\$186,300	
	632107 81030 00000 0000			263 41 81002	\$173,000	
Fiscal Procedures Approved:	<i>Theresa Irwin</i>			Date:	06/21/2021	

Attachments:

- 1) Regional Rideshare Software Agreement No. 21-41-123-00 (draft)

- 2) Regional Rideshare MOU No. 21-41-122-00 (draft)
- 3) SBCTA Rideshare Agreement Amendment No. 20-41-090-01 (draft)
- 4) Measure A Resolution No. 21-013

Approved by the Budget and Implementation Committee on June 28, 2021

In Favor: 12 Abstain: 0 No: 0

AGREEMENT NO. 21-1002572**REGIONAL RIDESHARE SOFTWARE AGREEMENT**

This Agreement for Services (“AGREEMENT”) is entered into between the Los Angeles County Metropolitan Transportation Authority (“LACMTA”), Orange County Transportation Authority (“OCTA”), Riverside County Transportation Commission (“RCTC”), San Bernardino County Transportation Authority (“SBCTA”) and the Ventura County Transportation Commission (“VCTC”) (each individually a “Party” and collectively the “Parties”) for the Provision of the Regional Rideshare Software (the “Project”).

1. **WHEREAS**, SBCTA has entered into Contract No. 19-1002203 with Trapeze Software Group, Inc. (“Trapeze”), whereby Trapeze provides services and licenses software to support a regional rideshare database (“Regional Rideshare Software”);
2. **WHEREAS**, the Parties desire to enter into this AGREEMENT for SBCTA’s provision of the Regional Rideshare Software as part of the effort to continue coordination of regional rideshare services.
3. **WHEREAS**, the goal of the Project is to maintain and enhance the Regional Rideshare Software, which is necessary to encourage commuters to carpool, vanpool, take bus and rail, telecommute, bike and walk to Southern California worksites;
4. **WHEREAS**, the Parties under a separate Memorandum of Understanding will consolidate their rideshare databases into a single, 5-county regional rideshare database (“Consolidated Database”) to better serve the traveling population of the region;
5. **WHEREAS**, SBCTA has agreed to perform services necessary to implement the Project on the terms and conditions contained herein;

NOW, THEREFORE, the Parties to this AGREEMENT agree to the following terms and conditions:

1. SCOPE OF SERVICES

- A. The Parties understand and agree that LACMTA, OCTA, RCTC and VCTC are intended third-party beneficiaries of the Regional Rideshare and Vanpool Program Online System Agreement dated September 5, 2019 (Contract No. 19-1002203) as amended between SBCTA and Trapeze Software Group, Inc. (“Trapeze”). The foregoing referenced Agreement, attached as Attachment A, is referred to herein as the ‘Software Agreement.’ The Parties agree to comply with Attachment 1, Software License and Maintenance Agreement, to the Software Agreement. SBCTA and its subcontractors shall furnish all technical and professional services necessary to fully and adequately perform the tasks set forth in Exhibit C of the Software Agreement (the “Services”).
- B. SBCTA shall perform the Services in accordance with the Budget attached as Attachment

B, which is incorporated herein by reference. A Party(s) may request a modification to the Regional Rideshare Software as further outlined in Section 10 and SBCTA may release contingency funds as allocated in the budget provided the Party requesting the modification provides written approval of such release of contingency, and further provided the total budget amount is not exceeded.

- C. SBCTA understands that some Party(s) may utilize Congestion Mitigation & Air Quality (“CMAQ”) Funding for this Project and will administer the Project in accordance with CMAQ Guidelines, as adopted or amended.

2. TERM

- A. This AGREEMENT shall commence on July 1, 2021, and terminate on June 30, 2024, or until otherwise terminated, or unless extended as hereinafter provided by written amendment, except that all indemnity obligations hereunder shall survive termination of this AGREEMENT.
- B. All eligible Project expenses as outlined in this AGREEMENT shall be reimbursed in accordance with the terms and conditions of this AGREEMENT unless otherwise agreed to by the Parties in writing.
- C. Should a Party(s) determine there are insufficient Funds available for the Project or wish to terminate this AGREEMENT for convenience, the terminating Party(s) may terminate their participation in the AGREEMENT by giving written notice to each Party by April 1st of each year. The termination date will be effective as of July 1st of the same year the written notice was provided. If a Party terminates its participation in the AGREEMENT pursuant to this section, the terminating Party(s) will not reimburse SBCTA any costs incurred after the termination date, except Trapeze Work Orders approved by the terminating Party(s) prior to the termination notice, for which work has commenced by Trapeze. The terminating Party(s) share of these costs will be consistent with the established funding percentages outlined in the AGREEMENT.

3. PAYMENT OF COMPENSATION

LACMTA, OCTA, RCTC and VCTC shall reimburse SBCTA for the amounts set forth below (the “Funds”) for the Project:

- A. LACMTA shall reimburse SBCTA an amount not to exceed FOUR HUNDRED NINETY-FOUR THOUSAND, ONE HUNDRED FIVE DOLLARS (\$494,105) for the actual costs of the Services provided under this AGREEMENT, subject to the terms and conditions contained herein.
- B. OCTA shall reimburse SBCTA an amount not to exceed ONE HUNDRED THIRTY-SEVEN THOUSAND, FOUR HUNDRED SIXTY-SIX DOLLARS (\$137,466) for the actual costs of the Services provided under this AGREEMENT, subject to the terms and conditions contained herein.

- C. RCTC shall reimburse SBCTA ONE HUNDRED EIGHTY SIX THOUSAND, FOUR HUNDRED FOURTY-FOUR DOLLARS \$186,444 for the actual costs of the Services provided under this AGREEMENT, subject to the terms and conditions contained herein.
- D. SBCTA shall be responsible for an amount not to exceed ONE HUNDRED TWENTY FIVE THOUSAND, TWO HUNDRED NINE DOLLARS (\$125,209) for the actual costs of the Services provided under this AGREEMENT, subject to the terms and conditions contained herein.
- E. VCTC shall reimburse SBCTA an amount not to exceed THIRTY FOUR THOUSAND, FOUR HUNDRED NINETY-FIVE DOLLARS (\$34,495) for the actual costs of the Services provided under this AGREEMENT, subject to the terms and conditions contained herein.
- F. All costs, if any, associated with the initial implementation of the Consolidated Database will be at no cost to LACMTA, OCTA and VCTC. RCTC and SBCTA will share the initial costs associated with the Consolidated Database as outlined in this AGREEMENT.
- G. The Parties shall jointly fund the Project and contribute their share of the Project as outlined in Attachment B.
- H. All disbursements of Funds shall be on a reimbursement basis only. Such disbursements of Funds shall be considered an estimate subject to adjustment based on any Party's audit results.
- I. Under no circumstances will the total amount of money paid to SBCTA for the Services exceed the Funds, unless otherwise agreed to by the Party(s) in writing.

4. INVOICING

- A. All invoices will be provided to LACMTA, OCTA, RCTC and VCTC on a quarterly basis for only those quarters in which Services have been rendered. The quarterly invoice shall include all appropriate documentation (such as contractor invoices, receipts, etc.). All supporting documents must include a clear justification and explanation of their relevance to the Project.
- B. LACMTA, OCTA, RCTC and VCTC shall make payment to SBCTA within forty-five (45) calendar days after receipt of SBCTA's invoice prepared in accordance with instructions above

Invoices shall be addressed to:

LACMTA

Accounts Payable
P.O. Box 512296
Los Angeles, CA 90051-0296
AccountsPayable@metro.net
Re: AGREEMENT 21-1002572

OCTA

Accounts Payable
P.O. Box 14184
Orange, CA 92863-1584
vendorinvoices@octa.net
Re: AGREEMENT 21-1002572

RCTC

Accounts Payable
PO BOX 12008
Riverside, CA 92502-2208
ap@rctc.org
Re: AGREEMENT 21-1002572

VCTC

Commuter Services
751 E. Daily Drive #420
Camarillo 93010
cgrasty@goventura.org
Re: AGREEMENT 21-1002572

Payments shall be addressed to:

SBCTA

1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410

5. AUDIT REQUIREMENTS/PAYMENT ADJUSTMENTS

- A. LACMTA, OCTA, RCTC and VCTC, and/or their designee(s), shall have the right to conduct audits of the Project, as deemed appropriate. LACMTA, OCTA, RCTC and VCTC may commence a final audit within six months of receipt of acceptable final invoice. SBCTA agrees to establish and maintain proper accounting and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). SBCTA shall reimburse LACMTA, OCTA, RCTC and VCTC for any expenditure not in compliance with the Scope of Services and/or not in compliance with other terms and conditions as defined by this AGREEMENT. SBCTA's expenditures submitted to LACMTA, OCTA, RCTC and VCTC for this project shall be in compliance with 2 CFR Subtitle A, Chapter II Part 225 Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A87).
- B. SBCTA's records shall include, without limitation, accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files (including documentation covering negotiated settlements) and invoices, (all collectively referred to as "Records"), which Records shall be open to inspection and subject to audit and reproduction by LACMTA, OCTA, RCTC and VCTC auditors or authorized representatives to the extent deemed necessary by LACMTA, OCTA, RCTC and VCTC to adequately permit evaluation of expended costs. These records must be retained by

SBCTA for three years following final payment under this AGREEMENT.

6. DEFAULT

A Default under this AGREEMENT is defined as failure of a Party(s) to comply with the terms and conditions contained herein including but not limited to; (i) A Party(s) fails failure to comply with the Attachment 1 to the Software Agreement; (ii) A Party(s) authorizes a Trapeze Work Order as noted in Section 10 without SBCTA participation; (iii) SBCTA authorizes a Trapeze Work Order as noted in Section 10 prior to obtaining written approval from the Party(s).

A waiver by a Party(s) of one default of another Party(s) shall not be considered to be a waiver of any subsequent default of the other Party(s), of the same or any other provision, nor be deemed to waive, amend, or modify this AGREEMENT.

7. REMEDIES:

- A. In the event of a Default by a Party(s), the non-Defaulting Party(s) shall provide written notice of such Default to the Defaulting Party(s) identifying the Default and providing a 30-day period in which to cure the Default. In the event the Defaulting Party(s) fails to cure the Default or commit to cure the Default and commence the same within such 30-day period to the satisfaction of the non-Defaulting Party(s), the following shall apply:
 - 1. If SBCTA is the Defaulting Party: (i) The non-Defaulting Party(s) may terminate their participation in this AGREEMENT; (ii) the non-Defaulting Party(s) may cease making disbursements of Funds to SBCTA, except that the non-Defaulting Party(s) shall reimburse SBCTA for Services provided prior to the event constituting the Default; and/or (iii) the non-Defaulting Party(s) may recover damages and/or expenses from SBCTA's default to the extent allowed by law or in equity.
 - 2. If LACMTA, OCTA, RCTC or VCTC is the Defaulting Party: (i) SBCTA may cease the provision of the Services; and /or (ii) SBCTA may recover damages and/or expenses resulting from the Defaulting Party(s)'s to the extent allowed by law or in equity.
- B. The remedies described herein are non-exclusive. The Party(s) shall have the right to enforce any and all rights and remedies herein or which may be now or hereafter available at law or in equity.

8. COMMUNICATIONS

- A. The Parties shall ensure that all Communication Materials (as defined in 8.B.) contain recognition of the Parties' contribution to the Project. The Parties shall ensure that at a minimum, all Communications Materials shall include (i) the phrase "This project was partially funded by LACMTA, OCTA, RCTC, SBCTA and VCTC" or alternative acceptable minimum language as approved in writing by the Parties; and (ii) the Parties' logos, with the exception of press releases, which do not require the Parties' logos. Prior to

use in Communications Materials, each Party verify and approve, in writing, the correct logo. .

- B. For purposes of this AGREEMENT, “Communications Materials” include, but are not limited to, literature, newsletters, publications, websites, advertisements, brochures, maps, information materials, video, radio and public service announcements, press releases, press event advisories, and all other related materials.
- C. The Parties shall ensure that any subcontractor, including, without limitation, public relations, public affairs, and/or marketing firms hired by a Party(s) to produce Communications Materials related to this Project will comply with the requirements contained in this Section.

9. OWNERSHIP OF MATERIALS/EQUIPMENT/CONFIDENTIALITY/USE OF DATA

- A. Ownership and Use Rights. Ownership and the right to use all documents, Data, Software or Successor Software (as defined in Section 10), and materials shall be in accordance with the Software Agreement. This AGREEMENT does not confer upon any Party any right or interest in any other Party’s collected or owned technical data.
- B. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials, either created by or provided to a Party in connection with the performance of this AGREEMENT shall be held confidential by that Party. No other Party shall use such materials for any purposes other than the performance of the Services without the prior written consent of the Party from which the materials were obtained. Nor shall such materials be disclosed to any person or entity for any purpose other than the performance of the Services. Nothing furnished to a Party which is otherwise known to another Party or is generally known, or has become known, to the related industry shall be deemed confidential. Except as required by Section 8 of this AGREEMENT, the Parties shall not use any other Party’s name or insignia, photographs of the project, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of that Party.

10. SOFTWARE LICENSING AGREEMENT AND PROVISIONS FOR USE

- A. Software Licensing for the Regional Rideshare Software and products required under this AGREEMENT shall be in accordance with the Software Agreement; in the event of a conflict between the provisions of this AGREEMENT and the Software Agreement, the provisions of the Software Agreement shall control. For the purposes of this AGREEMENT, the below terms are defined as follows:
 - 1. Software: The software programs and products or if the Regional Rideshare Software is replaced, the successor software programs and products, provided such successor software at a minimum performs the same functions as the Regional Rideshare Software, that are licensed to the Parties or to be developed per the Software or Successor Software

Module Enhancements noted in the paragraph below and delivered by SBCTA or its subcontractors to the Parties under the AGREEMENT.

2. Software or Successor Software Enhancements: Enhancements or modifications including but not limited to adding features or modules that are not provided under the Software Agreement and that are made to Software or the Successor Software modules by SBCTA or its subcontractors that are funded by a Party(s) or collectively the Parties hereunder for the Project.

3. Data: The information, whether in hard copy, database, keypunch or other formats, which is used as input to the Software or Successor Software or which is or has been generated, collected, analyzed, created, prepared or developed by SBCTA, or its respective subcontractors for the performance of the Project which is funded hereunder.

- B. A Party(s) may request that SBCTA's subcontractors generate Software or Successor Software Enhancements using contingency funds identified in the Budget, Attachment B. The requesting Party(s) may work directly with SBCTA's subcontractors to develop a Work Order for the requested modification(s), but the Work Order provided by SBCTA's subcontractors shall be approved and signed by SBCTA to ensure there is sufficient budget for the enhancement(s). The cost share of the Work Order will be determined based on the number of participating Party(s). If there is only one participating Party, the cost will be the sole responsibility of that Party. If multiple Party(s) participate, the cost will be shared by population share of the participating Party(s) or as otherwise agreed by the participating Party(s). The cost share for each Work Order will be outlined and attached to the Work Order, along with the written approval of all participating Parties, including SBCTA.

The following shall apply for the Software or Successor Software and when any Enhancements (Software or Successor Software) developed for the Project:

1. SBCTA's subcontractors shall deliver the Software or Successor Software and Software or Successor Software Enhancements electronically to the Party(s) online websites. The Party(s) shall hold the Software or Successor Software and Software or Successor Software Enhancements, and other written or electronic materials provided by SBCTA's contractors, in confidence, shall use and disclose them only as expressly authorized herein or as required by law and only to its employees, consultants, agents or sublicensees to whom disclosure is necessary for the performance and exercise of its rights hereunder, and shall take reasonable steps to ensure that unauthorized persons will have no access to them.
2. The Party(s) shall not sell, license or otherwise transfer any interest in the Data, Software or Successor Software, Software or Successor Software Enhancements, or other materials developed for utilization in the Project, without the prior written permission of each of the Party(s).

11. SUBCONTRACTORS

SBCTA shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of the Parties. The Parties understand and agree that Trapeze will be a subcontractor for services under this AGREEMENT, unless the Software is at some time replaced with Successor Software. If SBCTA desires to extend or enter a new agreement with Trapeze beyond the terms identified in Section 2 of this AGREEMENT, written approval is required by the Parties.

12. INDEMNIFICATION

- A. No Party, nor any officers, directors, employees or agents thereof are responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by any other Party under or in connection with any work, authority or jurisdiction delegated to any other Party under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, that each Party shall fully defend, indemnify and save harmless all other Parties, and their officers, directors, employees and agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by the indemnifying Party under or in connection with any work, authority or jurisdiction delegated to the indemnifying Party under this AGREEMENT. This provision shall survive termination of this contract.

13. INSURANCE

- A. Without in any way affecting the indemnity provisions identified in this AGREEMENT, the Parties shall, at their own sole expense, and prior to the commencement of any work, procure and maintain in full force, insurance through the entire term of this AGREEMENT and shall be with at least the limits of liability as identified in this section. Any Party(s) that are a self-insured public entity for purposes of the liabilities identified in this section warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT.
1. *Professional Liability* - Shall be provided in an amount not less than \$1,000,000, per claim and \$2,000,000 in the aggregate. The Parties shall secure and maintain this insurance or “tail” coverage provided throughout the term of this Agreement and for a minimum of three (3) years after Agreement completion.
 2. *Workers' Compensation* - Worker’s Compensation insurance shall be provided in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with \$1,000,000 limits, covering all persons providing services on behalf of the respective Party and all risks to such persons under this Agreement.
 3. *Commercial General Liability* - To include coverage for Premises and Operations,

Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage and Independent Contractors' Liability, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and \$2,000,000 in the aggregate written on an occurrence form. For products and completed operations a \$2,000,000 aggregate shall be provided.

4. *Automobile Liability* - To include owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and in the aggregate written on an occurrence form.
 5. *Network and Privacy Insurance* – Each of the parties shall carry Network and Privacy (Errors and Omissions) insurance in an amount of not less than \$1, 000,000 per claim and \$1,000,000 in the annual aggregate, protecting itself and each Party from the following exposures related to this Agreement:
 - (i) the theft, dissemination and/or unauthorized disclosure or use of confidential information and personally identifiable information (not to be limited to bank information, social security numbers, health information, credit card account information, and confidential corporate information). Such insurance shall also include coverage for credit monitoring, notification expenses and other related costs associated with mitigating a data security or privacy breach; and
 - (ii) the introduction of a computer virus into, or otherwise causing damage to, a computer, computer system, network or similar computer-related property and the data, software, and programs used herein.
 - (iii) If such insurance is maintained on an occurrence basis, the Parties shall maintain such insurance for an additional period of one year following the end of the applicable Term. If such insurance is maintained on a claims-made basis, the parties shall maintain such insurance for an additional period of three years following the end of the applicable Term.
- B. *Proof of Coverage* – SBCTA shall furnish certificates of insurance to the other Parties and the other Parties shall furnish certificates of insurance to SBCTA evidencing the insurance coverage required above, prior to the commencement of performance of service hereunder, and such certificates shall include the other Party as an additional insured on all insurances except Worker's Compensation and Professional Liability. The certificates of insurance must be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Article. If the insurance company elects to cancel or non-renewed coverage for any reason, the responsible Party will provide 30 days' notice of such cancellation or nonrenewal to the other Party. If a Party's policy is cancelled for nonpayment of premium, the applicable Party shall provide the other Party ten (10) days' notice. All certificates of insurance are to include the contract number and Program Manager's name.

14. KEY PERSONNEL AND NOTICES

- A. The Parties have designated the following as key personnel for the Project and will provide written email notice of any key Project staffing changes or other notifications required in this AGREEMENT.

LACMTA: Martin Buford Sr. Manager, Transportation Planning Shared Mobility & Implementation BufordM@metro.net	OCTA: Kristopher Hewkin Marketing Specialist – Vanpool khewkin@octa.net
RCTC: Brian Cunanan Program Manager, Commuter & Motorist Assistance bcunanan@rctc.org	SBCTA: Nicole Soto Mobility Analyst, Transit & Rail nsoto@gosbcta.com
VCTC: Claire Grasty Program Manager, Regional Planning, Rail and TDA Programs cgrasty@goventura.org	

- B. Any and all notices permitted or required to be given hereunder shall be deemed duly given and received (a) upon actual delivery, if delivery is personally made or if made by email during regular business hours, or (b) the first business day following delivery by email when not made during regular business hours. Each such notice shall be sent to the respective Party(s) at the email address indicated above or to any other email address as the respective Party(s) may designate from time to time by a notice given in accordance with this Section. A Party shall notify all other Parties of any contact information changes within five (5) business days of the change.

15. OTHER TERMS AND CONDITIONS

- A. This AGREEMENT shall not be amended, nor any provisions or breach hereof waived, except by written Amendment signed by the Parties.
- B. In the event that there is any legal court (e.g., Superior Court of the State of California or U.S. District Court for the Central District of California) proceeding between the Parties to enforce or interpret this AGREEMENT, to protect or establish any rights or remedies hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorney's fees.

- C. No Party(s) hereto shall be considered in default in the performance of its obligation hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, acts of a public enemy, pandemics, and government acts beyond the control and without fault or negligence of the affected party. Each Party hereto shall give notice promptly to the other Parties of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this AGREEMENT.
- D. SBCTA shall comply with and ensure that work performed under this AGREEMENT is done in compliance with Generally Accepted Accounting Principles (GAAP), all applicable provisions of federal, state, and local laws, statutes, ordinances, rules, regulations, and procedural requirements including Federal Acquisition Regulations (FAR).
- E. SBCTA shall not assign this AGREEMENT, or any part hereof, without prior written approval of each Party, and any assignment without said consent shall be void and unenforceable.
- F. This AGREEMENT shall be governed by California law. If any provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.
- G. The covenants and agreements of this AGREEMENT shall inure to the benefit of, and shall be binding upon, each of the Parties and their respective successors and assigns.
- H. SBCTA in the performance of the work described in this AGREEMENT is not a contractor nor an agent or employee of LACMTA, OCTA, RCTC or VCTC. SBCTA attests to no organizational or personal conflicts of interest and agrees to notify LACMTA, OCTA, RCTC and VCTC immediately in the event that a conflict, or the appearance thereof, arises. SBCTA shall not represent itself as an agent or employee of LACMTA, OCTA, RCTC or VCTC and shall have no powers to bind LACMTA, OCTA, RCTC or VCTC in contract or otherwise.
- I. This AGREEMENT may be executed in counterparts, each of which shall constitute an original. 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 so long as the signature complies with Government Code § 16.5 and the Uniform Electronic Transactions Act, Civil Code §§ 1633.1 et seq.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives as of the dates indicated below:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____
Phillip A. Washington Date
Chief Executive Officer

APPROVED AS TO FORM:

Rodrigo A. Castro-Silva
County Counsel

By: _____
Deputy Date

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives as of the dates indicated below:

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
Georgia Martinez Date
Department Manager,
Contracts and Procurement

APPROVED AS TO FORM:

By: _____
James M. Donich Date
General Counsel

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives as of the dates indicated below:

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____
Anne Mayer Date
Executive Director

APPROVED AS TO FORM:

By: _____
Best Best & Krieger, LLP Date

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives as of the dates indicated below:

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: _____
 Frank J. Navarro Date
 President, Board of Directors

APPROVED AS TO FORM:

By: Julianna K. Tillquist Date _____
General Counsel

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized representatives as of the dates indicated below:

VENTURA COUNTY TRANSPORTATION COMMISSION

By: _____
 Darren Kettle Date
 Executive Director

APPROVED AS TO FORM:

By: _____
Steven T. Mattas Date
Legal Counsel

AMENDMENT NO. 1 TO COOPERATIVE AGREEMENT NO. 20-1002371**BY AND BETWEEN****SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY****AND RIVERSIDE COUNTY TRANSPORTATION COMMISSION****FOR****THE PROVISION OF RIDESHARE****PROGRAM IMPLEMENTATION**

This Amendment No. 1 to Cooperative Agreement (“Amendment No. 1”) is made and entered into as of July 1, 2021 by and between the San Bernardino County Transportation Authority (“SBCTA”), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and Riverside County Transportation Commission (“RCTC”), located at 4080 Lemon St, Riverside, California 92501. SBCTA and RCTC are each a “Party” and collectively the “Parties”.

RECITALS:

- A. **WHEREAS**, The Parties entered into a Cooperative Agreement dated July 1, 2020 for the Provision of Rideshare and Vanpool Program Implementation and Software (“Cooperative Agreement”); and
- B. **WHEREAS**, The Parties desire to reduce the provision of rideshare and vanpool software from the Cooperative Agreement, the balance of which will be transferred to a new five (5)-county regional rideshare software agreement with Los Angeles County Metropolitan Transportation Authority (LACMTA), Orange County Transportation Authority (OCTA), RCTC, SBCTA and Ventura County Transportation Commission (VCTC); and
- C. **WHEREAS**, The Parties operate a bi-county Rideshare program (“PROJECT”) which provides services and support for each Party’s respective Transit and/or Multi-modal programs (“RIDESHARE AND MULTI-MODAL PROGRAMS ”); and
- D. **WHEREAS**, The Parties desire to add miscellaneous rideshare and multi-modal services required for maintaining and improving the Parties’ RIDESHARE AND MULTI-MODAL PROGRAMS to this agreement, which are either costs shared by RCTC and SBCTA or administered by RCTC on behalf of SBCTA; and
- E. **WHEREAS**, RCTC will engage and has the necessary resources to manage contractors providing miscellaneous rideshare and multi-modal services (“MISCELLANEOUS SERVICE CONTRACTORS”).

NOW THEREFORE, in consideration of the above recitals, and the terms and conditions contained herein, SBCTA and RCTC agree to amend the Cooperative Agreement as follows:

- 1. Capitalized terms used in the Cooperative Agreement and also set forth in the Recitals to this Amendment No. 1 shall have the meaning as set forth in this Amendment No. 1. Capitalized terms not otherwise defined herein shall have the meaning as set forth in the Cooperative Agreement.
- 2. Attachment 1 – Software License and Maintenance Agreement is deleted in its entirety.

3. Exhibit B – SBCTA SOFTWARE CONTRACTOR is replaced with Exhibit B.1.
4. ARTICLE 2. COMPENSATION, Subsection 2.3.2 is deleted in its entirety and replaced with the following:

“2.3.2 That RCTC’s total obligation to SBCTA shall not exceed Two Thousand Five Hundred Dollars (\$2,500), for the services rendered through the SOFTWARE CONTRACTOR.”
5. ARTICLE 4. INDEMNIFICATION AND INSURANCE, Subsection 4.2 is deleted in its entirety and replaced with the following:

“4.2 Without in any way affecting the indemnity provisions identified in this Agreement, RCTC shall, at their own sole expense, and prior to the commencement of any work, procure and maintain in full force, insurance through the entire term of this Agreement and shall be written with at least the following limits of liability:

4.2.1 Professional Liability - Shall be provided in an amount not less than \$1,000,000, per claim and \$2,000,000 in the aggregate. RCTC shall secure and maintain this insurance or “tail” coverage provided throughout the term of this Agreement and for a minimum of three (3) years after Agreement completion.

4.2.2 Workers' Compensation - Workers’ Compensation insurance shall be provided in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with \$1,000,000 limits, covering all persons providing services on behalf of the respective Party and all risks to such persons under this Agreement.

4.2.3 Commercial General Liability - To include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage and Independent Contractors' Liability, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and \$2,000,000 in the aggregate written on an occurrence form. For products and completed operations a \$2,000,000 aggregate shall be provided.

4.2.4 Automobile Liability - To include owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 per occurrence, combined single limit, and in the aggregate written on an occurrence form.

4.2.5 Network and Privacy Insurance – RCTC shall carry, or shall cause its contractors to carry, Network and Privacy (Errors and Omissions) insurance in an amount of not less than \$1,000,000 per claim and \$1,000,000 in the annual aggregate, protecting itself and the other Party from the following exposures relating to RCTC or any of their contractors performance under the Agreement:

(i) the theft, dissemination and/or unauthorized disclosure or use of Confidential Information and personally identifiable information (not to be limited to bank information, social security numbers, health information, credit card account information, and confidential corporate information). Such insurance shall also include coverage for credit monitoring, notification expenses and other related costs associated with mitigating a data security or privacy breach; and

(ii) the introduction of a computer virus into, or otherwise causing damage to, a computer,

computer system, network or similar computer-related property and the data, software, and programs used herein.

If such insurance is maintained on an occurrence basis, RCTC or their contractors shall maintain such insurance for an additional period of one year following the end of the applicable Term. If such insurance is maintained on a claims-made basis, RCTC or their contractors shall maintain such insurance for an additional period of three years following the end of the applicable Term.

4.2.6 Proof of Coverage – RCTC shall furnish certificates of insurance to SBCTA evidencing the insurance coverage required above, prior to the commencement of performance of services hereunder, and such certificates shall include SBCTA as an additional insured on all insurances except Workers' Compensation and Professional Liability. Prior to commencing any work, RCTC shall furnish SBCTA with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Article. If the insurance company elects to cancel or non-renew coverage for any reason, RCTC will provide 30 days' notice of such cancellation or nonrenewal to SBCTA. If RCTC's policy is cancelled for nonpayment of premium, RCTC shall provide SBCTA ten (10) days' notice. RCTC shall maintain such insurance from the time RCTC commences performance of services hereunder until the completion of such Services. All certificates of insurance are to include the contract number and Project Manager's name.

4.2.7 Additional Insured - All policies, except for Workers' Compensation and Professional Liability policies, shall contain endorsements naming SBCTA and its officers, employees, agents, and volunteers as additional insureds with respect to liabilities arising out to the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for SBCTA to vicarious liability but shall allow coverage for SBCTA to the full extent provided by the policy.

4.2.8 Waiver of Subrogation Rights – RCTC shall require the carriers of the above required coverages to waive all rights of subrogation against SBCTA, its officers, employees, agents, volunteers, contractors, and subcontractors. All general auto liability insurance coverage provided shall not prohibit RCTC or its contractors, employees or agents from waiving the right of subrogation prior to a loss or claim. RCTC hereby waives all rights of subrogation against SBCTA.

4.2.9 All policies required to be carried by RCTC herein are to be primary and non-contributory with any insurance carried or administered by SBCTA.

4.2.10 Certificates/Insurer Rating/Cancellation Notice -

(i) RCTC shall maintain and shall require their contractors to maintain such insurance from the time the PROJECT commences until the PROJECT is completed, except as may be otherwise required by this Section.

(ii) RCTC may legally self-insure, but shall require their contractors to place insurance with insurers having an A.M. Best Company rating of no less than A:VIII and licensed to do business in California.

(iii) RCTC and their consultants shall replace certificates, policies and

endorsements for any insurance expiring prior to completion of the PROJECT.”

6. ARTICLE 7. CONFIDENTIAL INFORMATION/NON-DISCLOSURE, Subsections 7.1, 7.2, 7.3 7.4 and 7.5 are deleted in their entirety and replaced with the following:

- “7.1 Confidential Information. “Confidential Information” shall include: all data or information accessible in connection with the PROJECT; all personal information of PROJECT participants, including but not limited to a participant’s residence address, employment address or hours of employment used for the purpose of assisting private entities in the establishment or implementation of carpooling or ridesharing programs and subject to California Penal Code Section 637.6, as well as names, biographical information, demographic information, use data, contact information, or similar personal information of participants; and any and all data, content, materials, documents and/or other information related to the PROJECT designated, from time to time, in writing by the Parties as Confidential Information.
- 7.2 Non-Disclosure. Except as required by law, both Parties shall hold the Confidential Information in confidence, shall take reasonable precaution to protect and keep the Confidential Information confidential, shall not disclose the Confidential Information to any person or party not specifically authorized in writing by the affected Party to receive the Confidential Information, and shall not use the Confidential Information for any purpose other than as necessary to operate the PROJECT. Further, neither Party shall disclose a participant’s personal information, including but not limited to a participant’s residence address, employment address or hours of employment, used for the purpose of assisting private entities in the establishment or implementation of ridesharing programs, to any other person or use such information for purposes other than as necessary to operate the PROJECT, without the prior written consent of the participant, as required by California Penal Code section 637.6. Parties shall limit access to the Confidential Information only to individuals who are directly involved in operation of the PROJECT, and shall further ensure that such individuals are legally bound to maintain the confidentiality of the Confidential Information on substantially the same terms as set forth herein. The foregoing restrictions on disclosure shall not apply to Confidential Information which is (a) becomes, through no act or fault of the recipient, publicly known, b) received by recipient from a third party without a restriction on disclosure or use, (c) independently developed by recipient without reference to the Confidential Information, or (d) is required by law, or process of law, to be disclosed.
- 7.3 Expiration. Immediately upon (a) the expiration or termination of this Agreement, or (b) a request by a Party, the other Party shall turn over to requesting Party all Confidential Information of or directly pertaining to the requesting Party, as identified in Article 6.1, and all documents or media containing any such Confidential Information, and any and all copies or extracts thereof, except that each Party’s legal counsel may retain one copy of all Confidential Information in its office solely for archival legal purposes. The foregoing shall not be interpreted to require the Parties to remove Confidential Information stemming from PROJECT databases to which each Party may be entitled a copy, nor to cease use of such information on termination of this Agreement, provided that such use is for operation of the Rideshare Program.

The Parties recognize that, pursuant to this provision, a Party may request copies of or export files from PROJECT databases containing Confidential Information of commuters and employers participating in the PROJECT. The requesting Party shall be solely responsible for maintaining the confidentiality and security of such data, and shall indemnify the other Party,

pursuant to Article 6.1 of this Agreement, for any claims arising out of use or retention of such data.”

- 7.4 Key Personnel. The Parties shall designate key personnel (“Key Personnel”) requiring access to the RIDESHARE AND MULTI-MODAL PROGRAMS. Key Personnel shall use Confidential Information only and strictly for the operation of the PROJECT, and shall not disclose or share such Confidential Information, whether or not employed or in any way associated with either Party, who has not been specifically approved in writing to receive such Confidential Information.
- 7.5 Non-Disclosure and Confidentiality Agreement. To protect Confidential Information, each Party shall require each of its Key Personnel to execute a Non-Disclosure and Confidentiality Agreement substantially in the form of Exhibit D, attached hereto and incorporated by this reference. Each Party shall provide the other Party a signed Non-Disclosure and Confidentiality Agreement for each Key Personnel designated below or designated from time-to-time by SBCTA's or RCTC's Executive Director or designee, respectively, prior to the Parties' disclosure of any log-in information or other Confidential Information to such Key Personnel. SBCTA and RCTC, respectively, designate the following individuals as Key Personnel requiring access to the PROJECT:

SBCTA	RCTC
Nicole Soto, Mobility Analyst	Brian Cunanan, Program Manager
Nancy Strickert, Transit Manager	Ariel Alcon Tapia, Sr. Management Analyst

”

MISCELLANEOUS PROVISIONS TO AMENDMENT NO. 1

7. The Recitals set forth above are incorporated herein by this reference.
8. Except as amended by this Amendment No. 1, all other provisions of the Agreement shall remain in full force and effect.
9. This Amendment No. 1 is effective upon execution by the Parties.
10. This Amendment No. 1 may be signed in counterparts, each of which shall constitute an original.
11. A manually signed copy of this Amendment No. 1 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 Amendment No. 1 for all purposes. This Amendment No. 1 may be signed using an electronic signature.

-----SIGNATURES ARE ON THE FOLLOWING PAGE-----

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement below.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Curt Hagman
President, Board of Directors

Date: _____

APPROVED AS TO FORM

By: _____
Julianna K. Tillquist
General Counsel

Date: _____

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

By: _____
Anne Mayer,
Executive Officer

Date: _____

APPROVED AS TO FORM

By: _____
Best, Best & Krieger, LLP,
General Counsel

Date: _____

Exhibit B-1– SBCTA SOFTWARE CONTRACTOR

**REGIONAL RIDESHARE CONSOLIDATED DATABASE PROJECT
MEMORANDUM OF UNDERSTANDING NO. 21-1002573**

This MOU is entered into between LACMTA, OCTA, RCTC, SBCTA and VCTC for the Regional Rideshare Consolidated Database Project.

1. **WHEREAS**, SBCTA has entered into Contract No. 19-1002203 with Trapeze, whereby Trapeze provides regional rideshare software to support a regional rideshare database.
2. **WHEREAS**, the Parties have entered into a Regional Rideshare Software Agreement.
3. **WHEREAS**, the Parties desire to enter into this MOU as part of the effort to merge the regional rideshare databases allowing for a Consolidated Database and establish the roles and responsibilities of the Parties for the Project.
4. **WHEREAS**, SBCTA has agreed to perform services necessary to implement the Project through its Contract with Trapeze on the terms and conditions contained herein;

NOW, THEREFORE, the parties to this MOU agree to the following terms and procedures:

1. DEFINITIONS

- A. **Commuter Account Data** - Data related to rideshare participants including, but not limited to, PII
- B. **Confidential Information** - Log-in information and all Software, Data and PII
- C. **Consolidated Database** - 5-county regional rideshare database
- D. **Employer Data** - Data related to employer participants in any Party's rideshare program
- E. **ETC** - Employer Transportation Coordinator
- F. **Initial Term** - Effective as of the date signed by all Parties through July 31, 2021
- G. **Key Personnel** - Designated by the Parties and authorized to access the Consolidated Database
- H. **LACMTA** - Los Angeles County Metropolitan Transportation Authority
- I. **MOU** - Memorandum of Understanding
- J. **OCTA** - Orange County Transportation Authority
- K. **Parties** - LACTMA, OCTA, RCTC, SBCTA and VCTC collectively
- L. **Party** - LACTMA, OCTA, RCTC, SBCTA and VCTC individually
- M. **PII** - Personally Identifiable Information of rideshare participants, including names, phone numbers, home address, employer and work address, email addresses, and any other information that could be used to identify a person
- N. **Primary county rideshare service provider for commuters** – Assigned by commuter home destination
- O. **Primary county rideshare service provider for employers** – Assigned by employer work destination
- P. **RCTC** - Riverside County Transportation Commission
- Q. **Regional Rideshare Software Agreement** - Agreement No. 21-1002572 for SBCTA's provision of the regional rideshare software on behalf of LACMTA, OCTA, RCTC and

VCTC.

- R. **Regional rideshare software** - Services and licenses software to support a regional rideshare database
- S. **Renewal Term(s)** - Additional one year periods following the Initial Term
- T. **Rideshare service provider** - For employers with multiple sites, the location of the applicable ETC or employer's headquarters dictate which Party is the rideshare service provider
- U. **SBCTA** - San Bernardino County Transportation Authority
- V. **The Project** - Implementation and operation of the Consolidated Database
- W. **Trapeze** - Trapeze Software Group, Inc.
- X. **VCTC** - Ventura County Transportation Commission

2. SCOPE OF SERVICES

- A. SBCTA shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, necessary to fully and adequately perform the merger of the two existing rideshare databases. SBCTA will perform the merger at no cost to LACMTA, VCTC or OCTA. RCTC will share in certain costs related to the Project, as per the Regional Rideshare Software Agreement related to such cost sharing.
- B. Once, the merger of the databases has been completed, the Parties agree to participate in quarterly meetings to ensure program continuity and agreed upon software changes and updates to ensure mutually beneficial upgrades for all Parties. Additional meetings can be requested by the Parties as needed.

3. TERM

The Agreement shall be effective as of the date signed by all Parties. Upon expiration of the Initial Term the **MOU** shall automatically renew for additional Renewal Terms. Any Party may withdraw from the MOU at any time by providing the other Parties with written notice of such withdrawal 30 days prior to such withdrawal. Subject to such withdrawal, the Parties shall retain data as identified in Section 8, Ownership of Materials/Equipment/Confidentiality/Use of Data.

4. DEFAULT

A Default under this MOU is defined as any one or more of the following: (i) A Party fails to comply with the terms and conditions contained herein; or (ii) A Party fails to perform its obligations set forth in this MOU.

5. REMEDIES

Any Party that fails to comply with its obligations regarding access to the Consolidated Database, or use and maintenance of PII and other confidential information, as defined below, following written notice of such Default, shall be immediately restricted from access to the Consolidated Database

until the Parties agree on and implement a plan for correction. The Parties shall not unreasonably withhold approval of such plan.

In the event of a Default by any Party not addressed as set forth above, any non-Defaulting party(s) shall provide written notice of such Default to the party in Default providing a 30-day period to cure the Default. In the event the Defaulting party fails to cure the Default, or commit to cure the Default and commence the same within such 30-day period to the satisfaction of the non-Defaulting party(s), such non-Defaulting party(s) may terminate their participation in the MOU. The remedies described herein are non-exclusive. The Parties have the right to enforce any and all rights and remedies herein or which may be now or hereafter available at law or in equity.

6. INDEMNITY

No Party nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by any other Party, or such other Party's contractors, sub-contractors, and/or its agents under or in connection with any activity covered by this MOU. It is understood and agreed that each Party, to the extent permitted by law, will defend, indemnify, and save harmless all other Parties and all of their respective officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, or other theories and assertions of liability occurring by reason of: (i) the indemnifying Party's breach of any obligations under this MOU; or (ii) any negligent act, omission or willful misconduct of the indemnifying Party, or its officers, agents, employees, contractors or subcontractors in connection with the Project; use or storage of any data accessed through the Consolidated Database contrary to the provisions of this MOU.

7. SOFTWARE LICENSING AGREEMENT AND PROVISIONS FOR USE

A. Software Licensing for the computer software and products required under this MOU shall be in accordance with the Regional Rideshare Software Agreement, the provisions of which shall control over the terms of this MOU. For the purposes of this MOU, the below terms are defined as follows:

1. Software: The software programs and products developed or to be developed and delivered to the Parties under the Regional Rideshare Software Agreement.
2. Data: The information, whether in hard copy, database, keypunch or other formats, which is used as input to the Software or which is or has been generated, collected, analyzed, created, prepared or developed by Trapeze, or its respective subcontractors for the performance of the Project, which is used by the Parties for the Project.

B. The following rules shall apply to all Data:

1. The Parties shall hold the Data in confidence, shall use and disclose Data only as expressly authorized in the Regional Rideshare Software Agreement, herein, and only to its employees, agents or sub licensees to whom disclosure is necessary or appropriate for the performance and exercise of its rights hereunder, or as required by

law, and shall take reasonable steps to ensure that unauthorized persons will have no access to them.

2. The Parties shall not sell, license or otherwise transfer any interest in the Data or other materials in some manner developed for utilization in the Program, without the prior written permission of each Party's Executive Officer or designee.
- C. Notwithstanding the foregoing, rideshare participant data, including PII, may be used and disclosed without prior written permission for ridesharing and ridematching purposes in accordance with each respective Party's rideshare program, and the requirements herein. Such data and PII is knowingly and voluntarily provided by participants for purposes of ridesharing and ridematching.

8. OWNERSHIP OF MATERIALS/EQUIPMENT/CONFIDENTIALITY/USE OF DATA

- A. Ownership and Use Rights. Ownership and the right to use all documents, Data, Software and materials shall be in accordance with the Regional Rideshare Software Agreement.
- B. Use of Data. As a user of the Consolidated Database, Data is accessible to the Parties in electronic media as outlined in the Regional Rideshare Software Agreement. Subject to the limits below, Data is accessible 24 hours, 7 days a week to all Parties to input, use, access and manipulate the Data to prepare reports and perform other ridematching functions contemplated by this MOU, or part of a Party's rideshare program. If electronic access to Data is interrupted for a Party(s), Data owned by the Party(s) as outlined below shall be provided upon availability to the Party(s) but no later than 30 days after a written email request has been made to SBCTA or, at the direction of SBCTA, to Trapeze. All Data shall be delivered electronically in electronic media format.

It is the intent of the Parties that Commuter Account Data and Employer Data be accessible as detailed above, subject to the following:

1. A Party shall have access to and shall have non-exclusive ownership of any:
 - i. Commuter Account Data for commuters originating in the county of that Party, regardless of the commuter's destination.
 - ii. Commuter Account Data for commuters destined for an employer in the county of that Party, regardless of the home address of the commuter.
 - iii. All Employer Data for employers located within the county of that Party.
 - iv. All Employer Data for employers with commuter accounts originating in the county of the Party.

Upon expiration or termination of this MOU, each Party shall have the right to retain files associated with the Party, as detailed above, including PII, on the condition that any Party

exercising this right shall be solely responsible for maintaining the confidentiality and security of such PII.

9. SAFEGUARDING PERSONALLY IDENTIFIABLE INFORMATION

- A. The Parties acknowledge that the Data may include PII of rideshare participants. Furthermore, as is customary for this program, participants are not allowed to use their social security number and/or driver's license number, in whole or in part, as a personal identifier. Therefore, the PII in the Consolidated Database is not intended to contain social security or driver's license information.
- B. The Parties warrant and certify that they, and their third party contractors that administer or may assist in administering their rideshare programs, will only use PII for the operation and management of the Project or respective rideshare program, and will not sell or otherwise provide PII to any person or entity for any other purpose, and that they will observe security measures meeting reasonable industry standards. The Parties further warrant that they will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and their own respective agencies relating to the handling and confidentiality of PII and agree to, consistent with Section 6, Indemnification, indemnify any other Party against any loss, cost, damage or liability by reason of a Party's, or its third party contractor's, violation of this provision.
- C. Each Party shall immediately notify the other Parties when it discovers that there may have been a breach in security which has or may have resulted in compromise to the PII. For purposes of this section, immediately is defined as within two hours of discovery.

10. KEY PERSONNEL

Each Party shall designate in writing Key Personnel authorized to access the Consolidated Database. Key Personnel shall be granted log-in information to enable access to the Consolidated Database. Key Personnel shall use Confidential Information only for regional rideshare purposes and shall not otherwise disclose or share such log-in information, or any other Confidential Information, with any individual or party not authorized to access the Consolidated Database. Each Party shall share the name(s) of its Key Personnel with all other Party's on an annual basis.

Each Key Personnel shall execute a Non-Disclosure and Confidentiality Agreement, in a form to be agreed upon by the Parties, prior to accessing the Consolidated Database.

11. ASSIGNING "PRIMARY COUNTY RIDESHARE SERVICE PROVIDER"

- A. The Parties agree to utilize a home destination basis for assigning "primary county rideshare service provider" for commuters.
- B. The Parties agree to utilize a work destination basis for assigning "primary county rideshare service provider" for employers.
- C. For employers with multiple sites, the location of the applicable ETC or

employer's headquarters shall dictate which Party shall be considered the "rideshare service provider".

12. OTHER TERMS AND CONDITIONS

- A. This MOU, along with its Attachments, constitutes the entire understanding among the Parties with respect to the subject matter herein. The MOU shall not be amended, nor any provisions or breach hereof waived, except in writing signed by the Parties.
- B. In the event that there is any legal court (e.g., Superior Court of the State of California or the U.S. District Court for the Central District of California) proceeding between any two or more of the Parties to enforce or interpret this MOU, to protect or establish any rights or remedies hereunder, the prevailing Party shall be entitled to its costs and expenses, including reasonable attorney's fees.
- C. No Party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, acts of a public enemy, and government acts beyond the control and without fault or negligence of the affected Party. Each Party hereto shall give notice promptly to the others of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this MOU.
- D. No Party may assign this MOU, or any part thereof, without prior written approval of all other Parties, and any assignment without said consent shall be void and unenforceable.
- E. This MOU shall be governed by California law. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.
- F. The covenants and agreements of this MOU shall inure to the benefit of, and shall be binding upon, each of the Parties and their respective successors and assigns.
- G. Notice will be given to the Parties at the address specified below, unless otherwise notified in writing of change of address.
- H. All rights and obligations hereunder that by their nature are to continue after any withdrawal from, expiration or termination of this MOU, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such withdrawal, expiration or termination.
- I. This MOU may be executed in counterparts, each of which shall constitute an original. A manually signed copy of this MOU 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 MOU for all purposes. This MOU may be signed using an electronic signature, provided such electronic signature complies with Government Code § 16.5 and the Uniform Electronic Transactions Act, Civil Code §§ 1633.1 et seq.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the dates indicated below:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____
Phillip A. Washington Date
Chief Executive Officer

APPROVED AS TO FORM:

Mary C. Wickham
County Counsel

By: _____
Deputy Date

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the dates indicated below:

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
 Darrell E. Johnson Date
 Chief Executive Officer

APPROVED AS TO FORM:

By: _____
James M. Donich Date
General Counsel

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the dates indicated below:

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____
Anne Mayer Date
Executive Director

APPROVED AS TO FORM:

By: _____
Best Best & Krieger, LLP Date

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the dates indicated below:

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: _____
Raymond W. Wolfe Date
Executive Director

APPROVED AS TO FORM:

By: _____
Julianna K. Tillquist Date

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their duly authorized representatives as of the dates indicated below:

VENTURA COUNTY TRANSPORTATION COMMISSION

By: _____
 Darren Kettle Date
 Executive Director

APPROVED AS TO FORM:

By: _____
Steven T. Mattas Date
Legal Counsel

RESOLUTION NO. 21-013

RESOLUTION OF THE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
ADOPTING AMENDED GUIDELINES FOR THE ADMINISTRATION OF THE
MEASURE A FUNDED COMMUTER INCENTIVE PROJECTS
AS PART OF ITS COMMUTER ASSISTANCE PROGRAM

WHEREAS, in 1988 Riverside County residents approved the original Measure A imposing a 1/2 cent sales tax for transportation purposes within the County of Riverside; and

WHEREAS, on November 5, 2002 the voters of Riverside County approved the extension of Measure A, authorizing the collection of a one-half percent (1/2%) retail transactions and use tax to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the “Plan”); and

WHEREAS, the Plan provides that a minimum of \$50 million in revenues generated under Measure A are designated for Western Riverside County commuter assistance efforts designed to encourage single occupant vehicle drivers to carpool, vanpool, buspool, walk, bicycle, telework or use public transit (bus/train) to and from work to reduce congestion during peak rush hour periods; and

WHEREAS, the Riverside County Transportation Commission (“Commission”) has established a Commuter Assistance Program which includes the following commuter incentive subsidies: the \$2/Day Incentive (to be changed to \$5/Day Incentive) and the VanClub Program; and

WHEREAS, the Commission also implements drawings, sweepstakes and similar incentives under the Commuter Assistance Program; and

WHEREAS, the Commission now desires to revise the guidelines established under the original Measure A, adopted pursuant to Resolution 03-025. This Resolution is intended to supersede, in its entirety, Resolution 03-025; and

WHEREAS, pursuant to this Resolution, the Commission intends to adopt current guidelines for the Commuter Incentive Program to help induce ridesharing in the County and to provide a means for fairly allocating limited Measure A revenues to all eligible participants.

NOW, THEREFORE, the Riverside County Transportation Commission hereby resolves as follows:

Section 1: Capitalized Terms. Capitalized terms used in this Resolution shall have the meanings as set forth in the Definitions section below.

Section 2: \$5/Day Incentive. The following guidelines are hereby established for the \$5/Day Incentive:

A. A Participating Commuter must be engaged in a Rideshare Arrangement for the purpose of commuting to a place of employment or a teleworking work center. A Rideshare Arrangement specifically excludes taking children to school and/or day care situations.

B. Subject to the limitations set forth elsewhere in this Resolution, the \$5/Day Incentive, which shall be capped at \$125/month per Participating Commuter, shall be provided as follows:

- (1) \$5.00 for each day a Participating Commuter carools in a carpool.
- (2) \$5.00 for each day a Participating Commuter rides in a vanpool.
- (3) \$5.00 for each day a Participating Commuter rides a public bus.
- (4) \$5.00 for each day a Participating Commuter walks or bicycles.
- (5) \$5.00 for each day a Participating Commuter in a hybrid telework arrangement teleworks, subject to paragraph C below.
- (6) \$5.00 for each day a Participating Commuter rides commuter rail.

C. A hybrid telework arrangement means that the Participating Commuter works both remotely from home and on-premises at the Participating Employer's work site. If the Participating Commuter meets the minimum requirement set forth in (I) below, then the Participating Commuter's telework days are eligible for the \$5/Day Incentive.

D. All Participating Commuters must live in Western Riverside County for incentives provided under Measure A. If other funding sources are available, the Executive Director may authorize expansion of the \$5/Day Incentive to Participating Commuters in Eastern Riverside County for such time as funding remains available.

E. All Participating Commuters must be employed by a Participating Employer during participation in the \$5/Day Incentive.

F. A Participating Commuter may not have received, within the six months prior to enrollment in \$5/Day Incentive, any Incentive from \$5/Day Incentive or from any Sister Agency Program. If an applicant received an Incentive from \$5/Day Incentive or from any Sister Agency Program more than six months before submitting an application, the applicant may receive an Incentive under \$5/Day Incentive only if he or she requests an Incentive for a different commute mode from that for which he or she has already received an Incentive. The limitations in this section shall not apply or take effect until six (6) months following the Effective Date of this Resolution.

G. The Participating Commuter may not have been in a Rideshare Arrangement during the 90 days prior to enrollment in the \$5/Day Incentive.

H. A Participating Commuter must commute to work on one or more weekdays (i.e.: Monday through Friday) to qualify. An Incentive will also be paid for qualifying weekend work trips as

long as the commuter works on weekend days as part of a regular shift that includes at least one weekday.

I. A Participating Commuter must carpool, vanpool, use public bus or commuter rail, walk, or bicycle to a Participating Employer's work site a minimum of five workdays a month to qualify.

J. Participating Commuters may receive an Incentive under the \$5/Day Incentive for no more than three (3) consecutive months. Any calendar month during which a Participating Commuter is enrolled in the \$5/Day Incentive shall be considered a full month of participation in the \$5/Day Incentive. For example, if a Participating Commuter enrolls in the \$5/Day Incentive on the 15th of a month and carpools for five days in that month, that month will be considered a full month for purpose of determining the Participating Commuter's participation in the \$5/Day Incentive.

Section 3: VanClub Program. An ongoing subsidy of up to \$400 monthly, not to exceed 50 percent of the lease cost, shall be paid directly to a Commission authorized leasing company for Vanpools.

A. To qualify the Vanpool must (i) be made up of at least 65% ridership living in western Riverside and/or San Bernardino Counties; (ii) commute more than 30 miles each day, (iii) commute 12 or more days each month, and (iv) travel to a workplace in western Riverside County.

B. Eligible Vanpools using electric powered vehicles (EV) may receive an additional subsidy of \$100 monthly.

Section 4: Other Incentives. Any western Riverside County resident participating in a Rideshare Arrangement may participate in any Commuter Assistance Program drawings, sweepstakes or other incentives, provided that the resident meets all qualifications and requirements of the incentive, as approved by the Executive Director and published on the Commission's website. Such incentives may be made available to Eastern Riverside County residents based on the availability of non-Measure A funding sources.

Section 5: Incentives. Incentives shall be paid in the various forms as detailed below. In no event shall cash be provided directly to a Participating Commuter.

A The Incentive for a Vanpool shall be paid, as a subsidy, directly to a Commission authorized Vanpool leasing company.

B. All other Incentives shall be paid in the form of gift certificates, purchased from private businesses by the Commission, or as discounts or special offers.

Section 6: Definitions. As used in this resolution, the following phrases shall have the following meanings:

- A. "Carpool" shall mean two or more persons commuting on a regular basis to and from work by means of a vehicle with a seating arrangement designed to seat less than seven adults, including the driver.
- B. "Commuter Incentive Program" refers collectively to Rideshare Incentive, including \$5/Day incentive and VanClub.
- C. "Incentive" means gift certificates or a cash payment to a Participating Employer or a Vanpool leasing company provided under this Resolution for the purpose of inducing eligible commuters to join Rideshare Arrangements or otherwise participate in the Commuter Incentive Program or other comparable project.
- D. "Participating Commuter" means a commuter currently participating in the Commuter Incentive Program.
- E. "Participating Employer" shall mean any employer, which has executed an agreement with the Commission for participation in the Commuter Incentive Program.
- F. "Rideshare Arrangement" shall mean the transportation of two or more working adults in a motor vehicle or by rail where that transportation is incidental to another purpose of the driver. The term includes ridesharing arrangements known as carpools, vanpools and buspools as well as utilizing public bus and commuter rail services. In addition, persons walking or bicycling or shall also be deemed to be participants in a Rideshare Arrangement. "Buspool" means sixteen or more persons commuting on a regular basis to and from work by means of a vehicle with a seating arrangement designed to carry more than fifteen adult passengers.
- H. "Sister Agency" shall mean another public transportation agency within Southern California.
- I. "Vanpool" is defined as five or more persons commuting on a regular basis to and from work by means of a vehicle with seating arrangements designed to carry seven to fifteen adults, including the driver.
- J. "Western Riverside County" shall have the same meaning as in the Measure A Expenditure Plan approved by the voters in November 2002.

Section 7: Executive Director Authority. The Executive Director of the Commission is hereby authorized:

- A. To take those steps necessary and proper to implement the Commuter Incentive Program including, but not limited to, providing promotional materials to Commuter Assistance Program participants.

B. To establish, in her discretion, additional rules and regulations for the Commuter Incentive Program.

C. To prescribe in writing qualification requirements and incentives for the Commuter Incentive Program which differ from those established in this Resolution, and to amend or suspend implementation of the requirements set forth in this Resolution for VanClub, as reasonably necessary to successfully implement the VanClub program.

Section 8: Resolution No. 03-025. Resolution No. 03-025 is hereby superseded and repealed.

Section 9: Effective Date. This Resolution shall be effective immediately upon adoption.

APPROVED AND ADOPTED this 14th day of July, 2021.

Jan C. Harnik, Chair
Riverside County Transportation Commission

ATTEST:

Lisa Mobley
Clerk of the Board