MEETING AGENDA

Western Riverside County Programs and Projects Committee

Time: 1:30 p.m.

Date: July 27, 2026

Location: BOARD ROOM - County of Riverside Administration Center
4080 Lemon St, First Floor, Riverside, CA 92501
TELECONFERENCE SITE
LARGE CONFERENCE ROOM – French Valley Airport
37600 Sky Canyon Drive, Murrieta, CA 92563

COMMITTEE MEMBERS

Michael Vargas, **Chair** / Elizabeth Vallejo, City of Perris
Chuck Conder, **Vice Chair** / Patricia Lock Dawson, City of Riverside
Sheri Flynn / Cynthia Barrington, City of Banning
Lloyd White / Julio Martinez, City of Beaumont
Jim Steiner / Tony Daddario, City of Corona
Clint Lorimore / Todd Rigby, City of Eastvale
Linda Krupa / Joe Males, City of Hemet
Brian Berkson / Armando Carmona, City of Jurupa Valley
Fia Sullivan / Kevin Bash, City of Norco
Joseph Morabito / Dustin Nigg, City of Wildomar
Jose Medina, County of Riverside, District I
Karen Spiegel, County of Riverside, District II

STAFF

Aaron Hake, Executive Director
David Knudsen, Deputy Executive Director

AREAS OF RESPONSIBILITY

Air Quality, Capital Projects, Communications and Outreach Programs, Intermodal Programs, Motorist Services, New Corridors, Regional Agencies/Regional Planning, Regional Transportation Improvement Program (RTIP), Specific Transit Projects, State Transportation Improvement Program (STIP) Transportation Uniform Mitigation Fee (TUMF) Program and Provide Policy Direction on Transportation Programs and Projects related to Western Riverside County and other areas as may be prescribed by the Commission.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE

www.rctc.org

AGENDA*

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

1:30 p.m.
Monday, July 27, 2026

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4080 Lemon Street, First Floor
Riverside, California 92501

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Murrieta, California 92563

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

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

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

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

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

5. **ADDITIONS/REVISIONS** *(The Committee 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 Committee subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Committee. If there are less than 2/3 of the Committee 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 – APRIL 27, 2026**

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7. **STATE ROUTE 91 EASTBOUND CORRIDOR OPERATIONS PROJECT COOPERATIVE AGREEMENTS WITH: (1) CALTRANS; (2) FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY AND THE CITY OF CORONA**

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Overview

This item is for the Committee to recommend the Commission take the following action(s):

1) Approve Cooperative Agreement No. 26-31-096-00 with Caltrans for the State Route 91 Eastbound Corridor Operations Project (91 ECOP) for construction and Caltrans performed construction inspection services in an amount not to exceed $5,656,000 to be paid by the Commission;
2) Approve three-party Cooperative Agreement No. 26-31-094-00 with Foothill/Eastern Transportation Corridor Agency and the city of Corona for the Commission's fair share contribution to the city of Corona for the Green River Road Improvement Project in an amount not to exceed $393,522 to be paid by the Commission; and

3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission.

8. ON-CALL RIGHT OF WAY ENVIRONMENTAL SITE ASSESSMENT SERVICES

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Overview

This item is for the Committee to recommend the Commission take the following action(s):

1) Award the following on-call professional services agreements for right of way environmental site assessment services for a three-year term, in an amount not to exceed an aggregate value of $1,000,000;
   a. Agreement No. 26-31-033-00 with Verdantas Inc., formerly Leighton Consulting, Inc.;
   b. Agreement No. 26-31-083-00 with Ninyo & Moore Geotechnical & Environmental Sciences Consultants;
   c. Agreement No. 26-31-084-00 with NV5 Environmental, LP.;
2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission, and
3) Authorize the Executive Director, or designee, to execute task orders awarded to the consultant under the terms of the agreements.

9. DISCONTINUATION OF FRENCH VALLEY SATELLITE MEETING LOCATION FOR THE WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE

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Overview

This item is for the Committee to recommend the Commission take the following action(s):

1) Discontinue use of the French Valley satellite meeting location option for meetings of the Western Riverside County Programs and Projects Committee.

10. EXECUTIVE DIRECTOR REPORT

11. COMMISSIONER COMMENTS

Overview

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

12. ADJOURNMENT

The next Western Riverside County Programs and Projects Committee meeting is scheduled to be held at **1:30 p.m., Monday, August 24, 2026**.

AGENDA ITEM 6A

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE

Monday, April 27, 2026

MINUTES

1. CALL TO ORDER

The meeting of the Western Riverside County Programs and Projects Committee was called to order by Vice Chair Chuck Conder at 1:31 p.m. in the Board Room located at 4080 Lemon Street, Riverside, CA 92501. Additional teleconference site: Large Conference Room, French Valley Airport, 37600 Sky Canyon Drive, Murrieta, CA 92563.

2. ROLL CALL

Members/Alternates Present	Members Absent
Brian Berkson	Clint Lorimore
Chuck Conder	Jose Medina
Sheri Flynn	Michael Vargas
Linda Krupa	
Joseph Morabito	
Karen Spiegel	
Jim Steiner	
Fia Sullivan	
Lloyd White*	

*Arrived after the meeting was called to order.

3. PLEDGE OF ALLEGIANCE

Commissioner Steiner led the Western Riverside County Programs and Projects Committee in a flag salute.

4. PUBLIC COMMENTS

There were no requests to speak from the public.

5. ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

6. CONSENT CALENDAR - *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.*

M/S/C (Krupa/Sullivan) to approve the following Consent Calendar item(s):

6A. APPROVAL OF MINUTES – FEBRUARY 23, 2026
Spiegel: Abstained on Agenda Item 6A.

7. INTERSTATE 15 EXPRESS LANES PROJECT SOUTHERN EXTENSION PROGRESSIVE DESIGN-BUILD PHASE 1 AGREEMENTS

Jeff Deitzler, Capital Projects Manager, presented the Interstate 15 Express Lanes Project Southern Extension (I-15 ELPSE) progressive design-build (PDB) Phase 1 agreements, highlighting the following:

- Project scope/status (including a map of all the segments)
  - ✓ Project limits – Cajalco Road to State Route 74
  - ✓ Dual Express Lanes – 3 Toll Segments
  - ✓ PA/ED phase complete
  - ✓ Environmental document approved December 2025
  - ✓ PDB award
    - o Phase 1: Pending – May 2026
    - o Phase 2: TBD – Targeting late 2027
- Project purpose
  - ✓ Improve and manage traffic operations travel times along the corridor
  - ✓ Expand travel mode choice along the corridor
  - ✓ Provide an option for travel time reliability
  - ✓ Provide a cost-effective mobility solution
  - ✓ Expand and maintain compatibility with the express lane network in the region

At this time, Commissioner Lloyd White joined the meeting.

Jeff Deitzler continued to present the following areas:

- PDB Delivery Method
  - ✓ PDB authorized under SB 617
  - ✓ Delivers the project in two phases
    1) Phase 1 collaboratively develops preliminary design with open-book negotiation of Phase 2 pricing, resulting in Guaranteed Maximum Price (GMP)
    2) If cost agreement is reached, Phase 2 initiated for final design and construction
  - ✓ PDB allows for Phase 2 to be right sized according to the available project

funding

- PDB Contract, Phase 1
  - ✓ Procurement summary
  - ✓ Key contract provisions
    - o PDB Phase 1 and Phase 2 within one contract, authorize Phase 1 now, amend contract for Phase 2 later
    - o Phase 1 will design the entire project, Phase 2 scope potentially segmented based on price vs available funding
- PDB Phase 1 design option
- Toll service provider (TSP) contract
  - ✓ TSP Contract Change Order (CCO) #46
    - o Existing TSP contract contains change order provisions with agreed upon pre-negotiated TSP staff rates
    - o CCO # 46 provides for
      - ▪ Toll system design coordination during Phase 1 to extend the existing ELP toll system
      - ▪ Provides cost estimating for toll system installation and O&M costs
- Local agency memorandum of understanding (MOU)
  - ✓ MOU with city of Corona and city of Lake Elsinore
    - o Outline roles and responsibilities between the Commission and cities
    - o Formalizes process for potential city betterments
    - o City impacts quantified and priced during Phase 1, implemented via city issued permits during Phase 2
  - Toll facility agreement
    - ✓ Describes roles and responsibilities between the Commission and Caltrans for the ELPSE toll facility
    - ✓ Establishes a 50-year exclusive possessory right to operate the ELPSE toll facility
    - ✓ Details the operations and maintenance obligations
    - ✓ Affirms the Commission's right to establish toll policies and rules
    - ✓ Addresses procedures for the review and adoption of an annual Expenditure Plan for excess toll revenue

Commissioner Steiner stated that he received a list of questions from one of his colleagues and has not had a chance to process it. After speaking with Aaron Hake, Executive Director, it sounds like many of these issues will be discussed as things move forward, but there are a couple. He clarified with the auxiliary lane that Caltrans is putting in at the Cajalco area if the one lane going south is going to be impacted by this project.

Jeff Deitzler replied if Commissioner Steiner is referring to the southbound auxiliary lane approaching Ontario from old Temescal to Ontario.

Commissioner Steiner replied yes where the lane drops are.

Jeff Deitzler stated schedule wise he is not sure if they overlap each other, he will have to look into that a little bit more. They are separated apart by space, and RCTC's project construction starts around El Cerrito with some restriping, but pavement construction starts about Cajalco and Cajalco south. The only potential conflict is there is a rule that you cannot have competing lane closures within a mile and a half of each other. For Phase 1, from now until the end of 2027 they are planning, designing, costing it, and coming up with stage construction plans. This other project will be coordinated with and if there is a conflict they will work together as part of this Phase 1 effort.

Commissioner Steiner stated that he hopes communication to their residents is significant as they move forward and Savat Khamphou, City of Corona's Public Works Director, is here today and there should be communication between Savat Khamphou and RCTC.

Commissioner Spiegel stated 88 downloaded it, 32 participated in the premeeting, four statement of qualifications (SOQ), two shortlisted with one of them nonresponsive, is that normal.

Jeff Dietzler replied yes and of the 88 firms that downloaded it a lot of them were Disadvantaged Business Enterprise (DBEs) and 32 firms attended the RCTC hosted preproposal meeting to encourage teaming. A lot of the companies that attended ended up joining joint ventures, but four or five SOQ is typical.

In response to Commissioner Spiegel's question what does nonresponsive really mean, Jeff Dietzler replied regarding nonresponsive there are certain things the firms submit that they are scored on as part of the evaluation criteria. They do a pass-fail evaluation of whether the proposer met the intent and requirements of the instructions to proposers. There was part of the SOQ that they felt did not meet the requirements of the Instructions to Proposers (ITP) and took it internally for discussion and determined it did not meet the requirements of the SOQ, so it is essentially an incomplete proposal. They had informed that company their SOQ was nonresponsive and were invited to protest and talk about it. Ultimately, they were down to one proposer.

Commissioner Spiegel stated usually there is an estimated amount and if they are within the ballpark of that.

Jeff Dietzler replied that for Phase 1 services they have obligated funds for $45 million, RCTC's contract negotiated price of $38.5 million with contingency is just under what they obligated.

In response to Commissioner Spiegel's clarification that the design option is independent of that, Jeff Dietzler replied that is correct.

Commissioner Spiegel stated it comes to $55 million so when Jeff Dietzler mentioned $45 million, they are $10 million over.

Jeff Dietzler concurred.

Commissioner Berkson stated this is a design-build and during Phase 1 they are going to design it.

Jeff Dietzler replied that is correct.

Commissioner Berkson stated if they get to the end of this and it is just not affordable if the design is not working out financially for the Commission would they be stuck with this design, is there any contingent amount to redesign. He is assuming the contractor is obligated to provide RCTC with a design that they create and RCTC has to either accept or tell them it is not going to work. If it is not going to work what is the Commission's choice.

Jeff Dietzler stated in the first 120 days of Phase 1 the contractor has what is called a cost validation submittal, so they are under contract to design the entire project. They owe RCTC at day 90, the cost to build the entire project which is a very high-level cost. RCTC has 30 days to review that price with finance to determine if they can afford the whole project. If RCTC cannot afford the whole project or if there is a large cost gap, they then start designing towards GMP for a segment of the project. They are still going to design the entire project but break it into segments and pursue through GMP just the segment they can deliver within the financing that RCTC can get. At day 120 they can pivot to a smaller scope for the first phase of construction. That is why they have the concept of the initial operating segment it can either be the whole project, or it will be sized to fit what is within the financing they can achieve.

Commissioner Berkson asked at what point does RCTC get to evaluate if they believe this contractor is on the right track. He clarified with designing an overpass it could be done 10 different ways, if they do not like the way the contractor is doing it, and they feel as RCTC it is going to cost three times as much if they did it a different way. Do they get any back and forth with the contractor and coordination in how they want things done.

Jeff Dietzler replied they do from NTP 1 through GMP it is open book if their price is getting very high, they can start pulling things back. From award through GMP all the way to Phase 2 RCTC can always terminate for convenience if things went sideways and they are not working well together. So far in negotiating costs with the design builder, they have been reasonable, their costs and their cost expectations align very well with where they are at with their independent cost estimator. They are on the right track, but they do have potential to terminate if they are at an impasse and do not think it is going well.

Commissioner Berkson stated that Aaron Hake and he had a conversation several months back when Caltrans first put out the way they wanted to incorporate these tolling agreements statewide. In essence he thinks Caltrans is basically saying they get to control when RCTC shuts things down they get to have a lot more say on the way RCTC would be running the toll lanes. He asked for an update from their prior conversation to today.

Aaron Hake replied last week Caltrans, RCTC staff, himself, and Catalino Pining, Governor's Appointee Caltrans District 8, reached agreement on the terms of this toll facility agreement and several of the provisions that were most concerning RCTC staff are not in this agreement. RCTC will retain approval authority over closure of the lanes there is a consultation process where both parties are going to exchange information and RCTC is not to unreasonably withhold any Caltrans requests because they have projects. Caltrans maintains the state highway system there is an interest for them to be able to do that. They just needed to make sure that for the tremendous financial and operational risk the Commission is going to take to construct and operate these lanes for 50 years the Commission retains the ability to operate them without interference. They have secured that in this agreement and reached some compromises, and he is comfortable representing to the Commissioners that they will be able to do this.

Commissioner Berkson stated that he is glad that they negotiated.

Aaron Hake noted that they did. He wanted to commend their project team Jeff Dietzler, David Thomas, Haviva Shane, Legal Counsel, Rick Grebner from Parsons, and RCTC's bond counsel for working closely with Caltrans to get these issues resolved.

Commissioner Berkson stated that his last topic has to do with the cities of Lake Elsinore and Corona as Commissioners Spiegel and Steiner would say when the other toll lanes were built on SR-91 there were all kinds of unintended consequences is this trying to stave that off. What are these two agreements that Jeff Dietzler mentioned one went to Lake Elsinore City Council already and one is going to Corona City Council for approval, what is the basis and what kind of things are they going to do.

Jeff Dietzler stated within those agreements it is a formalization of the cooperation they had during the environmental document process. During the environmental document each of the cities had a representative that attended the monthly PDT meetings. They were invited to review submittals and make comments, so it is formalizing that process. For traffic closures in the future, the impacts to local city streets are relatively minor but they are building bridges across some of the streets. They will need to put up false work so they will have to squeeze some of the lanes under there, setting up and taking down false work, and there will be lane closures to do that for the safety of the public those things will be coordinated with each of the cities as well. If RCTC has to do work within the city jurisdictions, they will be pulling encroachment permits by their design-build contractor and that will allow RCTC to reimburse the jurisdictional staff for their time. In the past they had done cooperative agreements with budget and advances because the impacts are relatively minor, they will administer it through encroachment permits. Then it handles the contingency of city betterments if in the future the cities of Lake Elsinore or Corona want RCTC to add something while they are there, it sets up a procedure of who pays for what and how.

Aaron Hake wanted to reiterate about the question brought up by Commissioners Steiner and Berkson they learn from every project. This is going to be their fourth design-build project, this is RCTC's first PDB project and it has some very distinct advantages that Jeff Deitzler had laid out in responding to Commissioner Berkson's questions. Regarding RCTC's coordination with the cities and communicating with the public, RCTC has a robust public engagement program as part of this contract. There will be opportunities for residents to sign up to receive updates and they will be coordinating with the jurisdictions on how those communications will take place so that they are integrated into RCTC's process. He also reiterated just like on the original I-15 Express Lanes where they were building in the median, they will be doing that same thing here. There are bridges on this project, but this is not SR-91 where they were reconstructing almost every interchange in the city of Corona and significant right of way impacts.

Commissioner Krupa thanked Jeff Dietzler for the presentation she may have missed something as she understands PDB in Phase 1, but where does the design option come in.

Jeff Dietzler replied the designer has to take the design up to a certain level where a solid price can be put on it so there is not too much risk or too much contingency. Right now, they estimate it is approximately 65 percent. At 65 percent design is where they will finalize it, package it up, and submit it. RCTC negotiates with them on the price when they agree on a price they have to administratively wrap that into Phase 2, amend the contract and come back to the Commission to present it, which takes time. From when they go pencils down to getting all their design done until RCTC can give them NTP to pick up design again it is approximately six to seven months of dead time. Before an alignment, getting to that point they have been good to work with their costs align with RCTC's cost estimator, and their cost estimator are working well together. There is an advantage to keep the cost estimator going so when they give notice for NTP 2 for final design and construction it is to get to the design point far enough along where they can break ground. From NTP 2 to that it could take a certain amount of time but if they are able to pull that in front of NTP 2 as a change order into Phase 1 there is potential that on day two of Phase 2, they could break ground. It is pulling some of the Phase 2 design forward to accelerate the construction schedule.

Vice Chair Conder asked Jeff Dietzler to describe the difference between design-build and PDB.

Jeff Dietzler stated that for design-build the contract is awarded roughly a 30 percent design it is a lump sum, so the designer wants to get started as soon as possible. Then the design builder tells them how to design the job to be able to break ground as soon as possible, but there is a lot of risk transfer and cost uncertainty that happens at a 30 percent bid. There is the competitive cost advantage of having people bid against each other, but it is a giant lump sum contract. This job is very expensive upwards approaching $1 billion RCTC just does not have that right now. As they are going through Phase 1 it is almost like General Manager/General Contractor (CMGC), where they have the contractor advising the designer of how best to build it, but they are developing the cost and scope at the same time to fit the financing they have available. Then they can break out the pieces as funding comes in and it also allows them to continue to pursue funding as the project is being delivered. With traditional design-build when the project is listed for construction you must have all the money you cannot continue to pursue additional funds towards that project because it has already been awarded. Having the segmented steps allows you to pursue funds and allows you to do it in smaller pieces.

Commissioner Morabito asked how soon before drivers will see construction.

Jeff Dietzler replied they are thinking they can get the Phase 2 award by December 2027. If they exercise the design option and focus on what they want to break ground on first, January 2028 is probably the likeliest early point they could break ground.

Commissioner Morabito noted since these are in phases so Phase 1 would be finished before Phase 2 meaning people would be driving on Phase 1.

Jeff Dietzler replied that Phase 1 is design and price only to right size Phase 2 and get the funding in place.

Commissioner Morabito clarified that it is the segments do they only drive on them after all the segments are done.

Jeff Dietzler replied that they are hoping they can build the whole thing all at once and then they would open the whole thing at once. If RCTC cannot afford to build the whole thing at once they would build less and open whatever RCTC builds.

Commissioner Morabito clarified it would be the entire stretch opened at once not segment by segment.

Jeff Dietzler replied that they do not know yet.

Commissioner Morabito asked Jeff Dietzler to remind him what the environmental phase did cost.

Jeff Dietzler replied that the consultant for the environmental staff obligated $29 million and they came in and are sitting at $23 million right now.

Commissioner Morabito asked once they start construction what time of day will people see the work being done.

Jeff Dietzler replied that Aaron Hake had mentioned for the I-15 ELPSE, it is a 30-foot dirt median right now. The plan is to set up k-rail on the inside of the freeway and do all the work behind k-rail so there will be some construction during the day. For big concrete pours and things like that they do not have the room behind the k-rail to work and pour at the same time so there will be nighttime closures to work over the k-rail. He noted that Caltrans only lets RCTC close lanes at night.

Commissioner Morabito clarified that talking about negotiating a price there will be three to seven months of down time, why does it take that long.

Jeff Dietzler stated that it takes two to three months roughly to get to cost agreement, so their cost proposal is going to be a couple hundred-page submittal with means and methods, prices, quantity take offs and things like that. They will have to review it as there is going to be stuff in there that they do not agree with, and they will have to negotiate that. They will come to a cost agreement in two to three months but then there is an administrative process about getting the contract award for Phase 2, amending the contract and to get it from committee to Commission.

Aaron Hake expressed that this is such a momentous vote for this Commission. Measure A was approved by the Riverside County voters in 2002, and it added a project that said RCTC would build a lane in each direction on I-15 from county line to county line. Right after that measure passed in 2002 RCTC began a strategic partnership effort to figure out how can they get the most out of this new sales tax measure that would not go into effect until 2009, so they got a head start on trying to get some of these big new projects started. They came up with this project, or at least taking the one lane in each direction making it two and seeing how fast can they get it done RCTC chose express lanes under a public ownership model, but they did not have the legislative authority to do that, or to toll, or to do design-build let alone PDB. In 2007, RCTC tried to get legislative authority to toll it and failed, in 2008 it came back and the Governor signed it, RCTC still did not have design-build authority, but they went and got that. Before the great recession happened the original I-15 Express Lanes Project that is open today was supposed to go all the way to SR-74. The bottom fell out of the economy and Measure A revenue took a drastic hit as did all their local governments. RCTC had to right size the project and build what they could deliver and that is how they got the project that is operating today that opened in 2022. The Commission stayed committed to getting it done all the way down to SR-74 and kept this project at the top of the Measure A Delivery Plan. Every time it has come back to the Commission, the Commission has said this is the number one priority to get done. That allowed staff to start looking for grant funds and they have been assembling as many grant funds as possible, but as Jeff Dietzler stated in the traditional design-build all the funding is needed up front. With this new legislative authority for PDB which RCTC believes is the first in the state to be a regional agency doing PDB on the state highway system. They will have to fact check that, but he has been told by Caltrans that RCTC is the first to do this because they have such a high priority project that they want to get moving and so they started this procurement process back in 2005. RCTC developed the MOUs with the cities, set ground rules for how they are going to collaborate, and last week they reached agreement on this toll facility agreement with Caltrans, which became the last critical path for RCTC to move forward. RCTC is here today with a procurement to finish the project the voters approved in 2002 and that RCTC tried to accelerate all those years ago using authorities that did not exist back then. The Commission needs to take credit for its steady commitment and leadership to keep going in spite of recessions, legislative issues, procurement, and all sorts of obstacles to getting this done. He noted with the Committee Members' vote today assuming it goes to the Commission and the Commission awarding it in May staff will get started. He knows it is hard for the public to hear that construction may not start until 2028, and completion will be some date thereafter, but they are going to get it done. He thanked the Commission for enabling their professional staff from finance to programming, their engineers, project managers, legal, and everybody to get here today.

Vice Chair Conder thanked Aaron Hake and his staff.

M/S/C (Spiegel/Steiner) for the Committee to recommend the Commission take the following action(s):

1) **Award Agreement No. 25-31-007-00 to SC Constructors (a joint-venture composed of Skanska USA Civil West, California District Inc. and Coffman Specialties Inc.) to initiate Progressive Design-Build Phase 1 of the Interstate 15 (I-15) Express Lanes Project Southern Extension (ELPSE) (Project), in the amount of $38,457,635 with a Design Option amount not to exceed $11,600,000 plus a contingency amount of $5,005,764 for a total amount not to exceed $55,063,399;**
2) **Award Change Order No. 46 to Agreement No. 16-31-043-00 for the I-15 ELPSE with Kapsch TrafficCom USA Inc. (Kapsch) to provide design services in support of the Project in the amount of $1,134,185 with an estimated Design Option support cost of $330,000 plus a contingency amount of $146,419 for a total amount not to exceed $1,610,604;**
3) **Approve Memorandum of Understanding (MOU) No. 26-31-044-00 with the city of Corona for the I-15 ELPSE;**
4) **Approve MOU No. 26-31-043-00 with the city of Lake Elsinore for the I-15 ELPSE;**
5) **Authorize the Executive Director or designee to negotiate and finalize Toll Facility Agreement No. 26-31-055-00 with Caltrans for the I-15 ELPSE;**
6) **Authorize the Chair or Executive Director, pursuant to legal counsel review and receipt of funding authorization (E-76), to execute the agreements on behalf of the Commission; and**
7) **Authorize the Executive Director or designee to approve contingency work up to the total amount not to exceed as required for the Project.**

8. AGREEMENT FOR CONSTRUCTION MANAGEMENT, MATERIALS TESTING, CONSTRUCTION SURVEYING AND ENVIRONMENTAL MONITORING SERVICES FOR SANTA ANA RIVER TRAIL 2, PHASE 6 – PACKAGE A PROJECT

John Tarascio, Senior Capital Projects Manager, presented the Santa Ana River Trail 2 (SART 2) Phase 6 – Package A Project update, highlighting the following:

- SART background
  - ✓ RCTC has been managing the SART projects for Riverside County Regional Park and Open-Space District (RivCo Parks) since 2015
  - ✓ All costs reimbursed by RivCo Parks

  - ✓ Last remaining gaps in 110-mile trail from mountains to sea
  - ✓ Equestrian, bicyclist, pedestrian ADA accessible trail
- SART 2 – Phase 6 (including a map of Package A and Package B)
  - ✓ Key features
    - 1.5 miles of trail – West of SR-71
    - Features two bridges
      - One over BNSF Railroad
      - One over Aliso Creek
    - Adjacent to Green River Golf Club
    - Separated into A and B Package due to funding constraints
- Project status
  - ✓ Project is currently at 100 percent design (Package A and B)
  - ✓ Package A
    - Moving forward with construction phase
    - Estimated construction cost: $7.7 million
    - Construction contract advertisement: September 2026
    - Start of construction: Early 2027
  - ✓ Package B
    - Construction being deferred until full funding is available
    - Estimated construction cost: $20.5 million
- Construction Management Services Procurement
- Fiscal impact

Commissioner Steiner expressed being excited for this he is aware they still need millions of dollars to eventually connect it all but just the fact that they keep chipping away at it, this is going to be awesome and thanked staff.

Vice Chair Conder asked if there is going to be any restriction on this section of the trail or the other trails they are working on with speeding e-bikes.

John Tarascio stated that he did not know the answer to that and would find out.

Gaby Adame-Algrim, Bureau Chief – Planning and Development with Riverside County Regional Park and Open Space District, stated right now they do have a policy that restricts our use of trails to only up to level 2 e-bikes.

Vice Chair Conder clarified up to level 2 which is 20 miles per hour maximum.

Gaby Adame-Algrim concurred and there are restrictions in some parts that they have, but this portion listed there is no restriction below level 2.

M/S/C (Berkson/Spiegel) for the Committee to recommend the Commission take the following action(s):

1) **Award Agreement No. 26-67-029-00 to Accenture Infrastructure & Capital Projects LLC, for Construction Management, Materials Testing, Construction Surveying and Environmental Monitoring Services for Santa Ana River Trail 2 (SART 2), Phase 6 – Package A Project in the amount of $1,530,880, plus a contingency amount of $107,161, for a total amount not to exceed $1,638,041;**
2) **Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the Agreement on behalf of the Commission;**
3) **Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for these services; and**
4) **Authorize the Executive Director to make changes between fund types within the total amount approved by the Commission to facilitate the most efficient use of funds.**

9. STATE ROUTE 79 REALIGNMENT PROJECT RENAMING

Italia Garcia, Community Engagement Manager, presented an update for the State Route 79 Realignment project renaming, highlighting the following:

- Project background (including a map of the project)
  - ✓ New 12-mile county facility
  - ✓ Extends from south of Domenigoni Parkway to Gilman Springs Road
  - ✓ Originally planned as a SR-79, now a county facility due to funding constraints and state policy changes
  - ✓ The SR-79 project name is no longer applicable; a new project name is required to support future implementation and ensure consistency moving forward
- Public outreach process
  - ✓ Outreach conducted October 14-25, 2025, supported by a digital campaign (social media, ads, and toolkits) and amplified through key stakeholder engagement
  - ✓ Effort designed to raise awareness, celebrate local identity, and provide a meaningful public voice
  - ✓ Generated strong participation, with 3,500+ website visits and nearly 13,000 social media views
- A heat map that highlights where the interactions with the digital outreach campaign were concentrated across the region
- Name submissions process
  - ✓ A total of 416 name suggestions were received during the outreach period
  - ✓ Submissions were narrowed to seven top names that received the highest number of similar entries and cleared County of Riverside road naming criteria
- Panel and review recommendation

- ✓ On February 25, 2026, staff convened a Renaming Panel of elected officials and community representatives from impacted jurisdictions to provide balanced, transparent, and community-informed input following public outreach.
- ✓ The panel reviewed and evaluated top community-submitted names and justifications based on community relevance, regional identity, clarity, and long-term suitability.
- ✓ During the meeting, panel members recommended renaming the project to the San Jacinto Valley Expressway Project, with the intent that the completed facility will carry this name forward.

- San Jacinto Valley Expressway
  - ✓ The "San Jacinto Valley" name reflects regional pride and clarity. Participants consistently described it as inclusive of the entire San Jacinto Valley and easy for the public to identify with. It strikes a balance between civic identity and straightforward communication – a strong, recognizable anchor for future signage and outreach
  - ✓ Panel members emphasized the name reflects the corridor's geographic identity, honors the longstanding history of Mount San Jacinto and San Jacinto Peak, and reinforces a share of regional identity across corridor communities
    - o Engagement results
      - ➢ Number of submissions: 50
      - ➢ Percentage of submissions: 12 percent

Commissioner Spiegel asked Commissioner Krupa how long was she working on this because she thought they already voted that it was going to be the Krupa Parkway.

Commissioner Krupa noted that it was not her first choice.

Vice Chair Conder stated that he likes Mastodon Expressway.

Commissioner Krupa stated that both Commissioner Washington and she did get a call out she liked Krupa's Causeway. However, her choices were the Mastodon Trail or something dealing with mastodons because they are the valley of the mastodons, they are also San Jacinto Valley. She decided it is logical that it would be the San Jacinto Valley Expressway. It was a good process another name she hoped pushing forward was the David Kelley Memorial Expressway, because David Kelley was our senator for so long. He was instrumental in so many things that happened in the valley but that did not work either. She is good in making a motion to approve the San Jacinto Valley Expressway Project.

Commissioner Berkson stated that normally he was thinking of keeping quiet but thanked Commissioner Spiegel for opening the door. Anytime you are dealing with multiple cities, and it is named one thing it sends the wrong message. He appreciates that it is called San Jacinto Valley, but they are talking about Hemet, San Jacinto, and Winchester completely distinct areas, and it just does not seem right that it should be called something right after the name of one of them. It does not really infer to him that it is going to go to other areas and connect to other places. He thinks maybe they should not jump the gun on this, especially when only 12 percent of all the respondents showed interest in that name. That is not like 70 or 80 percent of the people were all for it, that means there are a lot of people 80 percent 90 percent that were not for that name. He asked do they keep this dialogue continuing or does it need to be done now or not do it at all as he is not sure where they are.

Commissioner Krupa replied that the research also showed a lot of people do not have a clue where they live. She asked if this is the project name, and can it be changed later.

Italia Garcia clarified in terms of the percentages of submissions out of all of them they were only able to narrow down the top seven because a lot of them did not even make it through the County's criteria. The San Jacinto Valley was a combination of different variations of San Jacinto, so it came up to that number and the second name to that was Hemecinto Expressway with only 16 votes.

Commissioner Berkson clarified that he did not say that any of the choices on the list were good, but the one that was selected may not be the best one. He noted that Italia Garcia had stated that the combination of different versions of the San Jacinto Valley Expressway became that number 50 respondent. They are saying not all 50 of those people wanted that specific name, they wanted a variation of the name which again tells him there are zero people that are completely satisfied.

Commissioner Spiegel asked did they throw that out and asked everybody to give them a name and then counted up those names.

Italia Garcia replied that they did ask for an actual justification, so all the submissions needed to have some sort justification to it.

Commissioner Spiegel clarified that usually you get the top ones and then you go out to vote again because there is a different angle when you say these are the seven top ones which one would you like and then you could have added Dave Kelley.

Commissioner Krupa stated also Mastodon Trail.

Commissioner Spiegel stated that she has never heard of voting that way to where you do not have the top ones because the ones down here may have changed that whole trajectory.

Commissioner Flynn asked on the eastern part where the other State Route 79 is, is that going to remain 79.

Italia Garcia replied the current 79 will remain the 79 because it is going to be a completely brand-new corridor.

Commissioner Flynn clarified that this will have this name and then that will remain 79.

Italia Garcia replied that is correct, nothing is changing on the current 79.

Commissioner Flynn stated that she likes the name it encompasses the whole valley that includes all those other cities. She noted if you have 50 votes that probably represent 5,000 people and the next one down 12 votes probably represent 1,200 people, and she thinks that even if you put this out again you would still get the same result.

Aaron Hake stated that this was part of the plan they wanted the Commission to have the final say in what the name is. He noted what staff started with was just asking an open-ended question of what would you name this instead of staff predetermining what the choices were. Staff wanted to hear if the community had consensus on something or something they have not thought of letting everybody give us their idea. Then narrow it down to what would be an acceptable name to choose from then take those options to a committee of elected officials on the Commission and they included their tribal partner at Soboba to look at those ones that rose to the top from what the community submitted and that they could name it. Then allow the committee to make a recommendation to this body then to the Commission. It does create confusion and they are trying to advance the project and there is this sort of reflex of thought that this is a state highway, and it is not anymore. They need to move forward at some point but there is no deadline today to do it. If the committee would like to go back to the community or would like to put its own idea forward, they have total discretion to say the name or send it back to staff. They are happy to go in any direction they just wanted to give the Commissioners what the community input was and that of their colleagues.

Vice Chair Conder clarified with Commissioner Berkson if they are asking that they put the top three out or how do you want to put them back out.

Commissioner Spiegel stated even if you would take those seven that they are talking about and add Dave Kelley to it, you are re-asking so the people who were not even part of that number have a chance to take what is on the top and decide. She has never heard of it done the way staff did it, which is not wrong, it just is different, but now you are allowing them to say these are the top ones once mine got eliminated now, they are going re-vote. It may come back the same way and then she would feel more comfortable, but she cannot feel comfortable the way this was done. Staff is not giving an opportunity for the rest of the people who got thrown out to get a chance to vote for the top one.

Commissioner Berkson stated that he would rather see it go back with the top three or four choices and see if it comes back the same way. They did not ask the real question also how does Hemet, aside from Commissioner Krupa, a city at large feel about that name, or how does Winchester feel about that name. If this committee is willing to sit on this for a month or so let it go back out and see if they get the same result. He would feel much more comfortable and confident about it if people had a choice which one is the best not just pick at random. Then those people will now have to make a choice and of that choice it would be better to know that is really where they want to go. He made a motion to continue this item and go back out to the public with a list of the top four or five names.

Commissioner Spiegel stated that you can even have the whole group, it does not matter.

Commissioner Berkson clarified that they do not want 20.

Commissioner Spiegel replied the numbers that Italia Garcia is presenting plus the County.

Vice Chair Conder clarified the top seven that Italia Garcia presented and adding Senator Kelley as the eighth.

Aaron Hake stated that in going with the spirit of what the Commission is trying to do if they could ask the committee that was convened to develop the top four or five to put forward. Also, they do have to run this through the County Surveyor.

Italia Garcia stated that is why the name was not included because they were trying to steer away from specific people's or former elected officials' names.

Commissioner Spiegel clarified they have highways named after people who are officers.

Italia Garcia replied that they can explore the option.

Aaron Hake stated they can ask that committee to reconvene with the parameters from the County Surveyor's Office that would be eligible they can set the number, then staff can go back out to the public and then come back to update the Commission.

Commissioner Berkson stated that there was a motion and this would be opposite of that.

Commissioner Krupa stated that she withdrew her motion.

Commissioner Berkson stated that he would put that motion forward to do what Aaron Hake just said.

Commissioner Krupa seconded the motion.

Vice Chair Conder stated that they have a motion and a second to go back to the committee to determine the type of numbers.

M/S/C (Berkson/Krupa) for the Committee to recommend the Commission take the following action(s):

1) Ask that committee to reconvene with the parameters from the County Surveyor's Office that would be eligible they can set the number, then staff can go back out to the public and then come back to the Commission with an update.

10. EXECUTIVE DIRECTOR REPORT

Aaron Hake:

- Stated that Commissioner Spiegel mentioned the state does name the highways it is a legislative process to do that. They can also separately from that item look into how they can name certain aspects of County or local facilities. There is precedent for RCTC naming a certain part of a project or a certain location in honor of somebody if that is deemed appropriate. There may be other ways to do it as a separate item staff will do that research and come back with recommendations.

  Commissioner Spiegel stated to Italia Garcia she appreciates her time and effort and it was a great job. She cannot imagine the nightmare it was with everyone having different ideas and to put it together like that it was great and she thanked Italia Garcia.

  Aaron Hake wanted to thank the team as well.

- Announced on April 28 at 3:00 p.m. in the city of Beaumont is the Groundbreaking for the SR-60/Potrero Boulevard Interchange Project. If you would like to attend and have not RSVP'd, please see Lisa Mobley, Administrative Services Director/Clerk of the Board. They are very excited about that groundbreaking.
- Announced on April 29 at 5:30 p.m. on your telephones should you be fortunate enough to be dialed they will be doing a Telephone Townhall by RCTC about the Traffic Relief Plan. You may have residents that wonder why a government agency they have never heard of is calling them to talk about traffic. If they pick up the phone it is an opportunity to be able to listen to their host Chair Raymond Gregory, myself, Kristin Warsinski with Riverside Transit Agency and Dennis Acuna with Riverside County Transportation Land Management Agency engaging with the residents across the Western Riverside County on transportation and traffic issues. The first Telephone Townhall was in the Coachella Valley, and it went very well. It was about 45 minutes they had lots of questions about all sorts of things regarding potholes, transit, and traffic on I-10.
- Announced RCTC has started construction on the Mid County Parkway Project, there are construction alerts going. If you would like to receive construction alerts, please let Lisa Mobley know.

11. COMMISSIONER COMMENTS

11A. Commissioner Morabito stated that speaking of the Traffic Relief Plan, he saw a video ad on YouTube. Also, he will see everyone at the ribbon cutting on April 28.

11B. Commissioner Flynn stated on May 13 at 3:00 p.m. they will have the Groundbreaking and Ribbon Cutting Ceremony for the Sun Lakes Boulevard Extension Project. Everyone is invited to that, and more information will go out later.

Aaron Hake noted he had announced it at the Budget and Implementation Committee this morning and he wanted to make sure they are aware as well. The California Transportation Foundation is a statewide organization that honors excellence in the transportation industry. RCTC has been nominated for four RCTC projects for statewide awards which will be held on May 13. He is not sure which they are actually going to get but the 71/91 Interchange Project, the Metrolink March Field/Moreno Valley Station Improvements, Experience Metrolink Program, and the 91 Occupancy Detection System have all been nominated for project of the year in their respective categories which is outstanding. He then congratulated RCTC.

12. ADJOURNMENT

There being no further business for consideration by the Western Riverside County Programs and Projects Committee, the meeting was adjourned at 2:43 p.m.

Respectfully submitted,

Tara S. Byerly

Tara S. Byerly
Deputy Clerk of the Board

AGENDA ITEM 7

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	July 27, 2026
TO:	Western Riverside County Programs and Projects Committee
FROM:	Sri Srirajan, Senior Capital Projects Manager
THROUGH:	David Thomas, Toll Project Delivery Director
SUBJECT:	State Route 91 Eastbound Corridor Operations Project Cooperative Agreements with: (1) Caltrans; (2) Foothill/Eastern Transportation Corridor Agency and the City of Corona

STAFF RECOMMENDATION:

This item is for the Committee to recommend to the Commission take the following action(s):

1) Approve Cooperative Agreement No. 26-31-096-00 with Caltrans for the State Route 91 Eastbound Corridor Operations Project (91 ECOP) for construction and Caltrans performed construction inspection services in an amount not to exceed $5,656,000 to be paid by the Commission;
2) Approve three-party Cooperative Agreement No. 26-31-094-00 with Foothill/Eastern Transportation Corridor Agency and the city of Corona for the Commission's fair share contribution to the city of Corona for the Green River Road Improvement Project in an amount not to exceed $393,522 to be paid by the Commission; and
3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission.

SUMMARY:

This item requests approval of two cooperative agreements needed to advance the 91 ECOP project. The agreements establish funding, responsibilities, and coordination among partner agencies and allow the 91 ECOP to move forward into construction.

BACKGROUND INFORMATION:

Project Overview

The 91 ECOP is part of the larger State Route 91 Corridor Improvement Project – Ultimate Project. The project will add an operational lane on eastbound SR-91 between the SR-241 and SR-71 connectors.

The 91 ECOP is intended to improve traffic flow, reduce congestion, and enhance safety in one of the region's most heavily traveled corridors. The project fulfills a commitment under the Commission's Delivery Plan (2019–2029).

The project is currently in the Project Approval and Environmental Document (PA/ED) phase, which includes revalidation of the previously approved Environmental Impact Report/Environmental Impact Statement for the SR-91 Corridor Improvement Project – Ultimate Project. Completion of the PA/ED phase is anticipated in Fall 2026, with construction targeted for completion in 2030.

In August 2025, the Commission approved contracts for project and construction management and specialized legal services to support delivery using a Progressive Design-Build (PDB) approach. Procurement for a PDB contractor is underway, with a contract anticipated to be presented to the Commission in October 2026.

Staff are finalizing the cooperative agreement between RCTC and the Orange County Transportation Authority (OCTA) to establish the framework for cost-sharing, coordination, and project delivery for the 91 ECOP which is expected to be presented at the August Committee and September Commission meetings.

DISCUSSION:

To advance the 91 ECOP, two cooperative agreements are required to define roles, responsibilities, and funding contributions among project partners.

1. Caltrans Cooperative Agreement

The cooperative agreement between RCTC and the California Department of Transportation (Caltrans) establishes the roles, responsibilities, and oversight framework for delivery of the project on the State Highway System.

Under this agreement, RCTC will serve as the project sponsor and implementing agency responsible for delivering the project, including procurement and administration of the PDB contract.

Caltrans, as the owner and operator of the State Highway System, will provide oversight, review, and approval of project development and construction activities to ensure compliance with applicable state and federal requirements.

Caltrans' responsibilities include:

- Design review and approval
- Construction inspection services and materials testing
- Environmental compliance oversight and quality assurance oversight
- Coordination to ensure consistency with State Highway System standards

RCTC is responsible for the cost of construction inspection services performed by Caltrans for the 91 ECOP required by Design-Build legislation AB 401. The total cost for Caltrans reimbursed services is estimated to be $5,656,000 and is included in the Commission's project budget.

Upon completion of construction and acceptance of the work, Caltrans will assume ownership, operation, and maintenance responsibility for the improvements within the State Highway System.

2. Foothill/Eastern Transportation Corridor Agency and City of Corona Cooperative Agreement

The cooperative agreement among RCTC, the Foothill/Eastern Transportation Corridor Agency (F/ETCA), and the city of Corona establishes a fair share contribution methodology to the city of Corona's Green River Road/Foothill Parkway Improvement Project (City Project).

The city of Corona has developed the City Project to address potential cut-through traffic on the Green River Road/Foothill Parkway corridor between SR-91 and Interstate 15 (I-15). RCTC's consultant Stantec performed a traffic analysis to assess potential increases in cut-through traffic from the 91 ECOP and F/ETCA's SR-241/91 Express Connector project on the

Green River Road/Foothill Parkway corridor. The City Project includes traffic management measures and operational enhancements along the Green River Road/Foothill Parkway corridor between SR-91 and I-15 within the city of Corona. The total estimated cost of the City Project is approximately $3.3 million.

Based on the traffic analysis, RCTC and F/ETCA agreed to provide funding for the Project using a fair share methodology, which allocates costs proportionally based on projected traffic increases attributable to each project.

Under the agreement, RCTC will contribute $393,522, and F/ETCA will contribute $119,545, for a combined fair share contribution of $513,067. These contributions will be provided as one-time lump sum payments to the city of Corona.

The city of Corona will serve as the implementing agency and will be responsible for delivering the City Project, including design, procurement, construction management, and compliance with all applicable local, state, and federal requirements. The city of Corona is also responsible for obtaining all necessary permits and environmental clearances under the California Environmental Quality Act (CEQA).

The city of Corona is expected to complete construction of the City Project within two years of the opening of the 91 ECOP and will be responsible for ongoing maintenance and operation of the improvements after completion.

The Corona City Council approved the agreement at their June 17 meeting and the F/ETCA Board approved the agreement on July 9.

Agreement Status

Both cooperative agreements are currently in final review, with legal concurrence pending from each participating agency. Execution of the agreements will occur following completion of legal review. No significant changes are anticipated.

STAFF RECOMMENDATION:

Staff recommends approval of two cooperative agreements with: (1) Caltrans; and (2) the Foothill/Eastern Transportation Corridor Agency and the city of Corona to support advancement of the State Route 91 Eastbound Corridor Operations Project into PDB and to ensure coordination of state oversight, regional funding contributions, and local traffic improvements.

FISCAL IMPACT:

Agreement	Financial Summary	Funding Source / Notes
Caltrans Cooperative Agreement	Total not-to-exceed: $5,656,000 (includes contingency) • FY 2026/27: ~$371,000 • FY 2027/28+: ~$5,285,000	Funded by 91 Toll Revenues and included in the Commission's adopted budget. No additional budget adjustment required.
F/ETCA & City of Corona Cooperative Agreement	Total fair share: $513,067 • RCTC: $393,522 FY 2026/27: • F/ETCA: $119,545	Funded by 91 Toll Revenues and included in the Commission's adopted budget. No additional budget adjustment required.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2026/27 FY 2027/28+	Amount:	$764,522 $5,285,000
Source of Funds:	91 Toll Revenue			Budget Adjustment:	No
GL/Project Accounting No.:	913055 81602 00000 0000 5910 31 81601				
Fiscal Procedures Approved:				Date:	7/14/2026

Attachments:

1) Draft Cooperative Agreement No. 26-31-096-00 – Caltrans
2) Draft Cooperative Agreement No. 26-31-094-00 – Foothill/Eastern Transportation Corridor Agency and City of Corona

District Agreement 08-1823
08-RIV-91-R0.0/R1.2
12-ORA-91-R17.0/R18.9
EA: 08-0F545
Project Number 0823000005
RCTC Agreement 26-31-096-00

COOPERATIVE AGREEMENT
FOR PROGRESSIVE DESIGN-BUILD OF THE STATE ROUTE 91 EASTBOUND CORRIDOR OPERATIONS PROJECT

This AGREEMENT, entered into effective on ______________, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE",

and the RIVERSIDE COUNTY TRANSPORTATION COMMISSION, referred to herein as "RCTC"

RECITALS

1. STATE and RCTC (collectively referred to as "PARTIES" and each singularly referred to as "PARTY"), pursuant to Streets and Highways Code section 114 , are authorized to enter into a Cooperative Agreement for potential improvements to the State Highway System (SHS) within the Counties of Riverside and Orange.

2. Under the authority granted by SB 1316 (2008) which enacted Public Utility Code §130244, STATE and RCTC entered into a Toll Facility Agreement (TFA) Doc 8-1518, dated May 14, 2012, wherein RCTC was authorized to operate, maintain and collect tolls on the Riverside County segment of State Route 91.

3. AB 1010 (2002) which enacted Public Utility Code §130240, enabled the Orange County Transportation Authority ("OCTA") acquisition of Route 91's franchise from California Private Transportation Company ("CPTC") and expanded OCTA's powers on the SR 91 segment within OCTA jurisdiction. OCTA, CPTC, and Caltrans entered into that certain Estoppel Certificate and Assignment and Assumption Agreement, dated December 30, 2002, whereby CPTC assigned to OCTA, and OCTA assumed, CPTC's interest in that certain Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated as of June 30, 1993, as amended by that certain Amendment 1 to Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated July 16, 1993, as further amended by that certain Amendment No. 2 to Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated as of December 30, 2002 and as further amended by Amendment No. 3 to Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated December 12, 2011 (collectively, the "OCTA Franchise Agreement").

4. The State Route 91 Corridor Improvement Project (91 CIP) (EA 0F540) was approved in 2012. As stated in the Final EIR/EIS, implementation of the project would be in phases over a 20-year period, beginning with an Initial Phase and culminating with a target completion date of the Ultimate Project by 2035. As funding became available, separate elements of the Ultimate Project would be identified and programmed as separate projects along both the State Route 91 (SR-91) between the Initial Phase and completion of the Ultimate Project by 2035.

5. The PROJECT to be covered under this AGREEMENT constructs an operational lane on Eastbound SR-91 from the State Route 241 general purpose lane connector to the State Route 71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing) more fully identified in Exhibit A attached to and made a part of this AGREEMENT.

6. RCTC will be responsible for project management, planning, design, right-of-way, financing, construction management and other related services, as a PROGRESSIVE DESIGN-BUILD contract.

7. STATE recognizes that RCTC has, prior to the effective date of this AGREEMENT, selected and retained certain consultants to work on the PROJECT.

8. The PROJECT is a PROGRESSIVE DESIGN-BUILD project as identified in Public Contract Code section 22180.1 and is subject Public Contract Code section 22180, et seq.,

9. PROGRESSIVE DESIGN-BUILD is a variation of design-build and is required to follow the FHWA procurement policies and procedures under Title 23, CFR Part 636.

10. RCTC, as part of its role in planning and developing regional transportation facilities and in order to bring about the earliest completion of studies, design, and potential construction of the PROJECT, has determined that the PROJECT, if constructed, will be implemented using a PROGRESSIVE DESIGN-BUILD contracting process in accordance with section 22180, et seq. of the Public Contracts Code, and RCTC, as a county transportation commission established under Section 130050 of the Public Utilities Code, falls within the definition of a "county transportation commission" authorized to utilize PROGRESSIVE DESIGN-BUILD under subdivision (g) of section 22180 of the Public Contract Code.

11. RCTC shall advertise, award and administer the PROGRESSIVE DESIGN-BUILD contract.

12. OCTA and RCTC have entered into a separate agreement, which is attached to and made a part of this AGREEMENT as Attachment B, wherein OCTA has agreed to provide a fair share contribution to the cost of the PROJECT and has transferred, or will transfer, funds to RCTC in order for RCTC to meet a portion of its funding commitments as shown in the Funding Summary of this AGREEMENT ("OCTA-RCTC COOPERATIVE AGREEMENT"). Under the said agreement, OCTA has granted RCTC the authority to design, complete environmental and right of way work, and construct the PROJECT within OCTA's jurisdiction, and also do all things necessary, including work within or affecting the TOLL FACILITY(operated by OCTA).

13. PARTIES will define the terms and conditions under which PROJECT is to be developed, designed, and constructed consistent with STATE'S standards, policies and procedures for implementation of PROGRESSIVE DESIGN-BUILD projects on the SHS. .

14. RCTC will, pursuant to the legislative authority cited above, advertise, award, and administer the PROGRESSIVE DESIGN-BUILD contract. STATE shall not be considered to be in privity with the PROGRESSIVE DESIGN-BUILD ENTITY and the CONTRACT DOCUMENTS shall reflect the fact that no contractual relationship is to be created between the PROGRESSIVE DESIGN-BUILD ENTITY and the STATE except as provided in this AGREEMENT.

15. The terms of this AGREEMENT shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or agreement relating to the PROJECT with the exception of any agreements between or among the RCTC and the Federal Highway Administration or the U.S. Department of Transportation.

16. RCTC is the SPONSOR and IMPLEMENTING AGENCY for the PROJECT. OCTA will contribute approximately forty percent of the project funding under the OCTA-RCTC COOPERATIVE AGREEMENT and will not be identified separately in the Funding Summary

17. STATE , as the owner/operator of the State Highway System (SHS), will perform Quality Management Assessment (QMA) and owner/operator approvals for the portions of PROJECT within the existing and proposed SHS right-of-way. STATE's QMA efforts are to ensure that quality assurance results in PROJECT that is in accordance with the applicable standards and the PROJECT's quality management plan (QMP). QMA does not include any efforts necessary to develop or deliver PROJECT or any validation by verifying or rechecking RCTC's work.

18. When STATE performs QMA, it does so for its own benefit. No one can assign liability to STATE due to its QMA.

19. STATE, as the owner/operator of the State Highway System, will approve PROJECT work in accordance with STATE policies and guidance and as indicated in this AGREEMENT.

20. Per National Environmental Policy Act (NEPA) assignment and California Environmental Quality Act (CEQA) statutes, STATE will perform environmental document quality control and NEPA assignment review procedures for environmental documentation. STATE quality control and quality assurance procedures for all environmental documents are described in Chapter 38 of the Standard Environmental Reference (SER) available at https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-38-nepa-assignment. This also includes the independent judgment analysis and determination under CEQA that the environmental documentation meets CEQA requirements.

    RCTC will provide PROJECT-related products and supporting documentation upon STATE's request for the purpose of STATE REIMBURSED WORK and QMA.

DEFINITIONS

For the purposes of this AGREEMENT, the following terms shall have the meanings hereinafter provided:

21. **CHANGE IN LAW –** As used herein, the term "CHANGE IN LAW" shall mean (a) the adoption of any Law of the State on or before the PROJECT SETTING DATE (b) any change in any Law of the State or in the interpretation or application thereof by any governmental entity, excluding FHWA and STATE, on or before the PROJECT SETTING DATE; or (c) changes in Safety Standards that apply to the PROJECT; in each case that is materially inconsistent with the Laws, or interpretations thereof, respectively, in effect on or before the PROJECT SETTING DATE. Notwithstanding the foregoing, a CHANGE IN LAW does not include the following: (i) any change in or a new Law of the State passed or adopted but which is not effective on or before the PROJECT SETTING DATE ; (ii) any change in the standards that qualifies as a Betterment; (iii) any change in State labor Laws; or (iv) any change in State tax Laws of general application.

22. **COMPLETION OF WORK** – As used herein, the term "COMPLETION OF WORK," shall mean that the PARTIES have met all scope, cost, and schedule commitments included in this AGREEMENT and have signed a COOPERATIVE AGREEMENT CLOSURE STATEMENT.

23. **CONSTRUCTION INSPECTION SERVICES** – As used herein, the term "CONSTRUCTION INSPECTION SERVICES" as specified in Streets and Highways Code section 91.2(a) includes, but is not limited to, material source testing, certification testing, surveying, monitoring of environmental compliance, independent quality control testing and inspection, and quality assurance audits. CONSTRUCTION INSPECTION SERVICES does not include surveying work performed as part of the PROGRESSIVE DESIGN-BUILD contract.

24. **CONTRACT DOCUMENTS** – As used herein, the term "CONTRACT DOCUMENTS" shall mean and refer to the set of contractually binding documents between RCTC and its PROGRESSIVE DESIGN-BUILD ENTITY, as approved by STATE.

25. **CONTRACT INDEPENDENT ASSURANCE TESTING** - As used herein, the term "CONTRACT INDEPENDENT ASSURANCE TESTING" shall mean and refer to the activities that are an unaffiliated, unbiased and independent evaluation of all the sampling and testing procedures used on PROJECT to accept the PROGRESSIVE DESIGN-BUILD ENTITY's work.

26. **COOPERATIVE AGREEMENT CLOSURE STATEMENT** – As used herein, the term "COOPERATIVE AGREEMENT CLOSURE STATEMENT" shall mean and refer to the document wherein PARTIES verify the completion of all scope, cost, and schedule commitments included in this AGREEMENT and by signing which PARTIES terminate the AGREEMENT. A sample document is attached hereto as Exhibit F.

27. **DEPARTMENT FURNISHED MATERIALS or DFM** – As used herein, the term "DFM" shall mean and refer to material for the PROJECT or services to be provided by STATE, at RCTC's request, for which RCTC will reimburse STATE. The PARTIES expressly agree that Construction Zone Enhanced Enforcement Program ("COZEEP") services shall be considered DFM.

28. **ENVIRONMENTAL DOCUMENTS** – As used herein, the term "ENVIRONMENTAL DOCUMENTS" shall mean and refer to the final, adopted EIR/EIS for the PROJECT, environmental revalidation, any related Mitigation Monitoring and Reporting Program and all supporting environmental documentation.

29. **FHWA STANDARDS** – As used herein, the term "FHWA STANDARDS" shall mean and refer to FHWA manuals, technical memoranda, standards, guidelines, and modifications to such standards.

30. **FUNDING PARTY** – As used herein, the term "FUNDING PARTY " is the PARTY contributing a fixed amount toward the PROJECT as shown in the FUNDING SUMMARY.

31. **FRANCHISE AGREEMENT**- As used herein, the term "FRANCHISE AGREEMENT, shall mean and refer to, collectively, that certain Estoppel Certificate and Assignment and Assumption Agreement, amongst OCTA, CPTC, and Caltrans, dated December 30, 2002, whereby CPTC assigned to OCTA, and OCTA assumed, CPTC's interest in that certain Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated as of June 30, 1993, as amended by that certain Amendment 1 to Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated July 16, 1993, as further amended by that certain Amendment No. 2 to Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated as of December 30, 2002 and as further amended by Amendment No. 3 to Amended and Restated Development Franchise Agreement (State Route 91 Median Improvements), dated December 12, 2011.

32. **FUNDING SUMMARY**- As used herein, the term "FUNDING SUMMARY" shall mean and refer to the PROJECT funding summary attached to this AGREEMENT that identifies Funding sources, PARTIES committing funds and funding amounts.

33. **GUARANTEED MAXIMUM PRICE** - As used herein, the term "GUARANTEED MAXIMUM PRICE" OR "GMP" shall mean and refer to the agreed price between the RCTC and the PROGRESSIVE DESIGN-BUILD ENTITY for the PROGRESSIVE DESIGN-BUILD CONTRACT amendment.

34. **HM-1** – As used herein, the term "HM-1" shall mean and refer to hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law whether it is disturbed by PROJECT or not.

35. **HM-2** – As used herein, the term "HM-2" shall mean and refer to hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by PROJECT.

36. **HM MANAGEMENT ACTIVITIES –** Management activities related to either HM-1 or HM-2 including, without limitation, any necessary manifest requirements and disposal facility designations.

37. **IMPLEMENTING AGENCY**- As used herein, the term "IMPLEMENTING AGENCY" shall refer to the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT.

38. **OWNER VERIFICATION** - As used herein, the term "OWNER VERIFICATION" shall mean and refer to work performed by RCTC and STATE to verify the PROGRESSIVE DESIGN-BUILD ENTITY's compliance with the CONTRACT DOCUMENTS.

39. **OCTA-RCTC COOPERATIVE AGREEMENT** – As used herein, the term "OCTA-RCTC COOPERATIVE AGREEMENT shall mean and refer to that separate agreement for the PROJECT entered into between OCTA and RCTC, as further described in paragraph 12 of this AGREEMENT.

40. **PDB PHASE 1** - As used herein, the term "PDB PHASE 1" shall mean and refer to the time frame of the PROGRESSIVE DESIGN-BUILD approach during which preliminary engineering, construction estimating, and PDB PHASE 2 scope and cost negotiations are performed.

41. **PDB PHASE 2** - As used herein, the term "PDB PHASE 2" shall mean and refer to the time frame of the PROGRESSIVE DESIGN-BUILD approach during which final design and construction activities are performed.

42. **PROGRESSIVE DESIGN-BUILD or PDB** - As used herein, the term "PROGRESSIVE DESIGN-BUILD (or "PDB")" shall mean and refer to contracting process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection.

43. **PROGRESSIVE DESIGN-BUILD CONTRACT**; As used herein, the term "PROGRESSIVE DESIGN-BUILD CONTRACT" or "CONTRACT" shall mean and refer to an agreement, as may be amended, entered into between the RCTC and the PROGRESSIVE DESIGN-BUILD ENTITY to deliver the PROJECT, including preliminary engineering, and, if a GMP is agreed upon, final design and construction.

44. **PROGRESSIVE DESIGN-BUILD ENTITY** - The proposer (or single purpose entity, if any) who enters into a contract with RCTC to deliver the preliminary engineering for the PROJECT, and, if a GMP is agreed upon, final design and construction .

45. **PROJECT** – As used herein, the term "PROJECT" shall mean and refer to construction of an operational lane on Eastbound SR-91 from the State Route 241 general purpose lane connector to the State Route 71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing), as further described and depicted in Exhibit A. The project scope of work is defined in the final PROJECT ENVIRONMENTAL DOCUMENTS

46. **PROJECT SETTING DATE** – As used herein, the term "PROJECT SETTING DATE" shall mean and refer to the effective date as to when various standards and requirements are applicable to the PDB PHASE 2 CONTRACT amendment between the RCTC and the PROGRESSIVE DESIGN-BUILD ENTITY.

47. **PROJECT SHS RIGHT OF WAY** – As used herein, the term "PROJECT SHS RIGHT OF WAY" shall mean and refer to the underlying STATE owned right-of-way on which the PROJECT is constructed.

48. **QUALITY MANAGEMENT PLAN** - As used herein, the "QUALITY MANAGEMENT PLAN" shall mean and refer to the plan prepared by the PROGRESSIVE DESIGN-BUILD ENTITY, which is submitted to the RCTC for approval, and to STATE for concurrence. The QUALITY MANAGEMENT PLAN shall establish the PROGRESSIVE DESIGN-BUILD ENTITY's procedures for quality control and quality assurance. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP is subject to STATE review and concurrence.

49. **QUALITY MANAGEMENT PROGRAM** - As used herein, the term "QUALITY MANAGEMENT PROGRAM" shall mean and refer to the quality programs developed by the RCTC and PROGRESSIVE DESIGN-BUILD ENTITY to provide verification of conformance with the CONTRACT DOCUMENTS.

50. **QUALITY MANAGEMENT ASSESSMENT OR QMA** – As used herein, the term "QUALITY MANAGEMENT ASSESSMENT" or "QMA", is defined in Deputy Directive 23-R2, Roles and Responsibilities for Development of Projects on the State Highway System, dated 12/21/2018, shall mean and refer to the systematic activities by the STATE that verifies the RCTC's quality assurance program effectiveness that precede the STATE's approval.

51. **REIMBURSED WORK** - As used herein, the term "REIMBURSED WORK" shall mean and refer to work to be performed by STATE and reimbursed by RCTC under this AGREEMENT. REIMBURSED WORK shall, unless otherwise specified in this AGREEMENT, commence upon the issuance of the Notice to Proceed from RCTC to the PROGRESSIVE DESIGN-BUILD ENTITY for PDB PHASE 1, and shall include:

    (a) PROJECT work requested by RCTC and agreed upon by STATE.

    (b) CONSTRUCTION INSPECTION SERVICES

52. **RELIEF OF MAINTENANCE** - As used herein, the term "RELIEF OF MAINTENANCE," shall mean and refer to the point at which STATE will grant the PROJECT "Maintenance and Protection Relief," as allowed in the applicable Caltrans Construction Manual existing as of the PROJECT SETTING DATE and as may further be set forth in the CONTRACT DOCUMENTS.

53. **REQUEST FOR QUALIFICATIONS or RFQ** - As used herein, the term "REQUEST FOR QUALIFICATIONS" or "RFQ" shall mean and refer to the Request for Qualifications, and all associated documents, issued by RCTC identifying the work to be performed and the qualifications required to perform the work to complete the PROJECT, in response to which an SOQ may be submitted by a Proposer.

54. **SAFETY STANDARD** – As used herein, the term "SAFETY STANDARD" shall mean and refer to (i) a standard adopted and published by the FHWA or STATE expressly pertaining to endangerment to life or safety on similarly situated STATE transportation facilities; (ii) applied within the same time period to all similarly situated State transportation facilities; (iii) necessary to correct an anticipated or actual imminent and substantial endangerment to life or safety; and (iv) which requires immediate implementation.

55. **SCOPE OF WORK** - The term "SCOPE OF WORK" shall mean and refer to the document(s) included in the relevant contractor or consultant contract that details the services and work to be performed under such contract.

56. **SOURCE INSPECTION** - As used herein, the term "SOURCE INSPECTION" shall mean and refer to sampling, testing and/or inspection of manufactured or prefabricated materials at locations other than the jobsite, generally at the manufactured location.

57. **SPENDING SUMMARY** – A table that identifies the funds available for expenditure by each PARTY.in each project component.

58. **SPONSOR** - As used herein, the term "SPONSOR" shall mean the agency responsible for establishing the scope of the PROJECT and securing the financial resources to fund the PROJECT. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the PROJECT can be completed with the funds committed in this AGREEMENT.

59. **STATE REQUESTED BETTERMENTS** - As used herein, the term "STATE REQUESTED BETTERMENTS" shall mean and refer to any improvements which are not part of the original PROJECT scope as per Project Report and which are requested by STATE for inclusion as part of PROJECT, and which are to be paid for solely by STATE. Safety Standards defined as A CHANGE IN LAW shall not constitute a STATE REQUESTED BETTERMENTS, unless the cost of such a change is attributable to a STATE REQUESTED BETTERMENTS. If mutually agreed to by both PARTIES, RCTC agrees that STATE REQUESTED BETTERMENTS will be included in PROJECT as requested by STATE.

60. **STATE STANDARDS** – As used herein, the term "STATE STANDARDS" shall mean and refer to those STATE documents which are in effect on or before the PROJECT SETTING DATE, including, as applicable, the FHWA STANDARDS; the version of the Standard Specifications referenced in the CONTRACT DOCUMENTS; Standard Plans; the guidance provided in the *Guide to Capital Project Delivery Workplan Standards* (previously known as WBS Guide) available at http://www.dot.ca.gov/hq/projmgmt/guidance.htm; STATE manuals (including but not limited to the Right of Way Manual, Construction Manual, Highway Design Manual, California Manual on Uniform Transportation Control Devices, etc.); technical memoranda; standards; guidelines; and modifications to such standards that are set forth in or expressly incorporated into the CONTRACT DOCUMENTS.

61. **STATEMENT OF QUALIFICATIONS** As used herein, the term "STATEMENT OF QUALIFICATIONS" or "SOQ" shall mean and refer to a proposer response to an RFQ issued by the RCTC.

62. **STEWARDSHIP AGREEMENT** – As used herein, the term "STEWARDSHIP AGREEMENT" shall mean and refer to the stewardship and oversight agreement on project assumption and program oversight by and between the Federal Highway Administration, California division office, and Caltrans .

63. **THIRD PARTY BENEFICIARY** - As used herein is a person or entity that is not a party to a contract but is intended by the contracting parties to receive a benefit under that contract and therefore has the legal right to enforce the contract terms related to that benefit.

64. **TOLL FACILITY** – As used herein, the term "TOLL FACILITY" shall mean and refer to the existing 91 Express Lanes in Riverside County (Operated by RCTC), or the existing 91 Express Lanes in Orange County (Operated by OCTA), and related equipment and facilities, as defined in the TOLL FACILITY AGREEMENT for RCTC, and the FRANCHISE AGREEMENT, for OCTA.

65. **TOLL FACILITY AGREEMENT** – As used herein, the term "TOLL FACILITY AGREEMENT" shall mean and refer to

   (a) the existing Caltrans/RCTC Toll Facility Agreement for State Route 91 Express Lanes in Riverside County, Agreement No. 08-1518, as amended and

SECTION I

RCTC AGREES:

66. To procure, advertise, award, and administer the PROGRESSIVE DESIGN-BUILD CONTRACT provided that CONTRACT DOCUMENTS will be developed by RCTC in compliance with RCTC's regulatory and statutory procurement and contracting authority for PROGRESSIVE DESIGN-BUILD procurements on the SHS, including Public Contract Code Section 22180, et. seq.

67. RCTC is the SPONSOR for the PROJECT

68. RCTC is the IMPLEMENTING AGENCY for the PROJECT

69. To provide a Quality Management Plan (QMP) for the PROJECT.

70. To make its personnel and consultants that work on PROJECT available to help resolve PROJECT-related problems and changes for the entire duration of the PROJECT including PROJECT work that may occur under separate agreements.

71. To fund one hundred percent (100%) of all PROJECT costs as shown in FUNDING SUMMARY, including but not limited to the costs of:

    (a) REIMBURSED WORK, Department Furnished Materials (DFM) and other PROJECT work requested and agreed to by STATE in writing.

    (b) Legal challenges, awards, judgments, settlements, fines, interest, and penalties, environmental commitments and compliance.

    (c) Keeping the PROJECT right of way in a safe and operable condition.

    (d) Obtaining, implementing and renewing resource agency permits.

    (e) Hazardous material management activities as assigned in this AGREEMENT.

72. Per National Environmental Policy Act (NEPA) assignment and California Environmental Quality Act (CEQA) statutes, STATE will perform environmental document quality control and NEPA assignment review procedures for environmental documentation. STATE quality control and quality assurance procedures for all environmental documents are described in Chapter 38 of the Standard Environmental Reference (SER), available at https://dot.ca.gov/programs/environmental-analysis/standard-environmental-reference-ser/volume-1-guidance-for-compliance/ch-38-nepa-assignment. This also includes the independent judgment analysis and determination under CEQA that the environmental documentation meets CEQA requirements.

73. To provide PROJECT-related products and supporting documentation upon STATE' request for the purpose of STATE's QMA.

74. RCTC, including any employee, agent, consultant or sub-consultant retained by the RCTC, shall implement uniform document control policies necessary to retain all records and electronically stored information associated with the WORK, including but not limited to those records identified in California Public Resources Code, Section 21167.6, and including email and attachments, in a manner consistent with the STATE Uniform Filing System and the "Final STATE Environmental Records Retention Policy", available at https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/ser/nepa-recordretention-policy-final-a11y.pdf. These records, along with an index of the records, shall be provided to CALTRANS within 60 days of STATE' written request.

75. STATE is the CEQA and NEPA Lead Agency for the PROJECT.

76. Environmental Permits, Approvals and Agreements- RCTC will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to RCTC's responsibilities in this AGREEMENT.

77. Unless otherwise assigned in this AGREEMENT, as the IMPLEMENTING AGENCY, RCTC is responsible for all PROJECT work associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

78. It is expected that the PROJECT requires the following environmental permits/approvals:

Agency	Permit/Approval	Status
U.S. Fish and Wildlife Service (USFWS)	Joint Project Review (JPR) for Multiple Species Habitat Conservation Plan (MSHCP) consistency (part of Streamlined Federal Endangered	JPR submitted to USFWS for MSHCP consistency review. USFWS concurrence pending review of JPR.
U. S. Army Corps of Engineers (USACE)	Clean Water Act (CWA) Section 404 Nationwide Permit	To be submitted after approval of Project Report and Final Environmental Document.

California Department of Fish and Wildlife (CDFW)	California Fish and Game Code (CFGC) Section 1602 Lake or Streambed Alteration Agreement (SAA).	Application to be submitted during the Plans, Specifications, and Estimates (PS&E)/final design phase.
	JPR for MSHCP consistency.	JPR submitted to CDFW for MSHCP consistency review and concurrence through the JPR process.
Regional Water Quality Control Board (RWQCB)	Porter-Cologne Act and CWA Section 401 Water Quality Certification.	To be submitted after approval of Project Report and Final Environmental Document.
Western Riverside County Regional Conservation Authority (RCA)	JPR for MSHCP consistency.	JPR submitted to the RCA for MSHCP consistency review and concurrence through the JPR process.
SWRCB	CWA Section 402- A SWPPP required by the General NPDES Construction Permit would be prepared and is expected to provide all the necessary temporary pollution and erosion control measures required during construction. Post construction BMPs are required by Caltrans' NPDES permit and would be incorporated into PS&E package.	SWPPP would be submitted to Storm Water Multiple Application and Report Tracking System 30 days prior to construction, and post construction BMPs would be incorporated into construction documents.

79. To:

- Implement the environmental commitments as identified in the environmental document.
- Obtain and comply with the PROJECT permits, approvals, and agreements.
- Provide STATE with a copy of all environmental permits, approvals and agreements from resource and regulatory agencies, including the terms and conditions of the permits, agreements and approvals.
- Incorporate permit requirements and mitigation commitments into the final PROJECT plans.
- Implement all environmental commitments during construction.

80. To carry out the PROJECT with RCTC forces, consultants, and contractors. If environmentally approved, PROJECT will be implemented in accordance with the ENVIRONMENTAL DOCUMENTS and all applicable federal, State, and local laws and regulations, as well as compliance with the applicable STATE STANDARDS.

81. To be responsible for one hundred (100%) percent of all PROJECT construction capital (excluding the cost of STATE REQUESTED BETTERMENTS), right-of-way and support costs, and for the cost of REIMBURSED WORK, up to the maximum amount as set forth in the following sentence, and for DFM requested by RCTC. RCTC shall reimburse STATE the actual cost of REIMBURSED WORK up to the maximum amount shown on Exhibit C ("RCTC Maximum REIMBURSED WORK Payment Obligation"). RCTC has no obligation to reimburse STATE, nor the STATE the obligation to perform REIMBURSED WORK, over the stipulated Maximum REIMBURSED WORK Payment Obligation amount without a amendment to this AGREEMENT signed by both PARTIES.

82. That the purpose of Exhibit C is to illustrate the estimated STATE personnel to be assigned to REIMBURSED WORK, and that STATE shall manage such personnel and personnel assignments and classifications, including the use of consultants, at STATE's sole discretion, subject to the provision of this AGREEMENT, up to the RCTC Maximum REIMBURSED WORK Payment Obligation. Except as otherwise provided herein, it is agreed that STATE has no obligation to provide STATE personnel services beyond what is provided for in Exhibit C unless otherwise agreed to by the PARTIES.

83. That all of the RCTC and STATE obligations set forth in this entire AGREEMENT with respect to the construction and/or implementation of the PROJECT are expressly contingent upon the completion of all required environmental review under both California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) and the environmental revalidation approval of the proposed PROJECT. In the event that the "no project" alternative is selected as a result of the environmental review process, except as otherwise specified in this AGREEMENT, all RCTC and STATE obligations under this AGREEMENT shall terminate. STATE shall be compensated for all REIMBURSED WORK performed for PROJECT as of the effective date of this AGREEMENT. RCTC may perform PROGRESSIVE DESIGN-BUILD procurement work, preliminary engineering and any STATE approved early right-of-way acquisition, at RCTC's sole risk and cost prior to completion of review under CEQA and NEPA and environmental revalidation approval of the proposed PROJECT.

84. As authorized by California Public Contract Code section 22180, et. seq., to utilize the PROGRESSIVE DESIGN-BUILD method of procurement for implementation of PROJECT. To carry out PROJECT with RCTC forces, consultants, and contractors. PROJECT is to be defined and implemented in accordance with the ENVIRONMENTAL DOCUMENTS, and all applicable federal, State, and local laws, rules, and regulations. RCTC will implement the PROJECT in accordance with applicable STATE STANDARDS, except as the same may be modified in the approved CONTRACT DOCUMENTS. RCTC will coordinate with STATE during development of the CONTRACT DOCUMENTS, and STATE shall review, comment and, approve the CONTRACT DOCUMENTS in accordance with the terms of this AGREEMENT.

85. As of the effective date of this agreement, STATE will participate in the RCTC's selection of the PROGRESSIVE DESIGN-BUILD ENTITY. RCTC has, prior to the effective date of this AGREEMENT, selected and retained certain consultants to work on PROJECT. RCTC agrees at the request of STATE to consider discontinuing the services of any personnel considered by STATE to be unqualified based on credentials, professional expertise, or failure to perform in accordance with SCOPE OF WORK and/or other pertinent criteria.

86. As the ultimate owner of the facility, STATE will be named as the intended THIRD PARTY BENEFICIARY in the CONTRACT DOCUMENTS. The CONTRACT DOCUMENTS will include a provision granting STATE, in addition to RCTC, the right to pursue all legal remedies against the PROGRESSIVE DESIGN-BUILD ENTITY for any "latent deficiency" pursuant to California Code of Civil Procedure section 337.15 (b), and shall amend any contrary provision contained in the STATE STANDARDS.

87. To require the PROGRESSIVE DESIGN-BUILD ENTITY to maintain professional liability insurance through completion of construction of PROJECT and the resolution of all construction contract claims and/or litigation, with a limit of liability as set forth in the

CONTRACT DOCUMENTS. If Owner Control Insurance Program (OCIP) is proposed, to have an OCIP Feasibility Study, prepared to commercially accepted insurance standards, for approval by STATE. PROGRESSIVE DESIGN-BUILD ENTITY shall maintain in force, until completion and acceptance of all phase or elements of the PROGRESSIVE DESIGN-BUILD contract for PROJECT, Worker's Compensation, a policy of Contractual Liability Insurance, including coverage for Bodily Injury Liability and Property Damage Liability, with coverage that at a minimum meets the requirements set forth in the CONTRACT DOCUMENTS. Such policy shall contain an endorsement naming the STATE, its officers, agents, and employees as additional first-party insureds. Coverage shall be evidenced by a Certificate of Insurance, Policy of Insurance and a Declarations Page in a form satisfactory to STATE, all of which shall be delivered to STATE before the issuance of an encroachment permit to RCTC's PROGRESSIVE DESIGN-BUILD ENTITY or any other consultant or agent of RCTC. RCTC shall ensure that insurance coverage required in the CONTRACT DOCUMENTS is equal or above the insurance coverage requirement published by Caltrans in its Standard Specifications or Standard Special Provisions in effect at the time of construction of PROJECT.

88. To be responsible for the preparation and implementation of the Mitigation and Monitoring Plan to be approved by STATE as part of the ENVIRONMENTAL DOCUMENTS and environmental permit, agreement, or approval process. RCTC, its consultant or PROGRESSIVE DESIGN-BUILD ENTITY shall submit progress reports, per STATE and FHWA guidelines, to STATE for review and approval. As set forth in the ENVIRONMENTAL DOCUMENTS, and although STATE is the lead agency with respect to the ENVIRONMENTAL DOCUMENTS, RCTC agrees and warrants it shall comply, or cause its PROGRESSIVE DESIGN-BUILD ENTITY to comply, with all PROJECT mitigation measures, including the terms and conditions of the ENVIRONMENTAL DOCUMENTS and any required environmental permits, agreements and approvals as those terms and conditions apply to STATE's and RCTC's responsibilities as set forth in this AGREEMENT and shall provide and certify a Mitigation Monitoring Report and Certificate of Environmental Compliance at the completion of the PROJECT.

89. If required by FHWA, to prepare and submit FHWA "Major Project Deliverables." The Major Project Deliverables, if required, shall be prepared in accordance with FHWA guidelines and the STEWARDSHIP AGREEMENT.

90. To retain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred by RCTC, including support data for cost proposals (to the extent received from contractors), and make such materials available at the respective offices of RCTC and its consultants and contractors at all reasonable times during the contract period and for three years from the date of COMPLETION OF WORK or Federal Final Voucher, whichever is later. STATE or FHWA shall have access to any books, records, and documents of RCTC that are pertinent to this AGREEMENT for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Upon completion of all work under this AGREEMENT, ownership and title to all planning and engineering reports, documents, plans, specifications and estimates, including but not limited to Resident Engineer memos and estimates backups, produced for delivery to STATE as part of PROJECT will automatically be vested in STATE and no further agreement will be necessary to transfer ownership to STATE.

91. To furnish STATE, prior to commencing work on PROGRESSIVE DESIGN-BUILD activities, a proposed time schedule to complete PROJECT.

92. To have the release for construction design documents and drawings of structural, mechanical, electrical, civil, architectural, or other engineering features of PROJECT prepared by or under the direction of engineers or architects registered and licensed accordance with the most current version of the State of California, Professional Engineers Act at the time. Any reports, specifications, and each sheet of plans shall bear the professional seal, certificate number, registration classification, expiration date of certificate, and signature of the professional engineer responsible for their preparation.

93. To not specify any materials or equipment of single or sole source origin in the design of PROJECT unless RCTC complies with the requirements set forth in Public Contract Code section 3400(c).

94. To ensure PROJECT deliverables are subject to review, comment and approval, as appropriate, in accordance with the QUALITY MANAGEMENT PROGRAM. All PROJECT design submittals once deemed complete as defined in the CONTRACT DOCUMENTS shall be provided to STATE for review, comment and approval, as appropriate. All release for construction design documents and drawings are subject to review and approval by STATE, provided that the scope of STATE's review shall be limited to compliance with the CONTRACT DOCUMENTS. STATE shall complete its review and provide any comments in accordance with the requirements specified in SECTION II, of this AGREEMENT.

95. To notify STATE of any deviation(s) to the PROJECT's Area of Potential Effects (APE) and/or description of the PROJECT as set forth in the ENVIRONMENTAL DOCUMENTS. Said notification shall occur within two business days of when the deviation(s) has been discovered by RCTC or determined to be necessary, whichever occurs first in time.

96. To obtain approval of Change Orders (COs), to be issued under the CONTRACT DOCUMENTS, from STATE and FHWA (to the extent specified in the STEWARSHIP AGREEMENT) for federally eligible construction costs when the CO exceeds $200,000, and for all changes to the STATE STANDARDS, except as the same may be modified in the CONTRACT DOCUMENTS, or as otherwise approved by STATE.

97. To prepare or cause to be prepared any additional environmental documentation, including applications for new, or amendments to, environmental permits, agreements and approvals that are needed to maintain PROJECT environmental compliance and to submit said documentation to STATE for review, comment and, if appropriate, approval.

98. Further, if changes to PROJECT warrant preparation of supplemental or subsequent ENVIRONMENTAL DOCUMENTS, RCTC will prepare or cause to be prepared the supplemental or subsequent ENVIRONMENTAL DOCUMENTS and STATE as CEQA and NEPA lead agency will review and, if appropriate certify and/or approve the supplemental or subsequent ENVIRONMENTAL DOCUMENTS. All noticing and circulation and other procedural responsibilities will be carried out as set forth for the original ENVIRONMENTAL DOCUMENTS.

99. To perform all right-of-way acquisition activities, including the exercise of RCTC's power of eminent domain granted under California Public Utilities Code (CPUC) section 130220.5, including, the right to hear Resolutions of Necessity without STATE's written approval for PROJECT pursuant to its authority under Section 149.8 of the Streets and Highways Code, if necessary, as a cost to PROJECT. All such acquisition activities shall be in compliance with applicable state and federal laws and regulations, and applicable FHWA STANDARDS and STATE STANDARDS, unless otherwise approved by STATE, subject to QMA under this AGREEMENT, to ensure that the acquired properties are acceptable for incorporation into the SHS right-of-way.

100. To transfer title to properties to be incorporated into STATE's highway right-of-way in a manner acceptable to STATE in fee simple absolute and free and clear of all liens, claims or encumbrances except as approved by STATE. Acceptance of said title by STATE is subject to a prior review and approval of a Policy of Title Insurance issued in the name of the State of California and in an amount commensurate with the estimated fair market value of the realty.

101. To maintain and manage any excess land acquired as a result of PROJECT until said excess land is disposed of by RCTC, unless such land was purchased with federal funds, in which case applicable federal rules shall govern the vesting and/or disposition of such property. Any existing STATE owned right-of-way not needed for the PROJECT shall not be deemed "excess" by RCTC and shall remain vested in STATE, unless otherwise agreed by the STATE.

102. To provide a land surveyor licensed in the State of California to be responsible for surveying and right-of-way engineering. All survey and right-of-way engineering documents shall bear the professional seal, certification number, registration classification, expiration date of certificate, and signature of the responsible surveyor consistent with the Professional Land Surveyors Act.

103. To be responsible for performance, within SHS right-of-way, of all pre-construction monumentation perpetuation and perform, or cause to be performed, all post-construction monumentation and the mapping/documentation thereof in conformance with applicable STATE STANDARDS, except where modified in the CONTRACT DOCUMENTS. This work includes, but is not limited to:

   a) the recovery, reestablishment, and survey of points which control existing SHS right-of-way lines, or other pertinent boundary lines and centerlines, and the monumentation thereof;

   b) the survey and establishment of existing SHS right-of-way lines and monumentation thereof for areas where the PROJECT improvements are outside or directly adjacent to the existing right-of-way;

   c) the preservation of existing monumentation threatened by construction;

   d) the survey, establishment and monumentation of new SHS right-of-way lines and re-monumentation of points destroyed by construction because of PROJECT.

104. To identify and locate all high and low risk underground facilities within the area of PROJECT and to protect or otherwise provide for such facilities, all in accordance with applicable law and the procedures set forth in STATE's policy on high and low risk underground facilities.

105. If existing public and/or private utilities conflict with construction of PROJECT, RCTC shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or removal and shall inspect the protection, relocation, or removal of such facilities at no cost to STATE. RCTC shall require any utility owner performing the protection or relocation work within SHS right-of-way to obtain an encroachment permit from STATE prior to the performance of said work. Any relocated or new utilities shall be shown and identified on the As-Built plans.

106. To comply with the requirements of existing STATE Utility Master Agreements of record.

107. To furnish evidence to STATE, in a form reasonably acceptable to STATE, that arrangements have been made for the protection, relocation, or removal of all conflicting facilities within SHS right-of-way and that such work will be either completed by the utility providers, or will be provided for in the CONTRACT DOCUMENTS.

108. To be responsible for the investigation of potential hazardous material sites within and outside of the existing SHS right-of-way that would impact PROJECT as part of RCTC responsibility for the PROJECT Environmental Document. If RCTC encounters hazardous material contamination or unanticipated protected cultural materials within the existing and proposed SHS right-of-way during said investigation or in the course of construction, RCTC shall immediately notify STATE and responsible control agencies of such discovery.

109. If the work performed on PROJECT is done under contract and falls within the Labor Code section 1720(a)(1) definition of "public work" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771, RCTC must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. RCTC agrees to include prevailing wage requirements in its contracts for public work. Work performed by RCTC's own forces is exempt from the Labor Code's Prevailing Wage requirements.

110. To require its contractors to include prevailing wage requirements in accordance with the CONTRACT DOCUMENTS in all subcontracts funded by this AGREEMENT when the work to be performed by the subcontractor is a "public work" as defined in Labor Code section 1720(a)(1) and Labor Code section 1771. Subcontracts shall include all applicable prevailing wage requirements. RCTC shall obtain applicable wage rates from the State Department of Industrial Relations.

111. To utilize a qualified STATE-approved public agency or consultant in all right-of-way activities. Right-of-way consultant contracts will be administered by a qualified right-of-way professional.

112. To apply for and obtain encroachment permits for required work within SHS right-of-way in accordance with STATE standard permit procedures. To obtain all other permits and approvals, including local agency and regulatory agency permits, and approval documentation for construction of PROJECT. In the event that railroads are involved, RCTC will coordinate with the railroad and the California Public Utilities RCTC to obtain needed approvals. Copies of all permits obtained for PROJECT shall be submitted to STATE. Additionally, the QUALITY MANAGEMENT PLAN to be prepared by the PROGRESSIVE DESIGN-BUILD ENTITY is to be submitted to STATE for review and approval prior to construction of the PROJECT in accordance with the CONTRACT DOCUMENTS.

113. To work with OCTA in obtaining OCTA's approval of any modifications to or closure of the TOLL FACILITY (Operated by OCTA) in accordance with the OCTA-RCTC COOPERATIVE AGREEMENT.

114. That in recognition that PROJECT construction work done on STATE property will not be directly funded and paid by STATE, for the purpose of protecting stop notice claimants and the interests of STATE relative to the successful completion of PROJECT, RCTC shall require the PROGRESSIVE DESIGN-BUILD ENTITY to furnish both a payment and performance bond, issued by a California admitted surety naming RCTC as obligee with both bonds complying with the requirements of applicable laws and in the form provided in the CONTRACT DOCUMENTS, or other security approved in writing by STATE. RCTC shall defend, indemnify, and hold harmless STATE and all its officers and employees from all claims by stop notice claimants related to the construction of PROJECT under the payment bond or otherwise.

115. That all survey work shall conform to the methods, procedures, and requirements of Caltrans Surveys Manual and Caltrans Staking Information Booklet, except as the same may be modified in the CONTRACT DOCUMENTS. RCTC agrees to use primary horizontal and vertical survey control information provided by STATE in developing the survey control for PROJECT.

116. Material testing and quality control shall conform to those provisions of applicable STATE STANDARDS, except as the same may be modified in the CONTRACT DOCUMENTS, and shall be performed by a material-tester certified by STATE in accordance with its standard certification procedures.

117. To submit for STATE approval a Traffic Management Plan (TMP) which will be prepared by the PROGRESSIVE DESIGN-BUILD ENTITY and comply with STATE TMP guidelines during PROJECT design. RCTC shall provide the final TMP to STATE for review and approval in accordance with the CONTRACT DOCUMENTS and PROJECT timelines and schedules.

118. To furnish, at PROJECT expense and subject to the approval of STATE, PROJECT Representatives who are licensed Civil Engineers in the State of California, to perform the functions of a Resident Engineer and a Structural Engineer. The Resident Engineer and the Structural Engineer shall not be employees or agents of the PROGRESSIVE DESIGN-BUILD ENTITY or any related entity. If the Resident Engineer is not also a registered Landscape Architect, RCTC will furnish, at RCTC's expense a registered Landscape Architect to perform work related to architecture treatment and landscaping and to perform the function of an Assistant Resident Engineer/Inspector who is responsible for both daily on-site inspection and final decisions including, but not limited to, any highway planting and the irrigation systems that comprise a portion of the PROJECT work, consistent with any applicable measures in the environmental commitments record.

119. At PROJECT expense, to furnish qualified support staff to assist the Resident Engineer with contract administration, and other inspection and staff services necessary to assure that construction is being performed in conformance with this AGREEMENT and with the CONTRACT DOCUMENTS. Said qualified support staff engaged in RCTC activities shall be independent of the PROGRESSIVE DESIGN-BUILD ENTITY and shall not be an employee or agent of any related entity.

120. To provide a Safety Engineer/Manager who will be responsible for auditing the PROGRESSIVE DESIGN-BUILD ENTITY for compliance with any PROJECT safety plans, Occupational Safety and Health Administration (OSHA) requirements and STATE, RCTC, and local jurisdiction requirements set forth in the CONTRACT DOCUMENTS.

121. Prior to Final Acceptance, as that term is defined in the CONTRACT DOCUMENTS, to furnish STATE with a complete set of pre-approved design plans depicting the proposed construction of the PROJECT; a complete set of "As-Built" plans and all STATE requested contract records, including survey documents, Records of Surveys, and structure As-Built documents according to the CONTRACT DOCUMENTS. The format of these plans, records and documents shall be in readily readable electronic format, consistent with the format and STATE STANDARDS used by STATE as of the PROJECT SETTING DATE.

122. To be responsible for maintenance and repair of the PROJECT located within the limits of an encroachment permit issued by the STATE or as otherwise specified in the CONTRACT DOCUMENTS. RCTC shall be responsible for such maintenance and repair of the PROJECT until RELIEF OF MAINTENANCE is granted by STATE for the PROJECT. Maintenance and repair of PROJECT facilities includes, but is not limited to, compliance with all legally required storm water provisions, landscaping and irrigation, pavement, signs, lighting, barriers, guardrail, graffiti abatement, weed abatement, removing debris, and general housekeeping. Major damage to pre-existing PROJECT structures and roadway facilities by hazardous spills and causes beyond RCTC control, including but not limited to, any incidence of fire, flood, earthquake, or other acts of God will be STATE's responsibility.

123. To maintain any part of the PROJECT facilities located outside of the current SHS right-of-way until acceptance of any such part of the PROJECT facilities into the SHS by STATE.

124. If RCTC terminates PROJECT prior to completion thereof, STATE may require RCTC, at RCTC expense, to return the affected SHS right-of-way to its original condition or a condition acceptable for permanent public operations. If RCTC fails to do so, STATE reserves the right to finish the PROJECT or to place the PROJECT in a condition satisfactory for permanent public operations. STATE will bill RCTC for all actual expenses incurred and RCTC agrees to pay said expenses within thirty (30) days of issuance of that invoice or STATE, acting through the State Controller or State Treasurer, may withhold an equal amount from future apportionments due RCTC from STIP or any other sources.

125. If unanticipated cultural, archaeological, paleontological, biological, or other protected resources are encountered during construction of PROJECT, RCTC shall stop work in that area until a qualified professional evaluates the nature and significance of the find and a plan is approved for the removal or protection of that resource, which plan must be in accordance with applicable law. RCTC shall notify STATE within 24 hours of any said discovery. The costs for any removal or protection shall be covered as a PROJECT cost.

126. To provide STATE personnel assigned full-time to the PROJECT and performing REIMBURSED WORK acceptable office space, including furniture, utilities, internet access, and any other items necessary to perform their work at no expense to STATE for the duration of PROJECT. RCTC will not be responsible to provide vehicles and vehicle costs (including, but not limited to fuel, maintenance, registration, insurance, etc.). RCTC shall also provide acceptable shared workspace for STATE personnel to perform their part-time QMA responsibilities.

127. To notify STATE in writing of the projected date for achievement of Final Acceptance, as that term is defined in the CONTRACT DOCUMENTS.

128. Final Acceptance of PROJECT will include all necessary documentation and approvals from affected local agencies for those segments which will have maintenance and operational control relinquished back to said local agencies.

129. To obtain all required permits for construction of PROJECT from third parties, including but not limited to the City of Corona, the County of Riverside, and resource agencies.

130. To ensure that the CONTRACT DOCUMENTS include the provisions of STATE Standard Specification 7-1.03, subject to amendments approved by STATE, to ensure that public convenience is maintained by the PROGRESSIVE DESIGN-BUILD ENTITY whenever work is performed by or on behalf of RCTC under an encroachment permit within the SHS right-of-way. RCTC shall enforce such provisions in a reasonable manner pursuant to the procedures set forth in, and terms of, the CONTRACT DOCUMENTS.

131. To submit a written request for any DFM identified in the PROJECT plans and specifications, or as may otherwise be required by RCTC, a minimum of one hundred eighty (180) days in advance of the need for such materials or services identified by the PARTIES as DFM. Such notice may be waived at STATE's discretion on a case by case basis. As applicable, RCTC may take delivery of the DFM after STATE's receipt of RCTC's payment at the location directed by STATE. DFM shall be considered a PROJECT cost.

132. To pay STATE, within thirty (30) days of receipt of STATE's billing, the actual cost invoiced for the requested DFM.

133. As part of PROJECT, incorporate into the PROJECT scope and CONTRACT DOCUMENTS, STATE REQUESTED BETTERMENTS all as further set forth in Exhibit D.

134. As may be necessary based on the funding source, RCTC will submit invoices to STATE for those funding sources identified in the FUNDING SUMMARY.

135. To pay STATE, within thirty (30) days of receipt of STATE's billing, the actual cost invoiced for the REIMBURSED WORK, up to the RCTC Maximum REIMBURSED WORK Payment Obligation, as defined in SECTION I, of this AGREEMENT.

SECTION II

STATE AGREES:

136. To be the CEQA Lead Agency for the PROJECT.

137. To be the NEPA Lead Agency for the PROJECT.

138. That all of RCTC and STATE obligations set forth in this entire AGREEMENT with respect to the construction and/or implementation of the PROJECT are expressly contingent upon the completion of all required environmental review under both CEQA and NEPA and the revalidation approval of the proposed PROJECT which results from said reviews. In the event that the environmental revalidation is not obtained and the PROJECT does not proceed, except as otherwise specified in this AGREEMENT, all RCTC and STATE obligations under this AGREEMENT shall terminate.

139. To fund up to the amount set forth in Exhibit D for STATE REQUESTED BETTERMENTS. Total STATE contribution towards the PROJECT cost is shown on the FUNDING SUMMARY attached hereto and made a part of this AGREEMENT.

140. To be the agency responsible for timely performing the REIMBURSED WORK for the not to exceed amount identified in Exhibit C. STATE shall notify RCTC in writing prior to commencing performance of any REIMBURSED WORK for which it feels exceed or is not consistent with the mutually agreed upon staff plan, and shall provide RCTC at least ninety (90) days prior written notice that its costs are anticipated to exceed the NOT TO EXCEED amount identified in Exhibit C. Notwithstanding the foregoing, if the PARTIES are unable to reach agreement on an amended NOT TO EXCEED amount for any reason, the PARTIES shall promptly follow the issue resolution process identified in paragraph 226.

141. To provide additional work and services not included herein as requested in writing by RCTC and agreed to in writing by STATE followed by an amendment to Exhibit C.

142. To participate, through the review of procurement documents and involvement in the evaluation process, in the selection of the PROGRESSIVE DESIGN-BUILD ENTITY. RCTC and STATE shall mutually identify any other PROJECT related contracts that are appropriate for participation by STATE in the evaluation and selection process. Although not required to participate, STATE shall timely notify RCTC if STATE desires to participate in any such identified procurements or evaluations.

143. To provide its concurrence in a timely manner, in accordance with the timeframes set forth in the CONTRACT DOCUMENTS, to RCTC for the issuance of a Certificate of Substantial Completion and a Certificate of Final Acceptance for the PROGRESSIVE DESIGN-BUILD contract.

144. To perform CONSTRUCTION INSPECTION SERVICES as part of REIMBURSED WORK using STATE employees or consultants under an on-call construction administration contract with STATE.

145. As part of its CONSTRUCTION INSPECTION SERVICES responsibilities, STATE shall include a direct reporting relationship between the STATE inspectors and senior STATE engineers responsible for all STATE inspectors and CONSTRUCTION INSPECTION SERVICES. This direct reporting relationship shall be administrative in nature with the senior STATE engineers remaining independent with no direct role on the PROJECT.

146. Notwithstanding any other provision of law, STATE retains the authority to stop the PROGRESSIVE DESIGN-BUILD ENTITY's work wholly or in part and take appropriate action when public safety is jeopardized on PROJECT. STATE' authority to stop the PROGRESSIVE DESIGN-BUILD ENTITY'S work includes but is not limited to work performed under an encroachment permit within the SHS right-of-way, including, but not limited to, work performed that includes lane closures, signing, work performed at night, detours, dust control, temporary pavement quality, crash cushions, temporary railings, pavement transitions, falsework, shoring, and delineation. STATE shall regularly inspect the job sites for safety compliance and any possible deficiencies. If any deficiency is observed, a written notice shall be sent by STATE to RCTC for corrective action. Once the deficiency is corrected, a written notice describing the resolution of the deficiency shall be sent to STATE by RCTC and documented.

147. To process, review and approve, as appropriate, complete submittals by RCTC. Incomplete submittals shall be promptly returned without review but with explanation as to what is required to render such submittals "complete." STATE shall cooperate with RCTC and its consultants and contractors (including, without limitation, the PROGRESSIVE DESIGN-BUILD ENTITY) with development of PROJECT and shall provide comments, reviews and if appropriate, approvals within the time frames and in accordance with the standards of review specified in the CONTRACT DOCUMENTS and as agreed to in the quality assurance procedures contained in the QUALITY MANAGEMENT PROGRAM. RCTC shall not be required to implement comments not timely submitted by STATE, unless it is necessary to maintain STATE STANDARDS. Nothing in this paragraph precludes the reasonable exercise of the professional discretion by STATE with respect to review and approvals in accordance with the terms of the CONTRACT DOCUMENTS, including the potential to refuse requested approvals under the terms of the CONTRACT DOCUMENTS, provided that the scope of STATE's review shall be limited to compliance with the CONTRACT DOCUMENTS. STATE agrees to provide reviews of and any comments to each submittal at the time the submittal is provided to STATE in order to avoid compiling all comments to the final review of a submittal.

148. To refer RCTC to all necessary regulations, policies, procedures, manuals, standard plans and specifications, and other standards required for the administration of PROJECT.

149. To make a determination of need for a NEPA/CEQA revalidation/reevaluation within 30 calendar days of receiving the proper documentation from RCTC. The STATE determination of need shall include, but not be limited to, the following information: 1) If Work in the area of the PROJECT can continue, 2) the type of future documentation required, and 3) if re-evaluation is required, an estimate of time to process the re-evaluation based upon the documentation provided by RCTC.

150. To participate in the selection and approval of RCTC's consultants and contractors who will perform PROJECT. STATE recognizes that RCTC has, prior to the effective date of this AGREEMENT, selected and retained certain consultants to work on PROJECT.

151. Prior to assigning any Key Personnel identified in Exhibit C, consult with RCTC and provide information regarding such personnel's professional qualifications and availability. STATE will make reasonable efforts to maintain continuity of key personnel and shall notify RCTC before substituting any such personnel. The State shall have the final authority in the assignment or substitution of the key personnel.

152. For any consultant retained by STATE to perform Construction Inspection Services, STATE shall prior to assigning any staff, consult with RCTC and provide information regarding the consultant's professional qualifications and availability. STATE will make reasonable efforts to maintain continuity of consultants and shall provide RCTC with prior notice before substituting any such consultant; however, STATE retains the right to remove consultants based on poor performance without prior notice.

153. Upon RCTC written request, and subject to reimbursement by RCTC, make reasonable efforts to engage additional staff or consultants for PROJECT who may be available, as needed, to perform any PROJECT work or services as necessary, as further specified in this AGREEMENT.

154. To issue, at no cost to RCTC, upon acceptable completed applications by RCTC and its consultants or PROGRESSIVE DESIGN-BUILD ENTITY, those necessary encroachment permits to authorize entry onto SHS right-of-way to perform activities required for PROJECT, within thirty (30) days following receipt of an acceptable application. The PROJECT is on 91 eastbound and the encroachment permit issued to the PROGRESSIVE DESIGN-BUILD ENTITY for construction of the PROJECT shall be issued for the eastbound direction. In the event work to complete PROJECT needs to be performed in the westbound direction, a separate encroachment permit will be issued to cover that work. If RCTC uses consultants rather than its own staff to perform required work, those consultants will also be required to obtain an encroachment permit which will be issued at no cost upon proper application by the consultants. In reviewing and issuing any necessary encroachment permits, STATE shall approve encroachment permits that are consistent with the CONTRACT DOCUMENTS which will have been approved by STATE. The generally-applicable requirement of evidence of insurance coverage by encroachment permittees, including the procurement of a certificate of insurance naming the State of California and its employees, officers and agents as a first party, additional named insured, is not a "cost" within the meaning of this paragraph and is expressly not waived as a condition of issuance of any encroachment permit RCTC's Permit shall be contingent upon submittal of RCTC's QUALITY MANAGEMENT PLAN and concurrence by STATE.

155. RCTC shall work with OCTA to obtain timely permission for STATE to enter TOLL FACILITY (Operated by OCTA) if needed, in order to complete its QMA and REIMBURSED SERVICES, at no costs to STATE. STATE shall be required to provide reasonable prior notice and coordination with RCTC and OCTA prior to any such access to the TOLL FACILITY (Operated by OCTA) and shall comply with OCTA requirements during such access.

156. That, except to the extent that STATE reasonably determines that work is required for public safety or to prevent significant property damage, STATE will, to the extent possible, avoid performing major maintenance, rehabilitation or construction within the existing SHS right-of-way that would increase costs, delay PROJECT completion or otherwise adversely and materially impact PROJECT. Prior to STATE undertaking any major maintenance or repair work within the SHS right-of-way adjacent to PROJECT, STATE shall contact RCTC to coordinate its work with RCTC in order to avoid interference with the PROJECT. Prior to issuance, any STATE encroachment permit for work within the PROJECT limits, except in cases requiring the immediate protection of public safety or to prevent significant property damage, shall be forwarded to RCTC Resident Engineer for review and comment.

157. To work with RCTC with the goal that all applicable State and Federal rules and regulations are followed and approvals obtained. Exceptions to applicable STATE STANDARDS needed for PROGRESSIVE DESIGN-BUILD procurement are to be approved in the sole discretion of STATE, and such approval shall be in writing. Incorporation of such approved exceptions into the CONTRACT DOCUMENTS shall satisfy the foregoing requirement.

158. To participate in first, and if necessary, second level Condemnation Panel Reviews scheduled and facilitated by the RCTC.

159. Upon presentation by RCTC, to accept from RCTC, good and sufficient fee simple absolute title to that real property acquired in fee by RCTC for STATE pursuant to this AGREEMENT subject to a prior review and approval by STATE of the form of title, free of liens or exceptions, except as otherwise approved by STATE, and supported by a policy of title insurance issued in the name of STATE.

160. To timely provide, at RCTC's cost and upon RCTC's request, any DFM as determined by STATE to be appropriate and available during construction of PROJECT. STATE shall not be obligated to provide DFM, but may do so at its discretion. Upon receipt of RCTC's request for any such DFM, STATE will order the DFM and STATE's PROJECT Coordinator will have an invoice submitted to RCTC for the cost of the DFM. Upon receipt of the DFM and RCTC's payment, STATE will make the DFM available to RCTC at a STATE designated site, or will provide the DFM as agreed upon in writing by the PARTIES.

161. Upon completion of PROJECT, to furnish RCTC with a detailed final accounting of the DFM and REIMBURSED WORK. Based on the final accounting, STATE will refund or invoice as necessary in order to satisfy the financial obligations of this AGREEMENT.

162. To retain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred by STATE and make such materials available at the respective offices of STATE and its consultants and contractors at all reasonable times during the contract period and for three years from the date of COMPLETION OF WORK or Federal Final Voucher, whichever is later. Upon request, STATE agrees to provide copies of any books, records, and documents that are pertinent to this AGREEMENT.

163. To provide primary horizontal and vertical survey control information for use in developing the survey control for PROJECT.

164. As applicable, to grant RELIEF OF MAINTENANCE of PROJECT upon acceptance of such facilities as further set forth herein. Upon such grant of relief, STATE will accept control of and operate and maintain, at STATE's sole cost and expense, those PROJECT lying within the SHS right-of-way, except local roads delegated to local agencies for maintenance.

165. To perform SOURCE INSPECTION as outlined in STATE's Construction Manual. RCTC shall reimburse STATE, as part of the REIMBURSED WORK, up to the RCTC Maximum REIMBURSED WORK Payment Obligation, for all direct and indirect costs incurred for any SOURCE INSPECTION performed by STATE, as further set forth in Exhibit C.

166. Independent assurance testing, testing required to verify the PROGRESSIVE DESIGN-BUILD ENTITY's work, which is not available commercially and which is proprietary (STATE-owned), and approval of the type of asphalt and concrete plants shall be performed by STATE and shall be considered REIMBURSED WORK.

167. To invoice RCTC for DFM within thirty (30) days of STATE's receipt of RCTC's request for the DFM.

168. Will contribute the maximum amount shown on Exhibit D of STATE funds to RCTC, as payment for STATE REQUESTED BETTERMENTS.

169. Will pay RCTC within 30 calendar days of receipt of invoice as payment for STATE REQUESTED BETTERMENTS.

170. Will invoice RCTC for an initial deposit upon execution of this AGREEMENT by the PARTIES in the amount of $371,000.00. This deposit represents two (2) months' estimated support costs for REIMBURSED WORK. Thereafter, STATE will submit to RCTC monthly invoices based on the prior month's actual expenditures.

171. In the event of damage to the SHS or its appurtenances; and to the extent the repair is the responsibility of the PROGRESSIVE DESIGN-BUILD ENTITY or of RCTC; and to the extent STATE has available inventory of appropriate materials in its inventory; STATE agrees to make such materials available for use by the PROGRESSIVE DESIGN-BUILD ENTITY or RCTC. Materials provided pursuant to this section shall not be deemed DFM and RCTC shall reimburse STATE for the cost of replacement and/or, restocking of STATE's inventory.

172. When STATE is to be reimbursed from state or federal funds that are provided by RCTC or OCTA and STATE administers those funds then STATE will draw from those funds without invoicing RCTC in advance of the draw down. Within the timeframe set forth in the AGREEMENT, STATE shall provide to RCTC monthly invoices supporting the draw down, which invoices shall be prepared in accordance with the requirements of this AGREEMENT. RCTC shall have the right to dispute any invoice, or portion thereof, for which a draw down of funds has been made. If it is determined pursuant to a resolution of any such dispute that a draw down of funds, or portion thereof, was not in accordance with the terms of this AGREEMENT, STATE shall reimburse the PROJECT in the amount of the disputed funds.

SECTION III

IT IS MUTUALLY AGREED:

174. STATE and RCTC desire to implement a collaborative approach for the development of PROJECT, using the resources of both agencies to expedite the process and agree to implement all the provisions of California Public Contract Code section 22180, et. seq. and Streets and Highways Code section 91.2.

175. That the STATE Department of Transportation (Caltrans) District 8 shall be the lead District for the PROJECT and shall make all PROJECT related decisions on behalf of the STATE. Caltrans District 8 shall coordinate with Caltrans District 12 for reviews and SCOPE OF WORK impacting District 12.

176. The PROJECT SETTING DATE shall be the earliest date of either the CONTRACTORS' submittal of a complete PDB PHASE 2 proposal, or any PDB PHASE 2 proposal for a work package. A PDB PHASE 2 proposal is defined in the CONTRACT DOCUMENTS. The PROJECT SETTING DATE becomes fixed for the duration of the PROJECT if the RCTC executes a PROGRESSIVE DESIGN-BUILD CONTRACT amendment for PDB PHASE 2 within six months (6) of receipt of a PDB PHASE 2 proposal. In the event the PROGRESSIVE DESIGN-BUILD CONTRACT amendment for PDB PHASE 2 is not executed within six (6) months the parties shall mutually agree upon a revised PROJECT SETTING DATE.

177. If the PROJECT is constructed in multiple work packages and creates multiple PDB PHASE 2 PROGRESSIVE DESIGN-BUILD CONTRACT amendments, the PROJECT SETTING DATE for additional PDB PHASE 2 amendments shall be mutually agreed upon by the parties. The PARTIES agree it is desirable to limit varied PROJECT SETTING DATES for concurrent and overlapping construction work.

178. The cost of any engineering support performed by STATE includes all direct and applicable indirect costs. STATE calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds are subject to the current Program Functional Rate. Local funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and the Administration Rate are adjusted periodically.

179. STATE and RCTC recognize that applicable STATE STANDARDS and other standards may be in conflict with a PROGRESSIVE DESIGN-BUILD contracting process. RCTC shall coordinate with STATE during development of the CONTRACT DOCUMENTS and STATE shall be afforded the opportunity to review, comment and approve prior to the RCTC and PROGRESSIVE DESIGN BUILD ENTITY entering into an agreement. Once approved by STATE, the CONTRACT DOCUMENTS shall control the design and construction of the PROJECT and any deviations to the applicable STATE STANDARDS and other standards that are set forth in the CONTRACT DOCUMENTS shall be deemed approved by STATE.

180. That RCTC has the right and authority, in accordance with 23 CFR 636.109 and as allowed in the amended (August 14, 2007) FHWA regulations for DESIGN-BUILD contracting, Section 1503 of the ‘‘Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA–LU), and as modified by the federal Moving Ahead for Progress in the 21st Century Act (MAP-21) legislation, to issue the Request for Qualifications (RFQ) prior to completion of the NEPA process. The release of the RFQ prior to NEPA approval shall be subject to the following limitations as outlined in the FHWA regulations:

(a) Issue an RFQ prior to the conclusion of the NEPA process as long as the RFQ informs proposers of the general status of the NEPA process and that no commitment will be made as to any alternative under evaluation in the NEPA process, including the no-build alternative;

(b) Preclude a contractor from proceeding with final design or construction before NEPA is complete, unless otherwise permitted by law.

181. That all obligations of STATE under the terms of this AGREEMENT are subject to the appropriation of resources by the Legislature and allocation of funds by the CTC to STATE for the purposes of fulfilling STATE obligations herein. Should the Legislature fail to allocate funds to STATE for purposes of fulfilling STATE obligations hereunder, the PARTIES agree to meet and confer in an attempt to close the funding shortfall.

182. PARTIES acknowledge that, pursuant to Section 91.2(c) of the Streets and Highways Code, STATE resources necessary for the performance of those services identified hereunder as QMA, CONSTRUCTION INSPECTION SERVICES and SOURCE INSPECTION, including personnel requirements, are legally mandated to be included in STATE's capital outlay support program for workload purposes in the annual Budget Act.

183. In the event this AGREEMENT is terminated in accordance with SECTION I, of this AGREEMENT, payments to STATE shall be made through and including the entire month in which the termination occurred for amounts earned and owing under this AGREEMENT.

184. To meet prior to September 1 of every year to review the STATE's staffing plan for REIMBURSED WORK for the following fiscal year. The PARTIES shall mutually agree to the staffing levels to be programmed in the following fiscal year by the STATE and any necessary adjustments to the REIMBURSED WORK Summary shown on EXHIBIT C. The STATE agrees to provide the appropriate staffing and resources as mutually agreed in the work plan and to fulfill its responsibilities for performing all REIMBURSED WORK. The RCTC will not be responsible for any REIMBURSED WORK in excess of the yearly budget derived from the staff plan, unless a mutually agreed adjustment is made to the REIMBURSED WORK Summary shown on EXHIBIT C.

185. STATE and RCTC desire to provide efficient and cost-effective implementation of PROJECT, and will mutually establish PROJECT timelines and schedules related to review and/or concurrence with and/or approval of PROJECT submittals and documents by STATE. Such timelines, schedules, submittal requirements and standards for review by STATE will be reflected in the CONTRACT DOCUMENTS. STATE, in carrying out its role under this AGREEMENT, agrees, as further set forth herein, that it will be required to provide its review, comments, non-concurrence, concurrence and/or approval of PROJECT submittals and documents in a timely manner, in accordance with agreed upon PROJECT timelines and schedules.

186. That timely and accurate invoicing by the STATE and subsequent payment by RCTC is of high importance to both PARTIES. Accordingly, the following shall be implemented:

(a) STATE Corridor Director, or his designee, shall review and approve all monthly STATE invoices prior to submission to RCTC.

(b) STATE shall submit to RCTC an approved monthly invoice no more than 30 calendar days following the close of the previous month's billing cycle. REIMBURSED WORK invoiced by the STATE to the RCTC more than 180 days after the work was performed shall be considered delinquent and not reimbursable by the RCTC. STATE invoices for support costs shall include all direct and applicable indirect costs. Costs for REIMBURSED WORK not invoiced to RCTC within 180 days may not be paid by RCTC.

(c) RCTC shall remit payment to STATE for REIMBURSED WORK, up to the RCTC Maximum REIMBURSED WORK Payment Obligation, as defined in SECTION I, of this AGREEMENT, within 30 days of RCTC approval of STATE's invoice.

(d) STATE will be responsible for the development of the REIMBURSED WORK invoice format, including cost, schedule and status reports, to be jointly agreed upon prior to implementation and payment. STATE shall be responsible for implementing project controls and monitoring to ensure all invoice charges are accurate and provide monthly reporting to RCTC.

187. To incorporate into the PROJECT scope STATE REQUESTED BETTERMENTS as shown on Exhibit D. The cost of the STATE REQUESTED BETTERMENTS shall be borne in their entirety by the STATE and paid in accordance with the provisions of this section. STATE acknowledges the potentially negative impact of changes occurring during construction and shall endeavor to minimize any STATE REQUESTED BETTERMENTS requests after issuance of the Notice-to-Proceed for any PDB PHASE 2 contract amendments between the RCTC and the PROGRESSIVE DESIGN BUILD ENTITY.

(a) The cost of the STATE REQUESTED BETTERMENTS set forth in Exhibit D shall be the agreed upon lump sum amount set forth in Exhibit D. The foregoing lump sum amount shall constitute full payment for all design, construction, testing, and inspections performed by RCTC, its consultants, and/or contractor. The lump sum amount of the STATE REQUESTED BETTERMENTS shall only be changed if a material change in the STATE REQUESTED BETTERMENTS is requested by STATE, or if the PROGRESSIVE DESIGN-BUILD ENTITY is entitled a change order under the "Changes of Work" clause of the CONTRACT DOCUMENTS. Change order costs directly attributed to the STATE REQUESTED BETTERMENTS are not included in the lump sum amount for the STATE REQUESTED BETTERMENTS, and shall be the financial responsibility of STATE. STATE shall be afforded the opportunity to inspect, review and participate in any change order discussions directly impacting the STATE REQUESTED BETTERMENTS.

(b) RCTC shall have no obligation to undertake any STATE REQUESTED BETTERMENTS requested beyond those identified in Exhibit D or after issuance of the Notice-to-Proceed for any PDB PHASE 2 contract amendments between the RCTC and the PROGRESSIVE DESIGN BUILD ENTITY. If such STATE REQUESTED BETTERMENTS are acceptable to RCTC in its sole discretion, RCTC shall include them in the SCOPE OF WORK for the PROJECT. No STATE REQUESTED BETTERMENTS that are inconsistent with the PROJECT's ENVIRONMENTAL DOCUMENTS, or that would require re-evaluation, revalidation or supplementation of the environmental document shall be considered, unless otherwise determined by the RCTC, in its sole discretion. Proposed STATE REQUESTED BETTERMENTS must be in compliance with SAFETY STANDARDS and with all applicable law.

(c) In the event STATE requests STATE REQUESTED BETTERMENTS for incorporation into the PROJECT after issuance of the Notice-to-Proceed for any PDB PHASE 2 contract amendments between the RCTC and the PROGRESSIVE DESIGN BUILD ENTITY and RCTC agrees to incorporate such STATE REQUESTED BETTERMENTS into the PROJECT, STATE shall be solely responsible for all costs and expenses related thereto, including (i) the costs incurred to incorporate the STATE REQUESTED BETTERMENTS into the SCOPE OF WORK of the PROJECT, (ii) additional design, construction and oversight costs arising from or associated with the STATE REQUESTED BETTERMENTS, including change orders related thereto; (iii) additional operations and maintenance costs arising from or associated with the STATE REQUESTED BETTERMENTS, including change orders related thereto; and (iv) costs associated with any impact on the design and construction schedule associated with the STATE REQUESTED BETTERMENTS, including any associated PROJECT delay cost and damages.

188. That STATE shall designate a STATE representative to represent STATE, and RCTC shall designate a PROJECT Representative through whom all communications between the two agencies shall be channeled. The STATE representative or other official designated by STATE shall review the work of RCTC through completion of PROJECT.

189. That RCTC shall establish a PROJECT document control system acceptable to STATE. Document control, storage, and retrieval methods will utilize a format that is compatible with existing filing systems. When PROJECT is complete, it is intended that the appropriate documents be transferred to the appropriate PARTIES in a format that is compatible with existing filing systems.

190. To develop warranty terms and requirements to be included in the CONTRACT DOCUMENTS.

191. If required by the STATE STANDARDS governing Freeway Agreements, RCTC shall prepare and STATE shall execute Freeway Agreements with the local agencies for PROJECT. Freeway Agreements shall be executed prior to issuance of a Notice to Proceed to the PROGRESSIVE DESIGN-BUILD ENTITY for PDB PHASE 2.

192. Freeway Maintenance Agreements, if necessary, shall be executed prior to the STATE's acceptance of RELIEF OF MAINTENANCE for PROJECT.

193. That STATE shall issue encroachment permits for utility improvements which lie within the SHS right-of-way. PROJECT specific utility agreements will be negotiated between the RCTC and the individual utility owners, with work orders addressing individual relocations coordinated between the PROGRESSIVE DESIGN-BUILD ENTITY and the utility owners.

194. That RCTC shall not start PROJECT construction until and unless environmental review under CEQA and NEPA are first completed, PROJECT approval – if any – is granted, right-of-way has been secured in such area, all pre-construction environmental surveys and mitigation completed for the area(s) proposed for construction have been completed and legal and physical control of rights of way have been acquired in accordance with the CONTRACT DOCUMENTS.

195. That during the construction of PROJECT, representatives of RCTC and STATE will cooperate and consult with each other, and all work pursuant to PROJECT shall be accomplished according to the CONTRACT DOCUMENTS. Satisfaction of these requirements shall be verified by STATE's representative who is authorized to enter RCTC property during construction for the purpose of monitoring, inspecting, and coordinating construction and post-construction activities.

196. That any and all material changes to the CONTRACT DOCUMENTS shall be approved by STATE in advance of performing the work. If STATE does not provide its comments, complete its reviews or provide its approval in accordance with the requirements of the CONTRACT DOCUMENTS, including the PROJECT timelines and schedules, the provisions of SECTION II, shall apply.

197. Unless otherwise directed by STATE representative, changes authorized as provided herein will not require an encroachment permit rider. The foregoing does not preclude deviations from the CONTRACT DOCUMENTS necessitated by emergency situations or to address an immediate safety issue. STATE shall be notified, as soon as reasonably possible, of any such deviations. All changes shall be shown on the As-Built plans referred to in this AGREEMENT.

198. The PARTIES agree that under the CONTRACT DOCUMENTS and the encroachment permits to be issued for the PROJECT, RCTC and the PROGRESSIVE DESIGN-BUILD ENTITY will be responsible for maintenance within the encroachment permit limits.

199. The PARTIES hereby agree that RCTC shall be the party responsible for repair or replacement of third-party caused damage that occurs within the encroachment permit limits.

200. The PARTIES hereby agree that STATE shall be the party responsible for maintenance and third-party caused damage that occurs outside the encroachment permit limits.

201. Consistent with Streets and Highways Code section 730 and Vehicle Code sections 17300 through 17303, the cost of damage to the State Highway System and its appurtenances may be recovered by either STATE or the authority in charge of the highway or bridge. To the extent RCTC is obligated to perform repair or replacement of damage to the PROJECT SHS RIGHT OF WAY or its appurtenances within the encroachment permit limits, STATE authorizes RCTC to take all actions to recover its costs related thereto. STATE agrees to reasonably assist in such actions, if requested by RCTC, and to waive any rights to recovery, except as to any direct damage to STATE not remedied by RCTC repair work.

202. Should RCTC decide not to pursue a recovery action, as described in paragraph 193 above, STATE reserves the right to do so in its own name. In such case, STATE shall reimburse RCTC, for any RCTC incurred costs related to the third-party damage, from any proceeds of such recovery action in excess of STATE's attorney and other litigation related fees. and in excess of any damages incurred by STATE.

203. In order to assist RCTC with repairing or replacing third-party caused damage to the PROJECT SHS RIGHT OF WAY, STATE shall, if available, provide impact attenuators, special light or sign poles, electrical cabinets, and other items from STATE's stock, as needed. Such materials provided by STATE shall be replaced in kind by RCTC.

204. In the case of an emergency which requires immediate action outside the encroachment permit limits, RCTC shall make all reasonable efforts to contact STATE in order to determine which PARTY is best able to complete the required work. In the case of an emergency, STATE may provide verbal authorization for RCTC to direct the PROGRESSIVE DESIGN-BUILD ENTITY to conduct emergency repair efforts at STATE's cost. STATE shall follow its verbal approval with written authorization. If RCTC is unable to contact STATE after reasonable efforts to do so, and the nature of the emergency requires, in RCTC's reasonable judgment, immediate action, RCTC may, but shall not be obligated to, undertake repairs to the extent required to remediate the emergency condition. In such case, RCTC shall notify STATE of such work at the earliest time possible, and STATE shall confirm in writing whether or not the repair work was the responsibility of the STATE under paragraph 193 within ten (10) days of notification. For repair work determined to be the responsibility of the STATE, the parties shall mutually agree on the methods to reimburse RCTC for the actual costs thereof. STATE shall reimburse RCTC for repair work conducted under this paragraph within thirty (30) days of receipt of RCTC's invoice therefore, unless otherwise agreed upon by the PARTIES.

205. In the case of third-party damage outside the encroachment permit limits which does not require immediate action, the STATE may request that RCTC direct the PROGRESSIVE DESIGN-BUILD ENTITY to perform the work, and shall reimburse RCTC for all costs thereof.

206. The PARTIES agree that RCTC shall not be responsible for repair to the PROJECT SHS RIGHT OF WAY which is necessitated by (i) war, riot, homeless disturbances, and acts of a public enemy or other civil disturbance, (ii) acts of God, including but not limited to, greater than a 25-year storm event, lightning, earthquakes, hailstorms, ice storms, tornados, typhoons, hurricanes, landslides, fires, and objects striking the earth from space (such as meteorites), or (iii) any other human or natural disaster specified in paragraph 224.

207. Prior to STATE undertaking any maintenance or repair work within the PROJECT SHS RIGHT OF WAY, STATE shall contact RCTC to coordinate its work with RCTC in order to avoid interference with the PROJECT.

208. That RCTC shall provide a contract claims process reasonably acceptable to STATE and shall process any and all claims through RCTC's claim process. STATE's representative will be made available to RCTC to provide advice and technical input in any claim process. Said representative shall not be deemed to be an agent of RCTC.

209. The PARTY that discovers hazardous material (HM) will immediately notify the other PARTY(IES) to this AGREEMENT.

HM-1 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, whether it is disturbed by PROJECT or not.

HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, only if disturbed by PROJECT.

210. STATE, independent of PROJECT, is responsible for any HM-1 found solely within existing SHS right-of-way. STATE will undertake or cause to be undertaken HM-1 management activities with minimum impact to PROJECT schedule. STATE, independent of PROJECT, will pay all costs for HM-1 management activities related to HM-1 found solely within existing SHS right-of-way. STATE shall make reasonable efforts to investigate any HM-1 found within existing SHS right-of-way within 72 hours of notification of STATE by RCTC of such discovery, and shall immediately commence work with regulatory agencies to develop and implement an action plan to remediate the site. STATE shall involve RCTC in all meetings and work with governmental/regulatory agencies and third parties related to any HM-1 found solely within existing SHS right-of-way.

211. STATE has no responsibility for management activities or costs associated with HM-1 found outside the existing SHS right-of-way. RCTC, independent of PROJECT, is responsible for any HM-1 found within PROJECT limits outside existing SHS right-of-way. RCTC will undertake, or cause to be undertaken, HM-1 management activities with minimum impact to the PROJECT schedule, and RCTC will pay, or cause to be paid, all costs associated with HM-1 management activities.

212. If HM-2 is found within the limits of PROJECT, RCTC will be responsible for HM-2 management activities. Any management activity cost associated with HM-2 is a PROJECT cost.

213. Management activities associated with HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.

214. The PARTIES agree that RCTC is designated as the Legally Responsible Person and the Approved Signatory Authority pursuant to the Construction General Permit, State Water Resources Control Board (SWRCB) Order Number 2022-0057-DWQ, as defined in Appendix 5, Glossary, and assumes all roles and responsibilities assigned to the Legally Responsible Person and the Approved Signatory Authority as mandated by the Construction General Permit.

215. STATE's acquisition or acceptance of title to any property on which any hazardous material is found will proceed in accordance with the applicable FHWA STANDARDS and STATE STANDARDS.

216. That pursuant to the authority contained in Section 591 of the Vehicle Code for areas within the limits of PROJECT that are open to public traffic, RCTC shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. RCTC shall take all necessary precautions for safe operation of RCTC vehicles, the construction contractor's equipment and vehicles and/or vehicles of personnel retained by RCTC, and for the protection of the traveling public from injury and damage from such vehicles or equipment.

217. That any modifications made to or closure of the TOLL FACILITY shall be made in accordance with requirements in the TOLL FACILITY AGREEMENT or FRANCHISE AGREEMENT and OCTA-RCTC COOPERATIVE AGREEMENT, as applicable.

218. Operations of the TOLL FACILITY (Operated by RCTC) may be interrupted as RCTC may deem necessary for PROJECT. PARTIES agree that RCTC shall notify Caltrans and OCTA, five (5) days in advance of any planned closure of the TOLL FACILITY (Operated by RCTC). Any closure of the TOLL FACILITY (Operated by OCTA) shall be in accordance with OCTA-RCTC COOPERATIVE AGREEMENT.

219. STATE will accept control and operate and maintain, at its own cost and expense, those segments of the PROJECT, exclusive of the TOLL FACILITY, lying within the SHS right-of-way upon granting of RELIEF OF MAINTENANCE, except local roads delegated to local agencies for maintenance. Upon granting RELIEF OF MAINTENANCE by STATE of the PROJECT, STATE shall also be deemed to exercise ownership and control of those facilities for which RELIEF OF MAINTENANCE has been granted.

220. After PARTIES agree that all REIMBURSED WORK is complete for Construction, Right-of-Way, Design and SOURCE INSPECTION, STATE will submit a final accounting for all costs. Based on the final accounting, PARTIES will refund or invoice as necessary in order to satisfy the financial commitments of this AGREEMENT.

221. PARTIES will invoice for funds where the SPENDING SUMMARY shows that one PARTY provides funds for use by the other. PARTIES will pay invoices within thirty (30) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, PARTIES will pay invoices within five (5) calendar days of receipt of invoice.

222. If RCTC has received Electronic Funds Transfer (EFT) certification from STATE, then RCTC will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from the STATE.

223. Upon issuance of an encroachment permit for construction to RCTC's PROGRESSIVE DESIGN-BUILD ENTITY, and subject to the provisions of this AGREEMENT, RCTC shall control and maintain, at its own cost and expense, those portions of the PROJECT lying within the SHS right-of-way. RCTC will also maintain, at RCTC expense, local roads within the SHS right-of-way delegated to local agencies for maintenance and remaining portions of any local road overcrossing structures, including the deck surface and above, as well as all traffic service facilities that may be required for the exclusive benefit or control of local road traffic. This responsibility will remain for each area outside of SHS right-of-way until each area has been relinquished back to local agency.

224. That, upon completion of all work under this AGREEMENT, ownership and title to materials, equipment, and appurtenances installed within the PROJECT, excluding any signage and supporting or related computerized communications systems; and other toll related toll operations equipment and systems as per the TOLL FACILITY AGREEMENT, will automatically be vested in STATE. No further agreement will be necessary to transfer

ownership as herein above stated. RCTC herein transfers of ownership and title to materials, equipment and appurtenances installed outside of STATE right-of-way, excluding those materials, equipment and appurtenances owned by RCTC and OCTA respectively within their respective TOLL FACILITY, unless otherwise agreed to by STATE and RCTC in the TOLL FACILITY AGREEMENT, or as may otherwise be specified in the FRANCHISE AGREEMENT. STATE will continue to own the underlying right-of-way on which the TOLL FACILITY, PROJECT and STATE REQUESTED BETTERMENTS are constructed.

225. Furthermore, the PARTIES agree STATE shall not be considered to have privity with the PROGRESSIVE DESIGN-BUILD ENTITY, except as provided for in this AGREEMENT, and the CONTRACT DOCUMENTS shall reflect the fact that no contractual relationship is to be created between the PROGRESSIVE DESIGN-BUILD ENTITY and STATE, except that nothing in the provisions of this AGREEMENT is intended to create duties or obligations to or rights of third parties in this AGREEMENT or affect the legal liability of either PARTY to the AGREEMENT to third parties by imposing any standard of care with respect to the development, design, construction, operation and maintenance of SHS and public facilities different from the standard of care imposed by law or applicable STATE STANDARDS.

226. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the PROJECT in confidence to the extent permitted by law and where applicable, the provisions of California Government Code, Section 7921.505 (c) (5) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES. PARTIES will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the WORK without the written consent of the PARTY authorized to release them, unless required or authorized to do so by law.

227. If a PARTY receives a public records request pertaining to the PROJECT, that PARTY will notify PARTIES within five (5) working days of receipt and make PARTIES aware of any disclosed public records.

228. Neither STATE 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 RCTC, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority or jurisdiction conferred upon RCTC under this AGREEMENT. It is understood and agreed that RCTC, to the extent permitted by law, will defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description including but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

229. Neither RCTC 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 STATE, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority or jurisdiction conferred upon STATE under this AGREEMENT. It is understood and agreed that, STATE, to the extent permitted by law, will defend, indemnify and save harmless RCTC and all its officers and employees from all claims, suits or actions of every name, kind and description including but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

230. Notwithstanding any other term of this AGREEMENT, existing corridor utility service expenses, including water and electrical, shall remain the responsibility of STATE, whereas RCTC will be responsible for utility service expenses when modifying existing utilities. RCTC will not utilize existing STATE sources for any temporary connection, unless otherwise approved by STATE.

231. That no alteration, or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the PARTIES hereto and no oral understanding or agreement which is not incorporated herein shall be binding on any of the PARTIES hereto.

232. A PARTY is not liable for failure to perform the PARTY's obligations if such failure is as a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war in the USA, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption.

233. To the extent STATE does not exercise its authority to seek recovery of response costs from third parties to damages to the PROJECT paid by RCTC, STATE expressly authorizes RCTC to exercise any and all authority conferred as result of Vehicle Code sections 17000-17303 with respect to actions to recover response costs.

234. If the PARTIES are unable to reach agreement on a particular issue, including concerns over timeliness of submittal reviews or performance of REIMBURSED WORK, the PARTIES agree to promptly follow a mutually agreed upon issue resolution process. The final form and content of the issue resolution process will be mutually developed prior to commencement of construction. The primary objective of the issue resolution process is timely decision making.

235. To form an Executive Oversight Committee (EOC) as part of the issue resolution process. The EOC will be available to provide direction to the PROJECT team when issues are elevated to the EOC. The EOC will be the final step in the PROJECT level dispute resolution process. The primary objective of the EOC will be to ensure that PROJECT stays on schedule and issues are resolved in a timely manner. The EOC will meet on an as-needed basis to resolve issues that otherwise threaten to delay the overall PROJECT schedule or adversely impact PROJECT costs.

236. That no waiver of any claim, defense or obligation shall be imputed to either PARTY as a result of that PARTY's failure or delay in assertion of said claim, defense or obligation.

237. This AGREEMENT will terminate upon selection of the "no project" alternative as a result of the environmental review process, COMPLETION OF WORK or upon 30 calendar days' written notification to terminate and acceptance between STATE and RCTC, whichever occurs first. However, all obligations to pay amounts accrued or due and payable as of the date of termination, indemnification, document retention, audit, claims, environmental commitment, legal challenge, ownership articles and other provisions that, by their express terms survive termination or expiration of this AGREEMENT, will remain in effect until terminated or modified in writing by mutual agreement.

238. RCTC will operate under the STATE Disadvantaged Business Enterprise (DBE) Program, and will develop contract specific DBE goals for the applicable PROJECT contracts with subcontracting opportunities including the PROGRESSIVE DESIGN-BUILD CONTRACT. RCTC will report its DBE participation on the PROJECT through STATE.

239. 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.

240. PARTIES agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expired by the statute of limitations.

241. PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the obligations.

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

243. The attached Attachment A and B and Exhibits A through G are incorporated into this AGREEMENT by reference.

(a) Attachment A – FUNDING AND SPENDING SUMMARY

(b) Exhibit A – PROJECT DESCRIPTION

(c) Exhibit B – PROJECT ORGANIZATIONAL CHART

(d) Exhibit C – ESTIMATED REIMBURSED WORK SUMMARY

(e) Exhibit D – STATE REQUESTED BETTERMENTS SUMMARY

(f) Exhibit E – DEPARTMENT FURNISHED MATERIAL

(g) Exhibit F – SAMPLE COOPERATIVE AGREEMENT CLOSURE STATEMENT

(h) Exhibit G – CONTACT INFORMATION

(i) Attachment B- Cooperative Agreement between RCTC and OCTA

244. **Revising Attachments and Exhibits**. PARTIES can revise Attachments A-B and Exhibits A-G of this AGREEMENT by mutually amending, replacing, or providing additional pages to the Attachment or Exhibits that must be executed by PARTIES, and signed by authorized representatives of PARTIES. The revised Attachment or Exhibit will thereafter supersede the previous Attachment or Exhibit and become part of this AGREEMENT.

245. **Amendment to AGREEMENT.** Except as provided in the preceding section concerning Attachment and Exhibit amendments, the terms of this AGREEMENT can be changed only by a formal written amendment executed by all PARTIES.

SIGNATURE PAGE TO
COOPERATIVE AGREEMENT
FOR PROGRESSIVE DESIGN-BUILD OF THE STATE ROUTE 91 EASTBOUND
CORRIDOR OPERATIONS PROJECT

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

____
Catalino A. Pining III
District 8 Director

APPROVED AS TO FORM AND PROCEDURE:

____
Meera Danday
HQ Legal Representative

CERTIFIED AS TO FUNDS:

____
Karem Evans
District Budget Manager

CERTIFIED AS TO FINANCIAL TERMS AND POLICIES:

____
Darwin Salmos
HQ Accounting Supervisor

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

____
Aaron Hake
Executive Director

APPROVED AS TO FORM:
Best Best & Krieger LLP

____
Steven C. DeBaun,
RCTC General Counsel

Attachment A

FUNDING SUMMARY

Funding Type	Funding Source	Funding Party	PA/ED	PS&E PCM PH 1	PS&E	R/W Support	R/W Capital	DFM Caltrans	Construction Capital	Construction Support PCM	Construction Support	Totals
STBG	Federal	RCTC	$1,847,000									**$1,847,000**
HIP	Federal	RCTC	$1,915,000									**$1,915,000**
FY 24 CAA/CPF HIP	Federal	RCTC			$4,000,000							**$4,000,000**
FY 26 CAA/CPF HIP	Federal	RCTC							$2,000,000		$1,000,000	**$3,000,000**
Local/Agency	Local	RCTC	$487,000	$10,529,800	$10,787,960	$600,000	$4,000,000	$50,000	$157,000,000	$20,440,200	$4,565,000	**$208,459,960**
Total:			**$4,249,000**	**$10,529,800**	**$14,787,960**	**$600,000**	**$4,000,000**	**$50,000**	**$159,000,000**	**$20,440,200**	**$5,565,000**	**$219,221,960**

SPENDING SUMMARY

Funding Type	PA&ED		PS&E		R/W		DFM Caltrans		Construction Capital		Construction Support		Totals
	State	RCTC	State	RCTC	State	RCTC	State	RCTC	State	RCTC	State	RCTC	
STBG		$1,847,000											**$1,847,000**
HIP		$1,915,000											**$1,915,000**
FY 24 CAA/CPF HIP				$4,000,000									**$4,000,000**
FY 26 CAA/CPF HIP										$2,000,000	$1,000,000		**$3,000,000**
Local/Agency		$487,000		$21,317,760		$4,600,000	$50,000			$157,000,000	$4,565,000	$20,440,200	**$208,459,960**
Total:	**$0**	**$4,249,000**	**$0**	**$25,317,760**	**$0**	**$4,600,000**	**$50,000**	**$0**	**$0**	**$159,000,000**	**$5,565,000**	**$20,440,200**	**$219,221,960**

Exhibit A

PROJECT DESCRIPTION

The PROJECT constructs an operational lane on EB SR-91 from the SR-241 GP connector to the SR-71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing).The project scope of work is defined in the Supplemental Project Report. The PROJECT consists of the following major project components:

- Adding an operational lane approximately 3 miles in length in the EB direction on SR-91 from the SR-241 GP connector to the SR-71 Connector auxiliary lane
- Widening Coal Canyon Road Undercrossing (UC) (Bridge No. 55-0507R)
- Widening County Line Creek UC (Bridge No. 56-0366)
- Constructing new retaining walls
- Reconstructing a portion of the Green River Road EB exit ramp from one to two lanes
- Replacing overhead signs
- Drainage improvements
- Geotechnical exploration
- Constructing debris and rockfall mitigation measures

Figure 1

PROJECT MAP

Figure 2

Typical Cross-Section

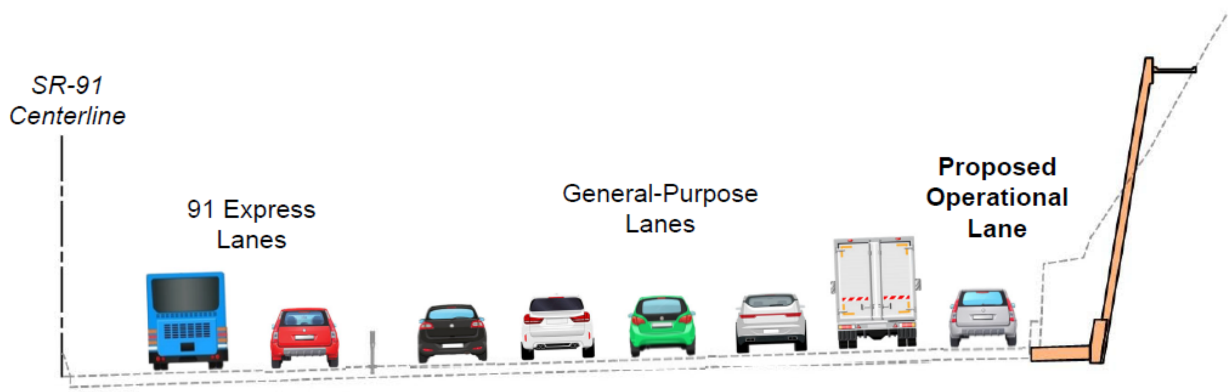

Exhibit B

PROJECT ORGANIZATIONAL CHART

SR-91 EASTBOUND CORRIDOR OPERATIONS PROJECT

Construction Organizational Chart

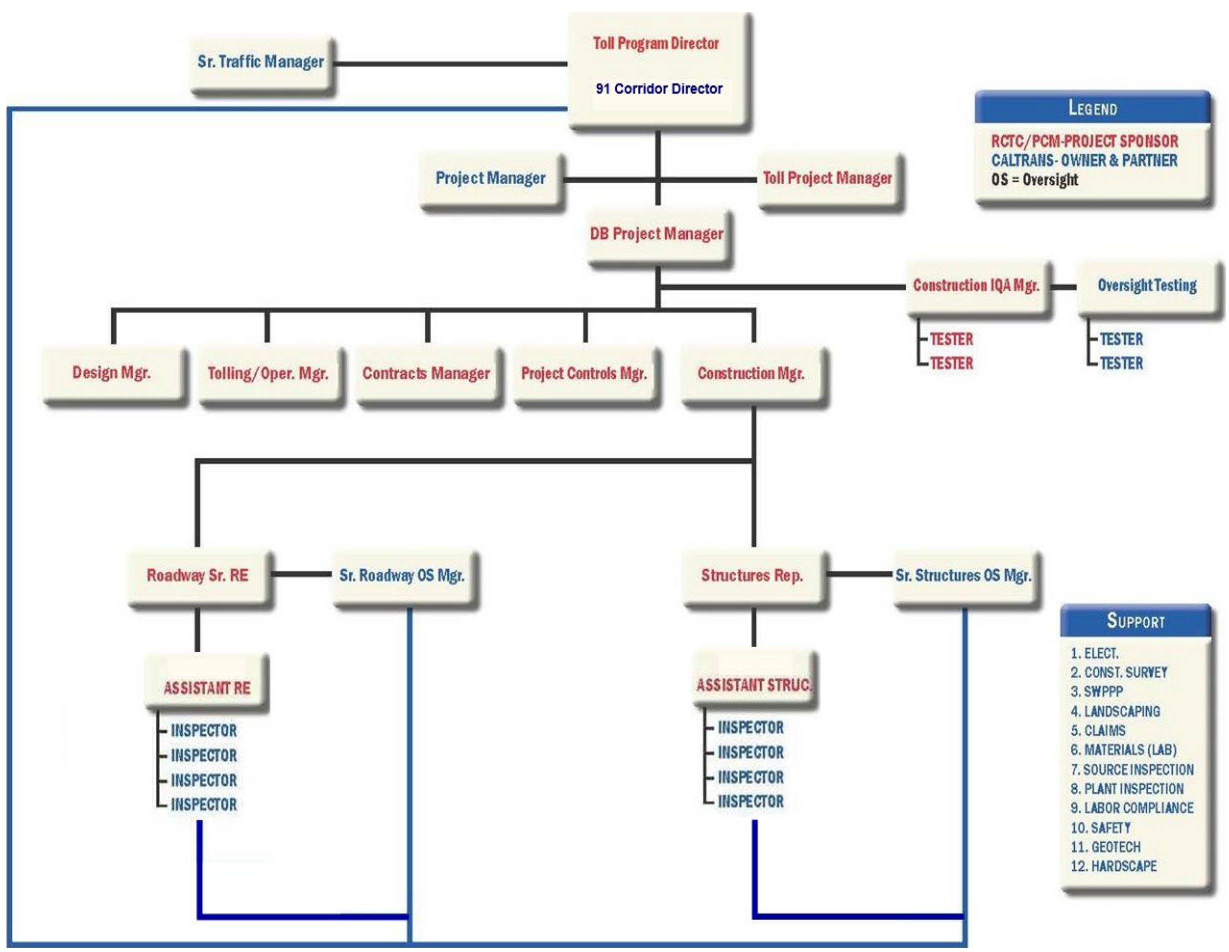

Exhibit C

ESTIMATED REIMBURSED WORK SUMMARY

Hours = 21,824

Cost = $5,565,000

Notes:

1. The Reimbursed Work Summary is an estimate covering STATE's actual cost of REIMBURSED WORK . The STATE cost of REIMBURSED WORK staffing workplan and costs will be developed during PDB Phase 1, and agreed upon between the PARTIES prior PDB Phase 2 work. The workplan and costs developed for the PDB Phase 2 work that exceeds the estimated costs for REIMBURSED WORK contained herein will require an update to Exhibit C per paragraph 236.

2. Designated Key Personnel:

    a. Project Director
    b. Project Manager
    c. Roadway Design Manager
    d. Structures Design Manager
    e. Environmental Manager
    f. Geotechnical Manager

Exhibit D

STATE REQUESTED BETTERMENTS SUMMARY

There are no STATE REQUESTED BETTERMENTS identified at this time. Any STATE REQUESTED BETTERMENTs identified during PDB Phase 1 will be added via an amendment to this agreement

Exhibit E

DEPARTMENT FURNISHED MATERIAL (DFM)

The STATE shall provide the following DEPARTMENT FURNISHED MATERIALS in total value estimated value of $50,000

1. Cabinet Traffic Controller Model 334LS Cabinet

Exhibit F
(SAMPLE)

COOPERATIVE AGREEMENT CLOSURE STATEMENT

STATE and RCTC agree that all scope, cost and schedule commitments included in the Cooperative Agreement for PROGRESSIVE DESIGN-BUILD of the State Route 91 Eastbound Corridor Operations Project entered into as of ___________ (the "Agreement") have been completed. As of the date this COOPERATIVE AGREEMENT CLOSURE STATEMENT has been executed by the representatives of the PARTIES, as set forth below, the Agreement shall terminate.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION	RIVERSIDE COUNTY TRANSPORTATION COMMISSION
By: ____________________________ District 8 Director	By: ____________________________ Executive Director
Date: __________________________	Date: __________________________

Exhibit G

CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

RCTC

Sri Srirajan, Capital Projects Manager

Phone Number: (951) 206-3831

Billing Address: 4080 Lemon Street, 3rd Floor
Riverside, CA 92502

CALTRANS

Project Manager: Bacson Quach

Phone Number: (951) 830-6017

E-mail: bacson.quach2@dot.ca.gov

Attachment B

OCTA-RCTC COOPERATIVE AGREEMENT

[to be attached]

RCTC Agreement No. 26-31-094-00
F/ETCA Agreement No. K001635

COOPERATIVE AGREEMENT AMONG RIVERSIDE COUNTY TRANSPORTATION COMMISSION, FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY, AND THE CITY OF CORONA CALIFORNIA FOR THE GREEN RIVER ROAD/FOOTHILL PARKWAY IMPROVEMENT PROJECT

This Cooperative Agreement ("Cooperative Agreement") is made and entered into this _____ day of ___________, 2026 by and between the Riverside County Transportation Commission ("RCTC"), Foothill/Eastern Transportation Corridor Agency, a California joint powers authority (hereinafter referred to as "F/ETCA"); and the City of Corona, California (the "City"). RCTC, F/ETCA and the City are sometimes referred to herein individually as ("Party"), and collectively as ("Parties").

RECITALS

WHEREAS, roadway improvements, modifications, and traffic management are proposed along Green River Road and Foothill Parkway between State Route 91 ("SR-91") and Interstate 15 ("I-15") within the City of Corona**,** as described in Exhibit "A" attached hereto and incorporated herein by reference (the "Project"); and

WHEREAS, the Project has a total estimated cost of $3,319,094 ("Total Project Cost"), as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, RCTC is implementing the State Route 91 Eastbound Corridor Operations Project ("91 ECOP"), which adds a sixth operational lane along eastbound SR-91 from the State Route 241 ("SR-241")/SR-91 eastbound general purpose (GP) connector to the State Route 71 ("SR-71") connector auxiliary lane, designed to enhance traffic flow, improve safety, and reduce congestion along the eastbound SR-91 corridor; and

WHEREAS, F/ETCA is implementing the SR-241/SR-91 Express Connector project ("241/91 EC"), which provides a direct, tolled connector linking the northbound SR-241 toll road to the eastbound 91 Express Lanes and the westbound 91 Express Lanes to the southbound SR-241 toll road and related corridor improvements to improve throughput between Riverside and Orange Counties, relieve traffic congestion, enhance connectivity between the two tolled systems, improve air quality along the corridor, and promote safety for the traveling public; and

WHEREAS, as part of the 91 ECOP, RCTC prepared a traffic analysis for Green River Road/Foothill Parkway to assess potential increases in cut-through traffic from the 91 ECOP and 241/91 EC on various intersections immediately east of the SR-91/Green River Road interchange and intersections immediately west of the I-15/Foothill Parkway interchange; and

WHEREAS, RCTC and F/ETCA have agreed to provide a one-time lump sum toward the Project based on the fair-share methodology and the estimated project cost in order to alleviate measurable potential increases in cut-through traffic resulting from the 91 ECOP and 241/91 EC; and

WHEREAS, the City intends to complete construction of the Project within two years from opening of the 91 ECOP, and

WHEREAS, the Parties intend to enter into this Cooperative Agreement to establish and coordinate their respective responsibilities with respect to the Project, as further set forth herein; and

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually understood and agreed by RCTC, F/ETCA and the City as follows:

TERMS

1. Incorporation of Defined Terms in Recitals. The recitals set forth above define certain terms which are used in this Cooperative Agreement and are incorporated into this Cooperative Agreement by reference as though fully set forth herein.

2. Term. This Cooperative Agreement shall be effective as of the date first set forth above and shall continue in effect until sixty (60) days after the date on which the City provides a copy of the recorded notice of completion or equivalent for the Project, as further described in Section 7.4 below, to RCTC and F/ETCA.

3. General Agreement to Cooperate. The Parties agree to mutually cooperate in order to ensure that the Project is successfully completed with minimum impact to the Parties, and the public.

4. Fair Share Payment. Parties have identified necessary improvements to alleviate potential increases in cut-through traffic associated with the 91 ECOP and 241/91 EC projects, which have been incorporated into the Project. Further, the Parties have established a fair share contribution plan based on the proportional potential increases in cut-through traffic associated with the 91 ECOP and 241/91 EC projects on Green River Road/Foothill Parkway relative to the estimated Total Project Cost of the Project. The proportional calculation, attached hereto as Exhibit "A" and incorporated herein by this reference (hereinafter referred to as the "Fair Share Calculation"), which identifies the Project and sets forth the applicable fair share contributions for RCTC and for F/ETCA, respectively, as provided herein.

5. Obligations of RCTC. RCTC shall contribute its fair share toward the Total Project Cost. The Parties agree that RCTC's fair share shall be as shown in Exhibit C. RCTC's fair share contribution is $393,522 (the "RCTC Fair Share Contribution"), which shall be paid as a lump sum to the City and used solely for actual costs incurred for the Project and for no other purpose, consistent with the methodology described in the traffic analysis for Green River Road/Foothill Parkway. The Parties acknowledge and agree that nothing in this Cooperative Agreement commits RCTC to approving or constructing the Project. No services or materials will be furnished by RCTC for the Project. RCTC shall make the RCTC Fair Share Contribution within sixty (60) days of the date this Cooperative Agreement is executed by all Parties.

6. Obligations of F/ETCA. F/ETCA shall contribute its fair share toward the Total Project Cost. The Parties agree that F/ETCA's fair share shall be as shown in Exhibit C. F/ETCA's fair share contribution is $119,545 (the "F/ETCA Fair Share Contribution"), which shall be paid as a lump sum to the City and used solely for actual costs incurred for the Project and for no other purpose, consistent with the methodology described in the traffic analysis for Green River Road/Foothill Parkway. The Parties acknowledge and agree that nothing in this Cooperative Agreement commits

F/ETCA to approving or constructing the Project. No services or materials will be furnished by F/ETCA for the Project. F/ETCA shall make the F/ETCA Fair Share Contribution within sixty (60) days of the date this Cooperative Agreement is executed by all Parties.

7. Obligations of the City

7.1 The City shall maintain the funding provided by RCTC and F/ETCA in a separate or existing account with project-specific ledger number, designated for use on the Project, and shall use the funding for no other purpose.

7.2 The City shall maintain complete and accurate records with respect to all costs and expenses incurred for the Project and funded under this Cooperative Agreement. All such records shall be clearly identifiable. The City shall allow representatives of RCTC and F/ETCA during the City's normal business hours to examine, audit, and make transcripts or copies of such records, or shall provide copies of such records to RCTC and F/ETCA upon request.

7.3 The City shall be responsible for procuring all design, construction management, and other professional and construction services, and providing staff resources, as necessary to complete the Project. The City shall be responsible for all selection and contracting to complete the Project in compliance with all applicable local, state, and federal laws, including, without limitation, the California Public Contract Code and the California Labor Code. The City shall also be responsible for complying with California Environmental Quality Act ("CEQA") and for obtaining all environmental clearances, approvals, and permits necessary to complete the Project. The Parties acknowledge that the City's full compliance with the CEQA and all other applicable laws are a precondition to any construction of the Project.

7.4 City shall engage the services of a contractor ("Contractor") to complete the Project. Upon completion of Project construction, the City shall record a notice of completion for the Project in accordance with California Civil Code Section 3093 et seq., and any applicable provisions of the California Public Contract Code.

7.5 The City shall be responsible for all Project costs in excess of the RCTC Fair Share Contribution and F/ETCA Fair Share Contribution. No additional funding for the Project shall be provided by RCTC or F/ETCA.

7.6 The City shall obtain, or shall require the Contractor to obtain, all required permits, approvals, and authorizations necessary for the performance of the Project. Such permits and approvals shall include, but are not limited to, those required by any applicable local, state, or federal agencies.

7.7 The City shall complete the design and construction of the Project in a timely manner so as to avoid adverse effects to the public. The City agrees that the Project shall not interfere with the 91 ECOP and 241/91 EC projects. To this end, the City shall coordinate and cooperate with RCTC and F/ETCA, and their consultants and contractors, to ensure that such interference does not occur and that the 91 ECOP and 241/91 EC projects may proceed as scheduled. Such coordination and cooperation shall include, but not be limited to, coordination and implementation of traffic control measures and detours.

In the event that interference with the 91 ECOP or 241/91 EC project occurs, or is reasonably anticipated, the 91 ECOP and 241/91 EC projects shall take priority over the Project. The City shall immediately comply with any and all directions given by RCTC or F/ETCA to address, prevent, mitigate, or eliminate such interference.

7.8 The City shall install, maintain, operate, and repair its facilities in a manner which avoids or minimizes, to the extent possible and reasonable, any impact to the 91 ECOP and 241/91 EC projects.

7.9 To the extent permitted by law, the City shall indemnify, defend, and hold harmless RCTC and F/ETCA, including their members, officers, employees, and agents from and against contractor and third-party claims, damages, losses, and expenses, including reasonable attorneys' fees in the performance of this Cooperative Agreement.

7.10 As between RCTC, F/ETCA and the City, the City and its consultants shall be responsible for performing all design reviews and construction inspections of the Project to ensure conformance with City standards and the construction contract, including, but not limited to, the technical provisions of said contract. The City shall allow RCTC and F/ETCA staff access to the Project site at all times to perform observation of any Project improvements. Such observation, if completed, shall be for RCTC's and F/ETCA's benefit only and shall not relieve the City of any of its responsibilities under this Cooperative Agreement.

7.11 The City, as the owner of the improvements constructed pursuant to this Cooperative Agreement, shall be solely responsible for all future maintenance and associated costs of the Project improvements.

8. Time is of the Essence. Each Party warrants that it shall make its best efforts to perform all obligations assigned to it related to the Project in such a manner as to allow the Project to progress as scheduled. The City's objective is to complete construction of the project within two years from opening of the 91 Eastbound Corridor Operations Project. If the project is not completed within such two-year period, except for the traffic management, the Parties shall meet and confer to determine an appropriate course of action, and F/ETCA and RCTC will have no further obligations.

9. Dispute Resolution. Unless otherwise specified herein, the Parties shall submit any unresolved dispute to RCTC's Executive Director, F/ETCA's Chief Executive Officer, and the City Manager, as applicable, for negotiation. The Executive Director, Chief Executive Officer and the City Manager agree to undertake good faith attempts to resolve any said dispute, claim, or controversy within twelve (12) business days after the receipt of written notice from the Party alleging that a dispute, claim or controversy exists. The Parties additionally agree to cooperate with the other Parties in scheduling negotiation sessions. However, if said matter is not resolved within thirty-five (35) calendar days after conducting the first negotiating session, any Party may, but is not required to, request that the matter be submitted to further dispute resolution procedures, as may be agreed upon by the Parties.

10. Legal Action. If a matter is not resolved within thirty-five (35) calendar days after the first negotiating session between the Executive Director, Chief Executive Officer, and the City Manager, unless otherwise agreed upon in writing by the Parties, any Party may proceed with any other remedy available in law or in equity.

11. Indemnification.

11.1 RCTC shall indemnify, defend and hold the City, F/ETCA, and their directors, officials, officers, employees, agents, consultants and contractors 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 negligent acts, omissions or breach of law, or willful misconduct of RCTC, its officials, officers, employees, agents, consultants or contractors in the performance of RCTC's obligations under this Cooperative Agreement, including the payment of all reasonable attorneys fees.

11.2 F/ETCA shall indemnify, defend and hold the City, RCTC and their directors, officials, officers, employees, agents, consultants and contractors 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 negligent acts, omissions or breach of law, or willful misconduct of F/ETCA, its officials, officers, employees, agents, consultants or contractors in the performance of F/ETCA's obligations under this Cooperative Agreement, including the payment of all reasonable attorneys fees.

11.3 The City shall indemnify, defend and hold RCTC, F/ETCA, and their directors, officials, officers, employees. agents, consultants and contractors free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or inequity, to property or persons. including wrongful death, in any manner arising out of or incident to any negligent acts, omissions or breach of law, or willful misconduct of the City, its officials, officers, employees, agents, consultants or contractors in the performance of the City's obligations under this Cooperative Agreement, including the payment of all reasonable attorneys fees.

11.4 The indemnification provisions set forth in this Section 11 shall survive any expiration or termination of this Cooperative Agreement.

12. Notices. All notices, requests, demands and other communications required or permitted to be given under this Cooperative Agreement shall be in writing and shall either be delivered in writing by certified or registered first class mail, postage prepaid, deposited in the United States mail, and properly addressed to the Party at its address set forth below, or at any other address that such Party may designate by written notice to the other Party:

RCTC:
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Attn: David Thomas

F/ETCA:
Foothill/Eastern Transportation Corridor
Agency125 Pacifica
Irvine, CA 92618
Attn: Stephanie Blanco, Chief Capital Programs Officer

CITY:
City of Corona
400 S. Vicentia Avenue Corona, CA 92882
Attn: Savat Khamphou, Public Works Director

13. Force Majeure. The failure of performance by any Party (except for payment obligations) hereunder shall not be deemed to be a default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, railroad, or suppliers; acts of another Party; acts or failure to act of any other public or governmental agency or entity (other than that acts or failure to act of the Parties); or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform or relief from default. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to another party within thirty (30) days of the commencement of the cause. Times of performance under this Cooperative Agreement may also be extended in writing by mutual agreement between the Parties.

14. Amendments. This Cooperative Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing.

15. Assignment of Cooperative Agreement. No Party may assign or transfer its respective rights or obligations under this Cooperative Agreement without the express written consent of the other Parties. Any purported assignment or transfer by one Party without the express written consent of the other Parties shall be null and void and of no force or effect.

16. Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of any Party shall be deemed to waive or render unnecessary such Party's consent to or approval of any subsequent act of the other Parties. Any waiver by any Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Cooperative Agreement.

17. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Cooperative Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Cooperative Agreement, which shall be interpreted to carry out the intent of the parties hereunder.

18. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Cooperative Agreement, shall survive any such expiration or termination.

19. Third Party Beneficiaries. There are no third-party beneficiaries to this Cooperative Agreement.

20. Electronically Transmitted Signatures. A manually signed copy of this Cooperative 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 Cooperative Agreement for all purposes. This Cooperative Agreement may be signed using an electronic signature.

21. Counterparts. This Cooperative Agreement may be signed in counterparts; each of which shall constitute an original.

22. Entire Agreement. This Cooperative Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE
TO
COOPERATIVE AGREEMENT
AMONG
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY AND
THE CITY OF CORONA
FOR GREEN RIVER ROAD/FOOTHILL PARKWAY IMPROVEMENT PROJECT**

**RCTC Agreement No. 26-31-091-00
F/ETCA Agreement No. K001635**

IN WITNESS WHEREOF, the Parties hereto have executed this Cooperative Agreement on the date first herein above written.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY
By:__________ Signature Aaron Hake Executive Director Approved as to Form: By:__________ Best Best & Krieger LLP General Counsel	By:__________ Signature Ryan Chamberlain Chief Executive Officer Approved as to Form: By:__________ Ben Rubin, Nossaman General Counsel
CITY OF CORONA Signed by: By: Javier Luna 3CFADDA0255E4F2... Signature Javier Luna Acting Public Works Director Approved as to Form: Signed by: By: Jamie Raymond 4D48BC1618324DC... For: Dean Derleth City Attorney	DocuSigned by: By: Jacob Ellis 8CB6AE0895944B4... Signature Jacob Ellis City Manager

EXHIBIT "A"

PROJECT IMPROVEMENTS, TOTAL PROJECT COSTS, AND FAIR SHARE CALCULATION

[attached behind this page]

GREEN RIVER ROAD/FOOTHILL PARKWAY IMPROVEMENT PROJECT

Green River Road and Foothill Parkway between State Route 91 ("SR-91") and Interstate 15 within the City of Corona

Project Description		Total Project Cost				Fair Share Calculation	
NO.	ITEM DESCRIPTION	UNIT OF MEASURE	EST. QTY.	UNIT PRICE	ITEM COST	ACTUAL FAIR SHARE	ACTUAL CONTRIBUTION
1	**ATMS Fiber Extension (Green River)**	**LS**	**1**	**$615,000**	**$615,000**	**15.0%**	**$92,250**
	Fiber Drop Cable (Installed)	LF	14,000	$5.00	$70,000		
	3" PVC Conduit (Bore)	LF	12,500	$38.00	$475,000		
	Fiber Splice Closure	EA	2	$3,000	$6,000		
	Fiber Patch Panel	EA	2	$1,500	$3,000		
	Testing of Fiber	LS	1	$5,000	$5,000		
	Hub Cabinet and Switch	LS	1	$30,000	$30,000		
	Electrical Service for Hub Cabinet	LS	1	$10,000	$10,000		
	Pullboxes	EA	20	$800	$16,000		
2	**ATMS Fiber Extension (Foothill)**	**LS**	**1**	**$201,800**	**$201,800**	**3.1%**	**$6,256**
	Fiber Drop Cable (Installed)	LF	4,200	$5.00	$21,000		
	3" PVC Conduit (Bore)	LF	4,200	$38.00	$159,600		
	Fiber Splice Closure	EA	2	$3,000	$6,000		
	Fiber Patch Panel	EA	2	$1,500	$3,000		
	Testing of Fiber	LS	1	$5,000	$5,000		
	Pullboxes	EA	9	$800	$7,200		
3	**CCTV Cameras**	**LS**	**1**	**$86,000**	**$86,000**		
	GRR at 91 EB Ramp (On New 45' CCTV Pole, Cabinet, Service)	EA	1	$35,000	$35,000	**15.7%**	**$5,495**
	GRR at Dominguez Ranch (On existing TS)	EA	1	$8,000	$8,000	**14.9%**	**$1,192**
	Foothill at Bedford (On New 45' CCTV Pole, Cabinet, Service)	EA	1	$35,000	$35,000	**6.5%**	**$2,275**
	Foothill at Crossroads (On existing TS)	EA	1	$8,000	$8,000	**6.5%**	**$520**
4	**Dual Arm DMS - Green River**	**LS**	**1**	**$202,500**	**$202,500**	**15.7%**	**$31,793**
	Sign Panels	EA	2	$50,000	$100,000		
	Structure	EA	1	$75,000	$75,000		
	Electrical Service for DMS	EA	1	$10,000	$10,000		
	Ethernet Switch	EA	1	$2,500	$2,500		
	DMS Controller Cabinet	EA	1	$15,000	$15,000		
5	**Dual Arm DMS - Foothill**	**EA**	**1**	**$202,500**	**$202,500**	**3.1%**	**$6,278**
	Sign Panels	EA	2	$50,000	$100,000		
	Structure	EA	1	$75,000	$75,000		
	Electrical Service for DMS	EA	1	$10,000	$10,000		
	Ethernet Switch	EA	1	$2,500	$2,500		
	DMS Controller Cabinet	EA	1	$15,000	$15,000		
6	**Speed Feedback Radar Signs**	**LS**	**1**	**$40,000**	**$40,000**		
	Located between Fresno Road and Dominguez Ranch - EB	EA	1	$10,000	$10,000	**15.7%**	**$1,570**
	Located between East and West Ridgeline Drive - EB	EA	1	$10,000	$10,000	**11.2%**	**$1,120**
	Located between Paseo Grande and Border - EB	EA	1	$10,000	$10,000	**11.2%**	**$1,120**
	Located between Lincoln and High Grove - EB	EA	1	$10,000	$10,000	**6.3%**	**$630**
7	**LED Chevron Signs at Green River**	**LS**	**1**	**$25,000**	**$25,000**	**14.9%**	**$3,725**
8	**Cut Through Study** (LPR vs Streetlight)	**LS**	**1**	**$50,000**	**$50,000**	**100.0%**	**$50,000**
9	**Corridor Timing Plans** (COC Supplied Data, AM/PM)	**LS**	**1**	**$40,000**	**$40,000**	**100.0%**	**$40,000**
10	**Traffic Management**	**annual**	**10**	**$114,000**	**$1,140,000**	**15.7%**	**$178,980**
				Sub Total	$2,602,800		$423,203
				Contingency (10%)	$260,280		$42,320
				Total	**$2,863,080**		**$465,523**

With 3% Escalation at 5 yrs	**$3,319,094**		**$31,182**
With 3% Escalation at 2 yrs			**$16,361**

Fair Share Total	**$513,067**
TCA Share	**$119,545**
RCTC Share	**$393,522**

AGENDA ITEM 8

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	July 27, 2026
TO:	Western Riverside County Programs and Projects Committee
FROM:	Paul Mim Mack, Senior Management Analyst Hector Casillas, Right of Way Manager
THROUGH:	Erik Galloway, Project Delivery Director
SUBJECT:	On-Call Right of Way Environmental Site Assessment Services

STAFF RECOMMENDATION:

This item is for the Committee to recommend the Commission take the following action(s):

1) Award the following on-call professional services agreements for right of way environmental site assessment services for a three-year term, in an amount not to exceed an aggregate value of $1,000,000;
   a. Agreement No. 26-31-033-00 with Verdantas Inc., formerly Leighton Consulting, Inc.;
   b. Agreement No. 26-31-083-00 with Ninyo & Moore Geotechnical & Environmental Sciences Consultants;
   c. Agreement No. 26-31-084-00 with NV5 Environmental, LP.;
2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission, and
3) Authorize the Executive Director, or designee, to execute task orders awarded to the consultant under the terms of the agreements.

BACKGROUND INFORMATION:

Environmental Site Assessments (ESAs) are conducted to identify contamination risks on properties prior to acquisition or construction. These assessments help avoid unexpected costs, project delays, and legal liabilities. ESAs are necessary to support the Right of Way Department's work on Commission projects, future Measure A highway and rail projects, as well as projects for the Western Riverside County Regional Conservation Authority (RCA). As of January 1, 2021, the Commission serves as the managing agency for the RCA, which is responsible for habitat conservation and requires similar environmental due diligence.

The presence of hazardous substances must be investigated prior to property acquisitions. Therefore, it is necessary for the Commission and RCA to exercise due diligence in identifying hazardous materials and potential hazardous substance related issues. Performing early testing of known or potentially contaminated sites may avoid or, at least, minimize costs and schedule delays on Commission projects.

On-call consultants will be required to furnish specialized environmental engineering and field services, including, but not limited to, site assessments and investigations, remedial investigation/feasibility studies, remediation action plans, remediation action design, post-remediation monitoring at specified sites, hazardous waste remediation, abatement, lead and asbestos testing, and removal of materials.

The typical Environmental Site Assessment is performed in phases as described below:

- Phase I Environmental Site Assessment – A preliminary review of current and historical records of property uses to identify environmental concerns.

- Phase II Environmental Site Assessment – Field investigations, including soil and groundwater sampling and testing, to confirm whether contamination is present and determine its character and extent.

In July 2022, the Commission approved a similar contract with a single firm for a three-year term for up to $350,000, and in April 2025, the Commission authorized an additional $200,000 increase to the contract for a total authorization of $550,000. The prior contract was used successfully to support project delivery and respond to changing site conditions. The entirety of the $550,000 has been expended. Unlike the prior contract with a single firm, staff recommends a bench of firms to ensure sufficient capacity, improve response times, and provide specialized expertise depending on project needs.

<u>Procurement Process</u>

Pursuant to Government Code 4525 et seq, the selection of architect, engineer, and related services shall be on the basis of demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required. Therefore, staff used the qualification method of selection for the procurement of these services. Evaluation criteria included elements such as qualifications of firm, qualifications of personnel, project understanding and approach, and the ability to respond to the requirements set forth under the terms of the Request for Qualifications (RFQ).

RFQ No. 26-31-033-00 for on-call right of way environmental site assessment services was released by staff on January 27, 2026. The RFQ was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Through PlanetBids, 87 firms downloaded the RFQ; 13 of these firms are located in Riverside County. A pre-submittal meeting was held on February 2, 2026, and was attended by 9 firms. Staff responded to all questions submitted by potential proposers prior to the February 9, 2026, clarification deadline. Ten (10) firms - BBG (San Diego, CA); Dudek (Riverside, CA); EnSafe (Long Beach, CA); Geocon West Inc. (Murrieta, CA); Langan CA (Riverside, CA); Ninyo & Moore (Fontana, CA); NV5 Environmental LP (Riverside, CA); Terracon Consultants Inc. (Colton, CA); TYPSA, Inc. (Irvine, CA); and Verdantas Inc. (Irvine, CA) submitted responsive and responsible Statements of Qualifications (SOQ) prior to the 2:00 p.m. submittal deadline on March 17, 2026.

The firms were scored by an evaluation committee comprised of Commission and Bechtel staff. The committee evaluated the written SOQs pursuant to the criteria set forth in the RFQ and shortlisted and invited six (6) firms (Dudek, Ninyo & Moore, NV5 Environmental LP., Terracon Consultants Inc., TYPSA Inc., and Verdantas Inc.) to the interview phase of the evaluation and selection process. Interviews were conducted on April 20, 2026.

As a result of the evaluation committee's assessment of the written SOQs and interviews, the evaluation committee determined three (3) firms – Ninyo & Moore, NV5 Environmental LP, and Verdantas Inc.– to be the most qualified firms to provide on-call right of way environmental site assessment services. The evaluation committee recommends contract awards to Ninyo & Moore, NV5 Environmental LP., and Verdantas Inc. for a three-year term, in the aggregate amount of $1,000,000, as these firms earned the highest total evaluation scores.

The multiple awards, on-call, indefinite delivery/ indefinite quantity task order type contracts do not guarantee work to any of the awardees; therefore, no funds are guaranteed to any consultant. Pre-qualified consultants will be selected for specific tasks based on information contained in their proposals for the specific tasks. Services will be provided through the Commission's issuance of task orders to the consultants on an as-needed basis. To ensure the consultants' prices are fair and reasonable, the contracts are subject to a pre-award audit.

The Commission's model on-call professional services agreement will be entered into with each consultant firm, subject to any changes approved by the Executive Director, pursuant to legal counsel review. Staff's oversight of the contracts and task orders will maximize the effectiveness of the consultants and minimize costs to the Commission.

FISCAL IMPACT:

The total authorization for the on-call agreements is $1,000,000 over a three-year contract period. These agreements are structured as indefinite delivery/indefinite quantity contracts and do not guarantee any minimum amount of work or compensation. Services will be authorized through individual task orders issued on an as-needed basis and will be limited to available project funding.

<table>
<tr><th colspan="6">Financial Information</th></tr>
<tr><td>In Fiscal Year Budget:</td><td>Yes</td><td>Year:</td><td>FY 2027/2028
and
FY 2028/2029+</td><td>Amount:</td><td>$300,000
$700,000</td></tr>
<tr><td>Source of Funds:</td><td colspan="2">2009 Measure A, State Transportation Improvement Program, various Federal, Transportation Uniform Mitigation Fees, and RCA reimbursements</td><td colspan="2">Budget Adjustment:</td><td>No</td></tr>
<tr><td>GL/Project Accounting No.:</td><td colspan="5">XXXXXX 81403 00014 0000 2100-72-81403
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XXXXXX 81403 00014 0000 2620 31 81403
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R21XXX, R22XXX 81403 00014 0000 7500 54 81403</td></tr>
<tr><td>Fiscal Procedures Approved:</td><td colspan="2"></td><td>Date:</td><td colspan="2">7/15/2026</td></tr>
</table>

Attachments:
1) Draft On-Call Professional Services Agreement 26-31-033-00 with Verdantas Inc.
2) Draft On-Call Professional Services Agreement 26-31-083-00 with Ninyo & Moore.
3) Draft On-Call Professional Services Agreement 26-31-084-00 with NV5 Environmental, LP.

Agreement No 26-31-033-00

PROFESSIONAL SERVICES AGREEMENT WITH FHWA, STATE, FTA AND PROPOSITION 1B FUNDING ASSISTANCE RIVERSIDE COUNTY TRANSPORTATION COMMISSION AGREEMENT WITH VERDANTAS INC. FOR ON-CALL RIGHT OF WAY (ROW) ENVIRONMENTAL SITE ASSESSMENT SERVICES

Parties and Date.

This Agreement is made and entered into this __day of ________, 2026, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and VERDANTAS INC., formerly Leighton Consulting, Inc. ("Consultant"), a corporation. The Commission and Consultant are sometimes referred to herein individually as “Party”, and collectively as the “Parties”.

Recitals.

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Federal Highway Administration (“FHWA”) funds administered by the California Department of Transportation (“Caltrans”) from the United States Department of Transportation, Proposition 1B funds (“Prop 1B”) funds administered by Caltrans, and/or funds from the Federal Transit Administration (“FTA”). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit “D” (Certificate of Consultant) and Exhibit “F” (Executive Order N-6-22 Certification) attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain On-Call ROW Environmental Site Assessment Services. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement (“Task Order”). Consultant represents that it is experienced

in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a "Project" under this Agreement).

Terms.

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant's Task Order proposal, Commission shall issue a purchase order or executed task order for the Services ("Commission's Task Order Authorization"). Consultant's agreement to the final terms of a proposed Task Order, Commission's Task Order Authorization and Consultant's commencement of the Services shall indicate the Parties' agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission's Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" or

other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Indirect Cost Rate (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement..

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

4.4 If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

4.5 Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall remain in effect for **three years** from the Effective Date, unless extended by contract amendment.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates Meredith Churchto to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement is: Meredith Churchto or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own

cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services.

Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission’s Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission’s Contract Administrator, in his or her sole discretion, determines the formally submitted work product fails to satisfy the standard of care established under this Agreement, Commission’s Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions

which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit "B" and incorporated herein by reference, or any cost proposal included as part of a Task Order ("Cost Proposal") unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission's approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant's approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order ("Fixed Fee"). The Fixed Fee is nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non- represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

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

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission
Attention: Accounts Payable
P.O. 12008
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.

19.9 Commission has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this

Agreement ("On-Call ROW Environmental Site Assessment Services Task Order Contracts"). The other On-Call ROW Environmental Site Assessment Services Task Order Contracts are Agreement No. 26-31-083-00 with Ninyo & Moore and Agreement No. 26-31-084-00 with NV5 Environmental, LP. The total amount payable by Commission for the On-Call ROW Environmental Site Assessment Services Task Order Contracts shall not exceed a cumulative maximum total value of One Million Dollars ($1,000,000) "NTE Sum". It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under On-Call ROW Environmental Site Assessment Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the On-Call ROW Environmental Site Assessment Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the On-Call Environmental Site Assessment Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

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

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

20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant, provided that Consultant may seek relief in a court of law located in Riverside County, California if Consultant disagrees with the decision and Consultant has otherwise complied with all other dispute procedures in this Agreement.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission’s Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

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

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and it's certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of $25,000 shall contain this provision.

23.1 Accounting System. Consultant _ and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

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

25.4 Any subcontract in excess of $25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

26. Equipment Purchase

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding $5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of $5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than $5,000 is credited to the Project.

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

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than $25,000 for public works construction or more than $15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the

minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See http://www.dir.ca.gov.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 <u>DIR Registration</u>. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 <u>Eight-Hour Law</u>. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, $50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 <u>Employment of Apprentices</u>. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade

shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data").

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission's sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for

wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

28.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

28.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

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

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability:* $1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of $1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than $1,000,000 per claim. This insurance shall be 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 the types of work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than $2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents additional insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project at a local office of Consultant during normal business hours.

(viii) None of the Commission's directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Consultant has declared and Commission has reviewed and approved Consultant's deductibles or self- insured retentions in effect as of the effective date of this Agreement.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission may review complete copies of all insurance policies in effect for the duration of the Project at a local office of Consultant during normal business hours.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all

insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its 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 its employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as "sole source" procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission's Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement ("Bilateral Contract Modification").

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission's Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission's Executive Director, Consultant shall not provide such change.

33. Prohibited Interests.

33.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of $25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

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

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "E" "Lobbying Activities Disclosure," in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed $100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 <u>Employment Adverse to the Commission</u>. Consultant shall notify the Commission, and shall obtain the Commission's written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. <u>Equal Opportunity Employment</u>. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. <u>Right to Employ Other Consultants</u>. Commission reserves the right to employ other consultants in connection with the Project.

36. <u>Governing Law</u>. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. <u>Disputes; Attorneys' Fees</u>.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

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

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CONSULTANT:	**COMMISSION:**
Verdantas Inc	Riverside County
	Transportation Commission
2600 Michelson Drive, Suite 400	4080 Lemon Street, 3rd Floor
Irvine, CA 92612	Riverside, CA 92501
Attn: Meredith Church	Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from Caltrans or the FTA, Consultant shall also fully and adequately comply with the applicable provisions included in Exhibit "C" (Funding Requirements), which includes the California Department of Transportation and FTA Requirements, and is attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

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

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

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

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

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

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

[Signatures on following page]

SIGNATURE PAGE
TO
PROFESSIONAL SERVICES AGREEMENT
WITH STATE, FHWA, FTA AND PROPOSITION 1B FUNDING/ASSISTANCE

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

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	**CONSULTANT VERDANTAS INC.**
By:_________________________ **Aaron Hake, Executive Director**	By: _________________________ Signature
	_________________________ Name
Approved as to Form:	_________________________ Title
By:_________________________ Best, Best & Krieger LLP General Counsel	**ATTEST:**
	By: _________________________
	Its: _________________________

Draft

* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

EXHIBIT "A"
SCOPE OF SERVICES

[ATTACHED BEHIND THIS PAGE]

SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

1.0 SCOPE OF WORK

The presence of hazardous substances within and adjacent to existing and proposed right of way and facilities for various Riverside County Transportation Commission (Commission) rail and highway projects or for various Western Riverside County Regional Conservation Authority (RCA) real property acquisitions for open space for wildlife and plant life conservation is possible. It is, therefore, necessary that the Commission and/or the RCA exercise due diligence in identifying hazardous and potential hazardous substances related problems. For purposes of this work, hazardous substances are substances or combinations of substances as defined in Title 22 California Code of Regulations, Section 66680, Division 20, Health and Safety Code, Sections 25115 and 25117, or those substances defined in Title 49 Code of Federal Regulations, Part 171.8.

On-Call Consultant will be required to furnish environmental engineering services, field services including, but not limited to, site assessment and investigations, remedial investigation/feasibility studies, remediation action plans, remediation action design, post-remediation monitoring at specified areas, hazardous waste remediation, abatement and removal of materials. Work will be assigned on a task order basis.

1.1 Task Order (TO) Procedures for Federally and Caltrans Funded TOs:

1.1.1 The Commission's and/or the RCA's Representative or designated project manager will issue TOs to consultant on an as-needed basis.

1.1.2 **REQUEST FOR TASK ORDER SUBMITTALS**. Upon a request for a TO Proposal by the Commission or by the RCA Representative, one or more consultants shall develop a plan and submit a proposal for the requested services. The TO shall include a schedule, number of labor hours, labor classification(s), and classification rates to provide the requested services.

1.1.3 **REVIEW AND AWARD OF TASK ORDERS**. The Commission's or the RCA's Representative or designated project manager will evaluate the submitted TO Proposal ensuring that the submittal is complete, consistent with the Commission's or the RCA's written or oral request for services, the personnel assigned are acceptable, the schedule is acceptable, that all costs proposed are appropriate, and that the item is in compliance with contractual requirements. If required, the Commission's or the RCA's Representative or designated project manager will conduct negotiations to address exceptions and clarify costs. The fully executed TO will serve as the record of negotiations.

1.1.4 **COMPLETION SCHEDULE**. The consultant's performance of services shall commence under each TO only upon written authorization by the Commission's or by the RCA's Representative or designated project manager.

1.1.5 Consultant shall complete the services within the time frame specified on a particular TO.

1.1.6 All work shall be subject to review and approval of the Commission or the RCA either by the Contract Administrator or a designated representative prior to the acceptance and approval of payment.

1.2 Task Order (TO) Procedures for Locally Funded TOs:

1.2.1 Locally funded TOs may be awarded by the designated project manager in the best interest of the Commission or the RCA. TO Proposals are not required for locally funded TOs.

1.3 Phase I – Initial Site Assessment

The Initial Site Assessment (ISA) is necessary for identifying hazardous and potentially hazardous problems within and adjacent to existing and proposed rights-of-way and facilities for the Commission's Measure A or other transportation projects or the RCA's projects. The ISA shall include all pertinent information regarding listed hazardous waste and potential hazardous waste sites in the vicinity of the project. The Consultant may be required to review and update prior environmental reports or remediation work.

During the performance of an ISA, the Consultant shall review published lists of hazardous waste sites and search as necessary available files of federal, state, regional and local agencies such as, but not limited to:

- Environmental Protection Agency (EPA) National Priority List (NPL) reports
- California Environmental Protection Agency (Cal/EPA)
- Regional Water Quality Control Board (RWQCB)
- Office of Emergency Services (hazardous materials management plans)
- Local health departments (site lists, permits, reports)
- Local fire departments (site lists, permits, reports)
- County Tax Assessors (parcel maps and files)
- County Court House (maps and files)
- Utility companies (maps, plans, records)
- Caltrans (right-of-way maps, aerial photos and files)

The Consultant shall also review Sanborn Fire Insurance Maps, aerial photographs and other reports, maps and photographs, as necessary, to determine past and present land uses and to identify known or potential hazardous waste sites on parcels of land for future highway improvement projects. The time frame for this record search shall extend as far back as necessary, or to the limitation of available records, to determine the use and presence of any hazardous wastes/materials on the parcels of land in question.

The Consultant shall review published data from the United States Geological Surveys (USGS), state and other available maps and reports in order to compile a general geologic map and general hydrologic profile of the right-of-way or facility.

As directed, the Consultant shall conduct a field survey for potential hazardous waste sites of all parcels of land within and adjacent to the proposed right-of-way or facility as specified in the Task Order. During this phase, it is not necessary to confirm the actual presence of hazardous waste in soil or groundwater on the site. Coordination and contacts with property owners and/or regulatory agencies shall be pre-approved by the Commission or by the RCA.

All of the work for Phase I ISA or Transaction Screen Reports (TSR) will be performed using American Society for Testing and Materials Standards (ASTM) 1527 or 1528. In circumstances when an ISA will be performed to obtain right of way for a Caltrans project, the work will be completed using the Caltrans Project Development Procedures Manual for Environmental Contamination, Chapter 18.

The Consultant shall be responsible for all Regulatory Agency Coordination through-out all phases of the Project.

General requirements for ISA reports are provided in Attachment I

1.4 Phase II – Site Investigation

If required, site investigations may include, but are not limited to, items such as work plans, health and safety plans, surveys and surface geophysical investigations (if necessary), drilling, sampling, laboratory analysis, and reporting.

All elements of the site investigations must meet all applicable standards set forth by local, state and federal regulatory agencies. There should be no deviation to the required standards. The investigative techniques (i.e., drilling methods, sampling collection and sampling handling procedures, analytical methods and equipment) must be procedurally acceptable to the Commission, the RCA and regulatory agencies.

During soil investigations, the drilling and sampling operations shall be supervised on-site by Professional Engineer (PE), Certified Engineering Geologist (CEG), or Registered Geologist (RG). Personnel with specific registration(s) may be required in a Task Order to conform to regulatory agency requirements.

1.4.1 Work Plans

A technical work plan shall be developed for all site investigations. The work plan shall be sufficiently detailed to fully describe the work to be performed. The Consultant shall submit a draft site-specific work plan to the Commission's or to the RCA's Project Manager for review. The draft shall be revised based on the Commission's or the RCA's comments and returned within seven (7) working days. The Commission or the RCA shall review and approve the plan prior to start of fieldwork.

Appropriate professional personnel shall develop work plans. Interpretation of geology, hydrogeologic, and/or hydrologic information shall be completed under the supervision of a California RG and/or CEG.

All work performed by the Consultant shall be in accordance with the site-specific final work plan as reviewed and approved by the Commission or by the RCA.

1.4.2 Health and Safety Plans

Throughout the performance of field soil investigations, the Consultant, its subcontractors, and their personnel are responsible for their own health and safety planning, monitoring and procedures.

All field soil investigations will require development of an appropriate Health and Safety Plan. The Commission or the RCA shall review and approve the plan prior to the start of work. The Consultant shall submit a draft site specific Health and Safety Plan to the Commission or to the RCA for review. The draft shall be revised based on the Commission's and/or the RCA's comments and returned to the Consultant within seven (7) calendar days. The Health and Safety Plan shall conform to all applicable regulatory requirements including, but not limited to 8CCR 5192 and 8CCR 3202.

The Consultant shall complete all work in accordance with the site Health and Safety Plan. The Consultant shall ensure that all employees, while on the project site, conform to the plan requirements.

1.4.3 Surveys of Buildings, Containers, Etc.

The Consultant may be required to provide survey activities. Survey activities may include the surveying and testing, as applicable, of buildings, structures, stored materials, tank contents and containers to determine whether hazardous waste or materials are present. Typical surveys may include inspection for the following:

- Asbestos containing materials (ACM) in buildings and pipelines
- Poly Chlorinated Biphenyl's (PCB) containing materials in transformers, equipment, containers
- Fuels and other chemicals in tanks, barrels and storage containers
- Review of buildings or structures to determine whether hazardous materials are being used or stored
- The presence of lead paint

Only when requested will a Certified Industrial Hygienist (CIH) be utilized for survey plans and work. Requests for a CIH will be through the Task Order process. When surveys are included in a Task Order, survey activities as well as results shall be included as a report or as part of the Site Investigation Report.

1.4.4 Surface Geophysical Investigations

Consultants shall provide surface geophysical investigative services for the purpose of acquiring data as specified in the Task Order. Surface geophysical work shall be coordinated and interpreted by a geophysicist certified in the state of California.

When geophysical activities are included in a Task Order, in addition to the general soil investigation reporting requirements, geophysical activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.5 Soil Gas Survey

Consultant shall provide subsurface soil gas sampling and analysis services. Gas survey personnel on site shall include a chemist or other experienced professional responsible for equipment operation and calibration.

When soil gas survey activities are included in a Task Order, in addition to the general soil investigation reporting requirements, soil gas survey activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.6 Trenching

Trenching may be required for shallow soil investigation purposes. Excavation may be needed to determine shallow subsurface conditions or to excavate and expose subsurface structures such as foundations, tanks, pipes and/or sumps. Trenching activities shall be observed and supervised by a site engineer, geologist or engineering geologist.

1.4.7 Drilling

Consultant shall provide drilling services that have the capability to drill and sample soft or poorly consolidated material, rock of varying densities, hardness, and degrees of fracturing, engineered fill, asphalt, Portland concrete cement (PCC), and wastes. Consultant shall also provide drilling services that have the capability to properly drill, construct, and develop groundwater monitoring wells.

Monitoring wells may be required to determine if groundwater contamination is present, the extent of the contamination, and the general characterization of the subsurface vadose and hydro geologic conditions. Monitoring wells shall be designed and constructed in accordance with all the appropriate regulations, requirements and to be able to obtain water samples from the appropriate aquifer zones.

The Consultant, prior to drilling and installation of wells, shall obtain all of the necessary well permit(s). The Consultant shall register all monitoring wells with the Department of

Water Resources. Copies of these records shall be included in the Site Investigation Report.

When drilling activities are included in a Task Order, in addition to the general soil investigation reporting requirements, drilling activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.8 Sampling

The objective of sampling is to obtain a representative sample of the subsurface soil, vadose and/or water conditions and levels of contamination at the specific site. Sampling intervals shall be site specific and reviewed and approved by the Commission, or by the RCA and/or regulatory agencies.

When sampling activities are included in a Task Order, in addition to the general soil investigation reporting requirements, sampling activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.9 Laboratory Analysis

Laboratory analyses for each parameter will be performed in accordance with EPA protocols established in the EPA document Test Methods for Evaluating Solid Waste, SW-846, Update III, dated June 1997. Analyses will be performed in accordance with the EPA method procedures unless project requirements necessitate the adoption of alternative methods. Analysis will be performed within the holding times. If an alternative method is used, it will be documented and reported.

Laboratories used to perform chemical analysis shall be certified by the California Department of Health Services (DHS). Asbestos and lead samples shall be submitted to an American Industrial Hygiene Association (AIHA) accredited laboratory.

For specific test methods not as yet certified by DHS, the laboratory can perform laboratory analysis only if presently certified by DHS for comparable test methods, e.g., volatile organics, semivolatile organics, etc. or is a currently certified US EPA Contract laboratory. Expected turnaround time for chemical analysis shall be seven (7) calendar days, unless otherwise requested.

Analysis shall be performed in accordance with the Contract Laboratory program protocol (CLP). The Consultant shall be responsible for sample transport from worksite to the laboratory, to provide clean or new sample containers, labels, appropriate preservation and chain-of-custody records.

1.4.9.1 <u>Quality Assurance/Quality Control</u>

Quality control of laboratory analyses is assessed by performing analytical methods according to protocols and analyzing laboratory QA/QC samples to measure precision and accuracy of laboratory methods and equipment, instrument calibration, and preventive maintenance.

1.4.9.1.1 General

Laboratory QA/QC samples that will be analyzed during the proposed assessment include method blanks, laboratory control samples, MSs, and duplicates. Specific acceptance limits for the samples will be per the respective analytical method and at the discretion of the laboratory QA/QC manager.

1.4.9.1.2 Method Blanks

A method blank is a sample of deionized water or clean sand prepared by and analyzed by the laboratory in the same manner as the samples. It is used to assess potential contamination in the laboratory process (e.g., contaminated reagents or improperly cleaned equipment). The laboratory will analyze one method blank sample per batch or every 20 samples for each analytical method.

1.4.9.1.3 Laboratory Control Samples

A laboratory control sample is a known matrix (e.g., deionized water) that has been spiked with a known concentration of specific target analytes. It is used to demonstrate the precision of the analytical process. A laboratory control sample will be analyzed at a frequency of one per preparation or analytical batch not to exceed 20 samples.

1.4.9.1.4 Matrix Spikes

The MS is an actual sample matrix spiked with known concentrations of specific target analytes. The purpose of an MS is to access the effect of a sample matrix on the recovery of target analytes (i.e., assess the potential for matrix interferences, either high or low). One MS will be analyzed per batch or every 20 samples for each analytical method.

1.4.9.1.5 Laboratory Duplicates

Duplicate samples are used to assess precision in the analytical method. An additional aliquot is extracted from a sample and analyzed using the procedures. Then the results are compared to assess the precision. Duplicates may be of three kinds – laboratory control sample duplicates, MS duplicates, and laboratory sample duplicates. Duplicates should be analyzed per batch or every 20 samples for each analytical sample.

1.4.10 Laboratory Reports

Complete copies of the laboratory reports, including QA/QC summary reports shall be placed in an appendix of the Site Assessment Report. Laboratory reports shall contain, but not limited to, the following information:

- Written explanation of higher detection limits, laboratory contaminants, or other unusual results.
- Name, address, and telephone number of laboratory
- Laboratory number for each sample reported
- Consultant's number for each sample recorded
- Date sample(s) collected
- Date sample(s) received by laboratory
- Date of laboratory testing
- Brief sample description (e.g. soil, water, sludge, etc.)
- Specific test method
- Extraction method utilized
- Test result for each sample and method
- Detection limit for each test method
- Date of test report
- Signature and title of the manager or director of the appropriate laboratory section

1.4.11 Reporting

General requirements for Site Investigation Reports are provided in Attachment II

1.5 Remedial Investigation/Feasibility Studies (RI/FS)

A comprehensive Remedial Investigation/Feasibility Study (RI/FS) will be perform to develop sufficient information to make an informed remedial alternative selection that eliminates, reduces, and/or controls the risks to human health and the environment. All elements of the RI/FS Work Plan shall conform to applicable federal, state and local guidelines, rules, regulations, and criteria negotiated with appropriate regulatory agencies. Appropriate professional personnel shall develop RI/FS Work Plans. Interpretation of geology, hydrogeology, and/or hydrology information shall be conducted under the supervision of a California Registered Geologist or Certified Engineering Geologist.

At the conclusion of the RI/FS, a RI/FS Report shall be prepared to include at a minimum, site characteristics, sources of contaminants, nature and extent of contamination, risk assessment, and review of all potentially feasible remedial actions and associated costs.

A Risk Assessment, included as part of the RI/FS work, may be necessary to determine the risk to human health and the environment from contaminants in the soil and/or groundwater. The Risk Assessment shall describe the environmental fate and transport

of the contaminants and consider all potential contaminant migration pathways in addition to all potential exposure routes to a receptor such as inhalation, ingestion, and dermal absorption.

The Risk Assessment must provide a comparison of the contaminant concentration at a receptor (estimated by the fate and transport element) with appropriate health-based standards. If the contaminant concentration at the receptor exceeds the appropriate health-based standards, then a potential unacceptable excess risk to the receptor exists and a risk management decision must be made (e.g. removal, treatment, stabilization, etc.).

The Risk Assessment must include a professional conclusion that is presented in an objective and technically defensible manner. The Risk Assessment must include a discussion of strengths and weaknesses of the assessment by describing uncertainties, explicitly stating assumptions and limitations, as well as providing scientific basis and rationale for each assumption. Conclusions regarding the potential risk to human health and/or the environment must be based on current federal, state and local guidelines, rules, regulations, and requirements.

General requirements for RI/FS reports are provided in Attachment III.

1.6 Remedial Action Plan and Remedial Action Design

The Remedial Action Plan (RAP) shall compile and summarize site data gathered during the RI/FS, in order to identify, and subsequently design, plan, and implement a final remedial action for the specific site. The RAP shall clearly and concisely describe the selected and rejected alternatives to the extent that the Commission or the RCA is provided an opportunity to comment on the remedial action(s). The RAP must also set forth specific remedial action objectives; rough order of magnitude cost estimates, and timeframes for completion of the remedial action(s).

The Consultant shall submit a draft RAP, potentially including a closure plan, to the appropriate regulatory agencies and the Commission or the RCA for review and approval prior to circulation for public/responsible party input and prior to being adopted as the final document for undertaking remedial action at the specific site.

A Remedial Action Design (RAD) shall be developed to provide technical and operational plans and engineering designs for implementation of the approved final RAP. Based on the selected alternative for remedial action as defined in the RAP, the Consultant shall develop a RAD in accordance with regulatory requirements, which shall include detailed construction designs for the selected remedial alternative. In addition, the work plan shall include sampling protocol for screening and verification sampling, onsite and off-site transportation routes, health and safety requirements for post construction activities. A schedule shall be developed for implementing the construction phase of the remedial action.

1.7 Remediation Oversight

Consultant may provide remediation oversight to monitor and control the adherence to the Remedial Action Design (RAD), and to ensure that the work is completed in a timely and competent manner.

2.0 <u>Other Requirements</u>

2.1 Reports – Progress and Investigative

The Consultant shall submit to the Commission or to the RCA monthly progress reports to report status, difficulties or special problems encountered so that remedies can be developed. Included in the progress report Consultant shall report on costs expended per Task Order and schedule status for current Task Orders.

Unless otherwise stipulated, one (1) electronic copy of the draft workplan, health and safety plan, and site investigation report must be submitted to the Commission's or to the RCA's Project Manager for approval. Work plans and investigation reports must be revised to address all comments, prior to being submitted in final form within the time specified in the Task Order. One (1) electronic copy of the final work plan and health and safety plan and one (1) electronic copy of the final investigation report must be submitted to the Commission's or to the RCA's Project Manager unless another quantity is specified.

2.2 Deliverable Approval and Correction Procedures

All data and documents produced by the Consultant shall be subject to acceptance by regulatory agencies and the Commission or the RCA.

In the event of non-acceptance by regulatory agencies or the Commission or the RCA, the Consultant shall have 14 calendar days to submit the corrections to the Commission or to the RCA.

2.3 Timing

Time is of the essence and time for performance may be a factor in issuance of a Task Order.

2.4 Meeting

The Consultant shall meet with a Commission or a RCA representative at a designated pre-work site visit to view the site and discuss Task Order execution. The Consultant shall provide a person at the pre-work site visit that will exercise responsible charge of the anticipated Task Order.

The Consultant shall meet with the Commission's or the RCA's designee, as needed, to discuss progress on the contract.

2.5 Monitoring and Review Procedures

The Commission or the RCA shall have the right to monitor and review the processes of the Consultant at any time by visiting the Consultant's facility or by requiring meetings.

3.0 MISCELLANEOUS PROVISIONS

3.1 Health and Safety

Consultant shall at all times conduct its operations in such a manner as to avoid any risk of bodily harm to persons or damage to property. Consultant shall promptly take all precautions that are reasonable or necessary to safeguard against such risk and shall make regular safety inspections of its operations. Consultant shall be solely responsible for the discovery, determination and correction of any unsafe conditions arising in connection with the performance of services by Consultant.

In addition, Consultant shall comply with all applicable health and safety laws, standards, codes, rules, regulations, including any safety programs established by the State of California and the U.S. Government as applicable. Consultant warrants the materials, equipment and facilities; whether temporary or permanent, furnished by Consultant in connection with the performance of services shall comply therewith. Consultant shall cooperate and coordinate with the Commission or the RCA and with other consultants on safety matters.

By its action of providing services, Consultant confirms that all of its employees, subcontractors and their employees, engage in field activities related to this agreement have been trained according to the requirements specified in 29 CFR 1910.120 and 8 CCR 5192. In addition, the Consultant shall include this requirement in all subcontracts performed on this project.

At the time any of Consultant's personnel are required to visit any work site, Consultant shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. Consultant's personnel who visit any of the Work Sites on a regular basis shall have a thorough knowledge and understanding of the safety requirements.

Samples suspected of containing asbestos and/or lead shall be collected by personnel certified by the State of California to collect such samples.

The Site Health and Safety Plan shall be developed by an industrial hygienist with sufficient knowledge to recognize and characterize the potential site hazards. During soil investigation activities, a Site Safety Officer (SSO) with be designated and will be responsible for enforcing the site safety plan. Upon the Commission's or the RCA's request, the site Health and Safety Plan will be signed by a Certified Industrial hygienist.

A copy of the Health and Safety Plan shall be distributed to all workers before the field investigation begins. All field investigation workers shall certify that they have read, understand, and agree to comply with the site Health and Safety Plan before the field investigation begins.

The Consultant shall provide safe access to the Work Site for representatives of the applicable local and/or state regulatory agencies during normal field investigations work hours. Designated observation areas outside the work zone shall be established for these site visits. Such inspection tours shall be arranged in advance with the SSO. The SSO shall accompany the representatives while on the site. On Commission owned facilities or RCA owned real property, Consultant shall advise the Project Manager when safety meetings are to be held.

Consultant shall report to the Commission or to the RCA any unsafe conditions observed by its personnel at any Work Site. Any of the consultant's personnel that the Commission or the RCA determines do not have the requisite knowledge shall, at the option of the Commission or the RCA, be removed from the performance of service.

The Consultant shall require the full compliance with this clause by all subcontractors of Consultant.

3.2 Site Safety Officer

The Consultant shall designate a Site Safety Officer (SSO) for each site under active investigation. A SSO or his designated representative shall be present at all times at each site under active investigation. Both persons must be familiar with hazardous waste laws and regulations in California and with Cal/OSHA requirements. The SSO or his designated representative shall be available to accompany the Commission or the RCA and/or representative of the applicable regulatory agencies while they are on site.

The SSO shall direct the implementation and operation of the Health and Safety Plan. The SSO shall enforce compliance with the Health and Safety Plan by all persons while they are within the site perimeter.

3.3 Owner/Regulatory Contacts

The Consultant shall only contact property owners as specifically directed and authorized by the Commission or the RCA. The Consultant shall coordinate with other agencies, such as federal Environmental Protection Agency (EPA), California Environmental Protection Agency (Cal-EPA), Regional Water Quality Control Board (RWQCB), local environmental health agency, and others as necessary to complete fieldwork. The Consultant shall notify and invite the Commission's or the RCA's representative to all regulatory agency meetings related to this investigation.

3.4 Right-of-Entry

The conditions of the right of entry agreement to the property will be explained to the Consultant during the pre-work site meeting. The Consultant shall know and follow the terms and conditions of the right of entry agreement at all times.

3.5 Permits and Licenses

Consultant shall be fully responsible for identifying and obtaining all necessary permits required for performing the services under this agreement. Consultant acknowledges that it has familiarized itself with the existing requirements of the Commission and all applicable federal, state, county and municipal laws, codes, rules, and regulations and the conditions of any required licenses and permits as they were in effect on the date of this Agreement. Consultant shall comply with all the foregoing, and except as otherwise provided herein, Consultant shall procure all licenses and registrations and shall furnish any bonds, security, or deposits required to conduct business without any increase in the Task Order cost or schedule on account of such compliance, regardless of whether such compliance would require additional labor, equipment, or materials not expressly provided for in this Agreement.

3.6 Underground Services Alert (USA)

Before any Task Order involving disturbance of the ground beyond surface sampling begins, the Consultant shall obtain any inquiry identification number from USA.

3.7 Traffic Control

Traffic control (barricades, portable flashing beacons, and detours), when necessary to accomplish the contract work, will be the responsibility of Consultant. The Consultant shall coordinate and obtain all the necessary permits from the local jurisdiction. Traffic control shall be addressed in the Health and Safety Plan.

3.8 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

The Consultant shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this Agreement.

The Consultant shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Consultant. The Consultant shall repair any damage, at its own cost or expense, to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Agreement or failure to exercise reasonable care in performing the work. If the consultant

fails or refuses to repair the damage promptly, the Commission or the RCA may have the necessary work performed and charge the cost to the Consultant.

3.9 Project Diary

A Project Diary must be maintained to support all work performed. The diary must be filled out and signed as to be true and correct. It must identify the person responsible for project management and must include, but not be limited to, additional notations, observations or remarks to further clarify work.

3.10 Decontamination/Disposal

If required, all personnel shall be decontaminated before leaving the site as specified in the Site Health and Safety Plan. Decontamination procedures shall generally follow the guidelines found in 8 CCR 5192 and shall be detailed in the Site Health and Safety Plan.

Consultant shall equip, supply and maintain an on-site decontamination station for the drilling, installation and sampling equipment. Consultant shall ensure that this station has the capacity to contain all decontamination fluids used in the decontamination procedure. Consultant shall collect these fluids in appropriate containers.

Consultant shall wash and clean all equipment prior to initiation of work at the site. This includes drilling machines, pipe rods, samplers, pumps, casings, screens and any other material brought on site. Before reuse of any equipment at another drilling location at the site, all equipment shall be cleaned and decontaminated.

General requirements for decontamination include, but not limited to:

- Auger flights and any other tools used in drilling operations, monitoring and sampling shall be steam cleaned before initial use and between boreholes.
- Before each use, sampling tubes, liners, and bailers shall be washed in a mixture of liquinox, or similar product, and clear water, rinsed in clear water, rinsed in distilled water and air dried.
- All suspect asbestos containing materials and lead paint materials shall be handled wet.

The Consultant shall avoid contamination of the project area and shall not dump waste oil, drilling fluids, rubbish and/or other materials on the ground. All equipment, unused materials, temporary facilities and other miscellaneous items resulting from or used in the operation shall be removed from the site.

Material removed from trenches, drill holes, etc. shall be properly collected in containers or stockpiled on plastic sheeting supplied by the Consultant. The project site must be maintained clean at all times.

3.11 Hazardous Waste Manifest

The Commission or the RCA will sign all Hazardous and Non-Hazardous Waste Manifests for waste removed from the site.

3.12 Regulatory Requirements

Consultant agrees that it will not store any hazardous substances at the job site for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by law, the Owner, the Commission, the RCA, whichever will be more restrictive. Consultant further agrees that it will not permit any accumulation in excess of the small quantity generator exclusion of 40 CFR Part 261 or other applicable law, as amended. Consultant agrees to report to the appropriate governmental agencies all discharges, releases, and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify the Commission or RCA Representative of same.

3.13 Expert Testimony

It shall be recognized that subsequent to the performance of this Agreement the need may arise to provide expert testimony during hearings and/or court proceedings involving site specific activities or other matters, with regard to which personnel provided by the Consultant under this Agreement (including subcontractor personnel) would have gained expertise as a result of the Tasks performed under this Agreement. Therefore the Consultant agrees to make available expert consulting services in support of future proceedings, including litigation support and to enter into any intent agreement as necessary with subcontractors to ensure the availability of subcontractor personnel provided under this Agreement to provide expert consulting services. Agreement to provide such services in the future serves as a notice of intent only.

Should the Consultant or any subcontractors at any tier ever testify in court in any case related to this Agreement, all his/her work will be considered proprietary to the Commission or to the RCA. In such a case, the Consultant and/or subcontractor of any tier shall not release any information to adverse parties.

3.14 Disclosure of Information

The Consultant agrees to notify and obtain the written approval of the Commission or the RCA prior to releasing any information to any third parties including the news media regarding any work under this Agreement except as required by law. The Consultant shall immediately notify the Commission or the RCA of the receipt of a demand by a third party for the disclosure of field test data generated under this Agreement. This requirement shall apply to all subcontractors.

ATTACHMENT I

PHASE I
INITIAL SITE ASSESSMENT REPORT

INITIAL SITE ASSESSMENT REPORT

GENERAL REQUIREMENTS

Contents of the Initial Site Assessment Report should include, but not limited to the following:

1. Title sheet, which identifies the Task Order number, project name, project location, contract number, Consultant name, name of author, and date.

2. Signature page with signature and title of persons who prepared and reviewed the project.

3. Table of Contents.

4. Investigative (Executive) Summary: This section should present and summarize the technical data and findings of the investigation.

5. Investigation narrative, which shall include, but not limited to, the following:

   - Investigation methods and evaluation criteria.
   - Known hazardous substance sites (name, location, contamination onsite, federal or state, impact, schedule for cleanup, etc.).
   - Potential hazardous substance sites in the vicinity of the ISA site (name, location, type of operation, reason to suspect potential are of impact, etc.).
   - Name, address, and telephone number of the business/owner(s) of each site.
   - Type of hazardous substance and/or containers involved at each site (e.g. sludge pits, ponds, underground/above ground storage tanks, piping, etc.) This data shall be written in a clear and concise form, and summarized in a table form.
   - Chemical/hazardous materials that have been stored/used in the past at each site and the known generators (if available) of the materials.
   - Permits, violations, plans, records, and any other information reviewed.
   - Sketches, photographs, and/or descriptive comments as necessary to identify important features such as buildings, ponds, utility lines, etc.
   - Aquifer descriptions, (depths to groundwater, gradient, conductivity, yield, quality, and beneficial users). Public sources such as the Department of Water Resources reports and USGS reports will be sources of this type of information.
   - Geologic units: Geologic and hydrologic information should be scaled to the freeway/rail project. The shallow subsurface conditions (e.g. less than 50 feet below ground surface) will have the greatest impact on construction.
   - Location and use of all known groundwater and monitoring wells in the subject vicinity of the study area.

- All known or potential hazardous substance sites shall be identified with corresponding symbols and physical features such as geologic units, aquifer descriptions, and depth to groundwater on a project right-of-way map included in the ISA Report.
- How project may affect suspect sites (e.g. area of contamination vs. construction excavation).
- A list of sites recommended for site investigations shall be included, along with recommendations for follow-up investigations. These sites shall be ranked by significance using a rationale fully justified in the report and prioritized for scheduling this follow-up work.
- Degree of significance for each hazardous substance problem in terms of time to mitigate and approximate costs.
- Describe future plans, if any, of the EPA, Cal-EPA, RWQCB, or other agencies involved in remediating hazardous substance sites within or adjacent to the proposed right-of-way.
- Identify individuals or agencies contacted in developing the information included in the ISA Report.
- List of contact names, telephone numbers, and dates contacted, and information reviewed.
- Limitations in the adequacy and/or conclusions reached in this assessment shall be explained in detailed.

ATTACHMENT II

PHASE II
SITE INVESTIGATION REPORT

SITE INVESTIGATION REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 ½” by 11’ size. Contents of the Site Investigation Report should include, but not limited to the following:

1. Title sheet, which identifies the contract number, Task Order number, project name, project location, Consultant name and date.

2. Signature page to include signature and title of persons who prepared and reviewed the report.

3. Table of Contents.

4. Investigative Summary: This section should present and summarize the technical data and findings of the investigation.

5. Introduction: At a minimum, this section should include:

    - Site Description
    - Surrounding Properties
    - Site History
    - Environmental Setting
        - Regional Geology
        - Site Geology and Hydrogeology
    - Purpose and Scope of Work

6. Site Investigation Procedures: This section should provide a work plan and field work methods used for the investigation and should include, at a minimum:

    - Soil Boring Locations
    - Atmospheric Monitoring
    - Borehole Drilling, Sampling and Backfilling
    - Field Screening
    - Equipment Decontamination
    - Chemical Analyses Program

7. Site Investigation Results: This section should provide an evaluation of soil investigation results and should include, at a minimum:

    - Maps to scale showing the site location, feature locations, boring and well locations, vertical and horizontal extent of contamination, contour maps of contaminant concentrations, and hydraulic gradient.
    - Cross-sections showing subsurface geologic and hydrogeologic conditions, sample results, and estimated extent of contamination. An

estimate of volume of contaminated soil and groundwater present must be given along with assumptions and calculations used.

- Statistical analysis of sample results estimating distribution and average concentration, and statistical analysis that demonstrate trends in contaminant level and distribution.
- Backup data for maps, cross sections, and graphs.
- Summary of laboratory results.

8. Conclusions and Recommendations: This section should include, at a minimum:

   - Nature, extend, and estimated volume of contamination.
   - Recommendations for additional work necessary to characterize the site and potential cost.

9. Appendices: All data used to support the report including, but not limited to:

   - Well and boring logs for both existing and new wells and borings (include all wells that can influence hydrogeologic conditions of the site).
   - Copies of all permits (e.g. drilling permits, well permits, excavation/grading permits, etc.) obtained from state, county and/or local regulatory agencies.
   - Laboratory analysis of each sample tested. Laboratory reports must include Chain-of-Custody forms.
   - Survey elevations and location of wells or borings, benchmark, or monument locations.

10. References

ATTACHMENT III

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 ½” by 11’ size. Contents of the Site Investigation Report should include, but not limited to the following:

1. Title sheet, which identifies the Contract number, Task Order number, project name, project location, Consultant name and date.

2. Signature page to include signature and title of persons who prepared and reviewed the report.

3. Table of Contents.

4. Introduction: At a minimum, this section should include, but not limited to:

    - Site Description
    - Surrounding Properties
    - Site History
    - Environmental Setting
        - ➢ Regional Geology
        - ➢ Site Geology and Hydrogeology
    - Purpose and Scope of Work

5. Study Area Investigation: This section should include, at a minimum:

    - Surface features (topographic mapping, natural and manmade features, etc.)
    - Contaminant source investigation
    - Meteorological investigations
    - Surface water and sediment investigations
    - Soil and vadose zone investigations
    - Groundwater investigations

6. Physical Characteristics of Study Area: This section at a minimum should include field activity results, which then determine physical characteristics including:

    - Surface features
    - Geology
    - Hydrogeology
    - Soils
    - Demography and land use

7. Nature and Extent of Contamination: This section should present results of soil characterization, both natural chemical components and contaminants in media and transport.

8. Fate and Transport should include, at a minimum:

   - Potential routes of migration
   - Contaminant persistence
   - Contaminant migration

9. Risk assessment should include, at a minimum:

   - Human health evaluation
   - Environmental evaluation

10. Identification and screening Technologies: This section should include, at a minimum:

   - Remedial Action Objectives
   - General Response Actions
   - Identification of appropriate and effective technologies for remediation of soil and/or groundwater contamination at the site

11. Development and Screening of Alternatives: This section should include, at a minimum:

   - Assembly of technologies into remedial alternatives capable of addressing all media/volumes/areas of contamination which are of concern
   - Discussion of rationale for combination of technologies/media into alternatives
   - Discuss screening/evaluating of alternatives
   - Screen alternatives on the basis of effectiveness, implementation, and cost
   - Discuss feasibility to implement alternatives given the site conditions, location, and time frame
   - Discussion of effectiveness of the treatment on the material in question
   - Discuss the reliability of the alternatives in terms of demonstrated effectiveness and the operation and maintenance requirements

12. Detailed Analysis of Alternatives: This section should include an analysis of the "No Action" alternative and at least two other remedial alternatives. Each alternate analysis should address: time, operation and maintenance requirements, risks to health and environment, cost-effectiveness, level of cleanup, potential economic impact on the responsible party, the physical limitations of the site, controlling regulations and permits, public health concerns, direct and indirect capital costs, and the impact of the cleanup methods on the

continuing site activities, future construction activities and Commission or RCA use of the property.

13. Summary and Conclusions

- Summary
- Recommendations

14. Recommended Remedial Alternative: Based on the results of the detailed analysis, this section should contain a detailed discussion of the recommended remedial alternative including the basis for this recommendation.

15. References

16. Appendices

EXHIBIT "B"
COMPENSATION AND PAYMENT

[ATTACHED BEHIND THIS PAGE]

EXHIBIT "B"

COMPENSATION SUMMARY[1]

FIRM	PROJECT TASKS/ROLE	COST
	Prime Consultant:	
Verdantas Inc.	On-Call Environmental Site Assessment Services	$1,000,000.00
	TOTAL COSTS	**$1,000,000.00**

[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 "C"
FEDERAL REQUIREMENTS

[ATTACHED BEHIND THIS PAGE]

FTA FUNDING REQUIREMENTS

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.” The term “Consultant” shall have the same meaning as “Contractor” as used in 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. § 5323(l)(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. 633.15 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 C.F.R. 633.5, 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.

d. To permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

e. To require all subconsultants to comply with this provision.

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 – The following nondiscrimination requirements apply to the underlying contract:

(a) Consultant shall comply with:

(i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;

(ii) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21, including any amendments thereto.

(iii) Federal transit law, specifically 49 U.S.C. § 5332.

(b) The following is prohibited:

(i) Discrimination based on race, color, religion, national origin, sex (including sexual orientation), disability, or age.

(ii) Exclusion from participating in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332.

(iii) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332.

(iv) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

(b) Consultant shall follow:

(i) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

(ii) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3.

(iii) All other applicable federal guidance that may be issued.

(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, 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. . 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.
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”). The Contract is subject to these stipulated regulations.

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.

K. In accordance with the U.S. Department of Transportation (DOT) Disadvantaged Business Enterprise DBE Interim Final Rule (IFR) published on October 3, 2025 to amend 49 CFR Part 26:

a. Unless otherwise directed by FTA, and not withstanding any other provision herein, the Commission will not engage in compliance monitoring of DBE participation on the Agreement, and no DBE reporting is required.

b. Any DBE participation on the Agreement will not count towards any overall DBE goals.

c. Any changes to 49 CFR Part 26 as set forth in the IFR, as may be amended in the final rule, are hereby incorporated.

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.

(4) Consultant agrees to include, and require all subconsultants to include, this provision in all subcontracts.

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

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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 leading 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.

12. Buy America

To the extent applicable, the Consultant shall comply with the following:

1. The domestic preference procurement requirements of 49 U.S.C. 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR Part 661, to the extent consistent with 49 U.S.C. 5323(j).

2. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

3. Procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), 49 U.S.C. § 5323(u) (limitation on certain rolling stock procurements), and their implementing regulations.

13. Employment Provisions

To the extent applicable to the Services, Consultant shall comply with the following:

A. [For a construction or maintenance project over $2,000] **Davis–Bacon Act, as amended (40 U.S.C. 3141–3148).** When applicable, Contractor shall comply with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor shall pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Contractor shall also comply with the Copeland "Anti–Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides

that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. All suspected violations shall be reported to the FTA.

B. [For contracts in excess of $100,000 that involve the employment of mechanics or laborers] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** When applicable, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

C. [For contracts not involving construction] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3702).** Consultant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5.

D. [For contracts involving commerce] **Fair Labor Standards Act (FLSA) (29 USC 201, et. seq.)**. Consultant will comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the contract involving commerce,

E. 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.

14. 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.

15. 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.

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. §§ 1251-1388).

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. §§ 1251-1388).

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. Solid Wastes

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.

22. Safe Operation of Motor Vehicles

Pursuant to Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party consultant to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

a. The Consultant is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Consultant or RCTC.
b. The Consultant agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.

23. Notification to FTA.

a. If a current or prospective legal matter that may affect the Federal Government emerges, the Consultant must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which this Agreement is being performed. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

b. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

c. *Additional Notice to U.S. DOT Inspector General*. The Consultant must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Commission located, if Consultant has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Consultant. In this paragraph, "promptly" means to refer information without delay and without change.

24. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Contract. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

25. Prohibited Transactions

Consultant certifies that:

a. Consultant does not have any unpaid Federal tax liability assessed, for which all judicial and administrative have been exhausted or have lapsed, and that in a timely manner pursuant to an agreement authority responsible for collecting the tax liability

b. Consultant was not convicted of the felony criminal violation Federal law within the preceding 24 months.

c. If Consultant cannot so certify, RCTC agrees to refer the matter to FTA and not to enter into any contract with Consultant without FTA's written approval

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

26. Trafficking in Persons.

a. Consultant shall comply with section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended; 22 U.S.C. § 7104(g); and the terms of this section.

b. Definitions. Consultant agrees that for purposes of this section:

(i) Employee, for purposes of this section only, means either an individual who is employed by the Consultant or whose services are provided on a volunteer basis for the Consultant, and is participating in the Project or related activities as set forth in the Agreement,

(ii) Forced labor means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(iii) Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102. 23

(iv) Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

(vi) Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

c. Consultant requirements:

(i) Consultant shall inform FTA and RCTC immediately of any information it receives from any source alleging a violation of the prohibitions in this section.

(ii) Consultant agrees that it and its employees that participate in this Agreement, may not:

(1) Engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect,

(2) Procure a commercial sex act during the period of time that this Agreement is in effect, or

(3) Use forced labor in the performance of this Agreement or any subagreements hereunder.

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

27. Covered Unmanned Aircraft Systems

To the extent applicable, the Consultant shall comply with the requirements of the American Security Drone Act, Pub. L. No. 118-31, §§ 1821-32 (2023), including the prohibition on use of Federal funds for procurements and operation of covered unmanned aircraft systems from covered entities. Consultant shall ensure that any unmanned aircraft systems, including drones, purchased and/or used to complete the work under the Agreement are not manufactured or assembled by an American Security Drone Act-covered foreign entity. A list of covered foreign entities is maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM). The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.

CALTRANS/STATE REQUIREMENTS

1. **STATEMENT OF COMPLIANCE.**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant shall not discriminate against any employee for employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. 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. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section. Consultant shall include this provision in all subconsultants for Services to be provided under this Agreement.

2. Consultant and all subconconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, 12900 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., Title 2, 11000, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and all subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. Consultant shall, and shall require that its subconsultants, permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing

Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

4. Remedies for Willful Violation:

(a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act.

(b) For willful violation of this Fair Employment Provision, the Commission shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by Commission in securing the goods or services hereunder shall be borne and paid for by Consultant, and Commission may deduct from any moneys due or thereafter may become due to Commission, the difference between the price named in the Agreement and the actual cost to Commission to cure Consultant's breach of this Agreement.

2. **DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

3. PROMPT PAYMENT

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 15 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. Sections 6, Prompt Payment, of Exhibit “D” shall also apply.

4. RELEASE OF RETAINAGE

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

5. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or “whistleblower” actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant’s failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

7. INVENTIONS.

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

8. **ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

9. **COMPLIANCE WITH ECONOMIC SANCTIONS IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE.**

Consultant shall fully and adequately comply with California Executive Order N-6-22 (“Russian Sanctions Program”). As part of this compliance process, Consultant shall also certify compliance with the Russian Sanctions Program by completing the form located in Exhibit “E” (Russian Sanctions Certification), attached hereto and incorporated herein by reference. Consultant shall also require any subconsultants to comply with the Russian Sanctions Program and certify compliance pursuant to this Section.

FEDERAL DEPARTMENT OF TRANSPORTATION
FHWA AND CALTRANS REQUIREMENTS

1. FHWA Title VI Assurances.

A. Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

B. Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports: Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.

E. Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, the Commission shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: i. withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or ii. cancellation, termination or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: Consultant shall include the provisions of paragraphs (A) through (F) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

Consultant shall take such action with respect to any sub-agreement or procurement as the Commission or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request Commission enter into such litigation to protect the interests of the State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

2. ADDITIONAL NONDISCRIMINATION REQUIREMENTS

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to: Pertinent Non-Discrimination Authorities:

• Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
• Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
• Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
• The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
• Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
• The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
• Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
• The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
• Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

• Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
• Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

3. DISCRIMINATION

The Commission shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the implementation of the Caltrans DBE program or the requirements of 49 CFR Part 26. The Commission shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, of sex in the performance of this Agreement. Consultant or subcontractor shall carry out applicable requirements of 49 CFR Part 26 and the Caltrans DBE program in the award and administration of DOT-assisted contracts, as further set forth below. Failure by the Consultant or subcontractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Commission deems appropriate.

4. PROMPT PAYMENT

A. Consultant agrees to pay each subconsultant under this Agreement for satisfactory performance of its contract no later than 15 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. This clause applies to both DBE and non-DBE subcontractors.

B. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from Consultant to a subconsultant, Consultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the Consultant to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney’s fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

C. The above provisions apply to Consultant’s subconsultants who retain subconsultants.

D. PROMPT PAYMENT CERTIFICATION. The Consultant shall submit Caltrans Exhibit 9-P (available at https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms and incorporated herein by reference) to the Commission by the 15th of the month following the month of any payment(s). If the Consultant does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Caltrans Exhibit 9-P. The submitted forms shall be reviewed by the Commission and submitted to Caltrans.

5. RELEASE OF RETAINAGE

No retainage will be held by the Commission from progress payments due to Consultant. Consultant and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the Commission's prior written approval. Any violation of these provisions shall subject the violating Consultant or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil 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, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

6. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

7. DBE PARTICIPATION

NOT USED. THERE IS NO DBE GOAL FOR THIS AGREEMENT. THERE ARE NO DBE REPORTING OR MONITORING REQUIREMENTS FOR THIS AGREEMENT.

8. CONTRACT ASSURANCE; REMEDIES

A. Contract Assurance. Under 49 CFR 26.13(b):
Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable

requirements of 49 CFR 26 in the award and administration of federal-aid contracts, as the same were amended by the DOT DBE Interim Final Rule.

B. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the Commission appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying Consultant from future proposing as non-responsible

9. DEBARMENT, SUSPENSION AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

In accordance with 49 CFR Part 29, which by this reference is incorporated herein, Consultant's subconsultants completed and submitted the Certificate of subconsultant Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion as part of the Consultant's proposal. If it is later determined that Consultant's subconsultants knowingly rendered an erroneous Certificate, the Commission may, among other remedies, terminate this Agreement.

10. ENVIRONMENTAL COMPLIANCE

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

11. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with

an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

12. PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES

Consultant shall not obligate or expend any funds to be reimbursed under this Agreement to:

• Procure or obtain;
• Extend or renew a contract to procure or obtain; or
• Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The prohibited vendors (and their subsidiaries or affiliates) are:
• Huawei Technologies Company;
• ZTE Corporation;
• Hytera Communications Corporation;
• Hangzhou Hikvision Digital Technology Company;
• Dahua Technology Company; and
• Subsidiaries or affiliates of the above-mentioned companies.
and customers is sustained.

13. COVERED UNMANNED AIRCRAFT SYSTEMS

To the extent applicable, the Consultant shall comply with the requirements of the American Security Drone Act, Pub. L. No. 118-31, §§ 1821-32 (2023), including the prohibition on use of Federal funds for procurements and operation of covered unmanned aircraft systems from covered entities. Consultant shall ensure that any unmanned aircraft systems, including drones, purchased and/or used to complete the work under the Agreement are not manufactured or assembled by an American Security Drone Act-covered foreign entity. A list of covered foreign entities is maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM). The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FHWA.

ADDITIONAL FEDERAL REQUIREMENTS

Additional federal requirements including, but not limited to, cost principles, accounting and auditing requirements are included in the model Agreement.

EXHIBIT "D"
CERTIFICATE OF CONSULTANT

[ATTACHED BEHIND THIS PAGE]

CERTIFICATE OF CONSULTANT

I HEREBY CERTIFY that I am the Vice President/Area Lead and duly authorized representative of the firm of Verdantas Inc. whose address is 2600 Michelson Drive, Suite 400, Irvine, CA 92612, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: Kristen Williams
Signature

Kristen Williams, PG
Name

Vice President/Area Lead
Title

EXHIBIT “E”
LOBBYING ACTIVITIES DISCLOSURE

[ATTACHED BEHIND THIS PAGE]

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

NOT APPLICABLE

1. Type of Federal Action:

☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:

☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:

☐ a. initial
b. material change

For Material Change Only:
year _____ quarter _________
date of last report _________

4. Name and Address of Reporting Entity

☐ Prime ☐ 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)

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)

$ _____________ ☐ actual ☐ planned

13. Form of Payment (check all that apply):

☐ a. cash
☐ b. in-kind; specify: nature _____________
Value _____________

14. Type of Payment (check all that apply)

☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e deferred
☐ f. other, specify ______________________

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** ☐ **No** ☐

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: Kristen Williams

Print Name: Kristen Williams, PG

Title: Vice President/Area Lead

Telephone No.: 949-681-4273 Date: 03/10/2026

Authorized for Local Reproduction

Standard Form - LLL

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Standard Form LLL Rev. 04-28-06

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EXHIBIT "F"
EXECUTIVE ORDER N-6-22 CERTIFICATION

[ATTACHED BEHIND THIS PAGE]

EXHIBIT F

EXECUTIVE ORDER N-6-22 CERTIFICATION

Executive Order N-6-22 issued by Governor Gavin Newsom on March 4, 2022, directs all agencies and departments that are subject to the Governor's authority to (a) terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions against Russia and Russian entities and individuals; and (b) refrain from entering into any new contracts with such individuals or entities while the aforementioned sanctions are in effect.

Executive Order N-6-22 also requires that any contractor that: (1) currently has a contract with the Riverside County Transportation Commission ("Commission") funded through grant funds provided by the State of California; and/or (2) submits a bid or proposal or otherwise proposes to or enter into or renew a contract with the Commission with State of California grant funds, certify that the person is not the target of any economic sanctions against Russia and Russian entities and individuals.

The Consultant hereby certifies, SUBJECT TO PENALTY FOR PERJURY, that a) the Consultant is not a target of any economic sanctions against Russian and Russian entities and individuals as discussed in Executive Order N-6-22 and b) the person signing below is duly authorized to legally bind the Consultant. This certification is made under the laws of the State of California.

Signature: Kristen Williams

Printed Name: Kristen Williams, PG

Title: Vice President/Area Lead

Company Name: Verdantas Inc.

Date: 03/10/2026

Agreement No 26-31-083-00

PROFESSIONAL SERVICES AGREEMENT
WITH FHWA, STATE, FTA AND PROPOSITION 1B FUNDING ASSISTANCE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AGREEMENT WITH
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES
CONSULTANTS FOR ON-CALL RIGHT OF WAY (ROW)
ENVIRONMENTAL SITE ASSESSMENT SERVICES

Parties and Date.

This Agreement is made and entered into this __day of ________, 2026, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and Ninyo & Moore Geotechnical & Environmental Sciences Consultants ("Consultant"), a corporation. The Commission and Consultant are sometimes referred to herein individually as “Party”, and collectively as the “Parties”.

Recitals.

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Federal Highway Administration (“FHWA”) funds administered by the California Department of Transportation (“Caltrans”) from the United States Department of Transportation, Proposition 1B funds (“Prop 1B”) funds administered by Caltrans, and/or funds from the Federal Transit Administration (“FTA”). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit “D” (Certificate of Consultant) and Exhibit “F” (Executive Order N-6-22 Certification) attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain On-Call ROW Environmental Site Assessment Services. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement (“Task Order”). Consultant represents that it is experienced

in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a “Project” under this Agreement).

Terms.

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission’s Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant’s Task Order proposal, Commission shall issue a purchase order or executed task order for the Services (“Commission’s Task Order Authorization”). Consultant’s agreement to the final terms of a proposed Task Order, Commission’s Task Order Authorization and Consultant’s commencement of the Services shall indicate the Parties’ agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission’s Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a “Notice to Proceed” or

other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Indirect Cost Rate (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement..

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

4.4 If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

4.5 Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall remain in effect for **three years** from the Effective Date, unless extended by contract amendment.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission's Contract Administrator"). Commission's Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates **Dennis Fee** to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement is: **Dennis Fee** or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own

cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services.

Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product fails to satisfy the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions

which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit "B" and incorporated herein by reference, or any cost proposal included as part of a Task Order ("Cost Proposal") unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission's approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant's approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order ("Fixed Fee"). The Fixed Fee is nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non- represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

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

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission
Attention: Accounts Payable
P.O. 12008
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.

19.9 Commission has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this

Agreement ("On-Call ROW Environmental Site Assessment Services Task Order Contracts"). The other On-Call ROW Environmental Site Assessment Services Task Order Contracts are Agreement No. 26-31-033-00 with Verdantas Inc. and Agreement No. 26-31-084-00 with NV5 Environmental, LP. The total amount payable by Commission for the On-Call ROW Environmental Site Assessment Services Task Order Contracts shall not exceed a cumulative maximum total value of One Million Dollars ($1,000,000) "NTE Sum". It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under On-Call ROW Environmental Site Assessment Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the On-Call ROW Environmental Site Assessment Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the On-Call Environmental Site Assessment Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

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

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

20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant, provided that Consultant may seek relief in a court of law located in Riverside County, California if Consultant disagrees with the decision and Consultant has otherwise complied with all other dispute procedures in this Agreement.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

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

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and it's certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of $25,000 shall contain this provision.

23.1 Accounting System. Consultant _ and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

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

25.4 Any subcontract in excess of $25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

26. Equipment Purchase

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding $5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of $5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than $5,000 is credited to the Project.

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

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than $25,000 for public works construction or more than $15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the

minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See http://www.dir.ca.gov.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 DIR Registration. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, $50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade

shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data").

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission's sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for

wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

28.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

28.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

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

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability:* $1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of $1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than $1,000,000 per claim. This insurance shall be 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 the types of work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than $2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents additional insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project at a local office of Consultant during normal business hours.

(viii) None of the Commission's directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Consultant has declared and Commission has reviewed and approved Consultant's deductibles or self- insured retentions in effect as of the effective date of this Agreement.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission may review complete copies of all insurance policies in effect for the duration of the Project at a local office of Consultant during normal business hours.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all

insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its 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 its employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as "sole source" procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission's Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement ("Bilateral Contract Modification").

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission's Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission's Executive Director, Consultant shall not provide such change.

33. Prohibited Interests.

33.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of $25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

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

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "E" “Lobbying Activities Disclosure,” in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed $100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 <u>Employment Adverse to the Commission</u>. Consultant shall notify the Commission, and shall obtain the Commission’s written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. <u>Equal Opportunity Employment</u>. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. <u>Right to Employ Other Consultants</u>. Commission reserves the right to employ other consultants in connection with the Project.

36. <u>Governing Law</u>. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. <u>Disputes; Attorneys' Fees</u>.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

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

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CONSULTANT:	COMMISSION:
Ninyo & Moore	Riverside County Transportation Commission
7888 Cherry Avenue, Unit I,	4080 Lemon Street, 3rd Floor
Fontana, California 92336	Riverside, CA 92501
Attn: Dennis Fee	Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from Caltrans or the FTA, Consultant shall also fully and adequately comply with the applicable provisions included in Exhibit "C" (Funding Requirements), which includes the California Department of Transportation and FTA Requirements, and is attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

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

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

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

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

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

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

[Signatures on following page]

SIGNATURE PAGE
TO
PROFESSIONAL SERVICES AGREEMENT
WITH STATE, FHWA, FTA AND PROPOSITION 1B FUNDING/ASSISTANCE

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

RIVERSIDE COUNTY TRANSPORTATION COMMISSION By:_________________________ Aaron Hake, Executive Director *Approved as to Form:* By:_________________________ Best, Best & Krieger LLP General Counsel	**CONSULTANT** **NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS** By: _________________________ Signature _________________________ Name _________________________ Title **ATTEST:** By: _________________________ Its: _________________________

* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

EXHIBIT "A"
SCOPE OF SERVICES

[ATTACHED BEHIND THIS PAGE]

SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

1.0 SCOPE OF WORK

The presence of hazardous substances within and adjacent to existing and proposed right of way and facilities for various Riverside County Transportation Commission (Commission) rail and highway projects or for various Western Riverside County Regional Conservation Authority (RCA) real property acquisitions for open space for wildlife and plant life conservation is possible. It is, therefore, necessary that the Commission and/or the RCA exercise due diligence in identifying hazardous and potential hazardous substances related problems. For purposes of this work, hazardous substances are substances or combinations of substances as defined in Title 22 California Code of Regulations, Section 66680, Division 20, Health and Safety Code, Sections 25115 and 25117, or those substances defined in Title 49 Code of Federal Regulations, Part 171.8.

On-Call Consultant will be required to furnish environmental engineering services, field services including, but not limited to, site assessment and investigations, remedial investigation/feasibility studies, remediation action plans, remediation action design, post-remediation monitoring at specified areas, hazardous waste remediation, abatement and removal of materials. Work will be assigned on a task order basis.

1.1 Task Order (TO) Procedures for Federally and Caltrans Funded TOs:

1.1.1 The Commission's and/or the RCA's Representative or designated project manager will issue TOs to consultant on an as-needed basis.

1.1.2 **REQUEST FOR TASK ORDER SUBMITTALS**. Upon a request for a TO Proposal by the Commission or by the RCA Representative, one or more consultants shall develop a plan and submit a proposal for the requested services. The TO shall include a schedule, number of labor hours, labor classification(s), and classification rates to provide the requested services.

1.1.3 **REVIEW AND AWARD OF TASK ORDERS**. The Commission's or the RCA's Representative or designated project manager will evaluate the submitted TO Proposal ensuring that the submittal is complete, consistent with the Commission's or the RCA's written or oral request for services, the personnel assigned are acceptable, the schedule is acceptable, that all costs proposed are appropriate, and that the item is in compliance with contractual requirements. If required, the Commission's or the RCA's Representative or designated project manager will conduct negotiations to address exceptions and clarify costs. The fully executed TO will serve as the record of negotiations.

1.1.4 **COMPLETION SCHEDULE**. The consultant's performance of services shall commence under each TO only upon written authorization by the Commission's or by the RCA's Representative or designated project manager.

1.1.5 Consultant shall complete the services within the time frame specified on a particular TO.

1.1.6 All work shall be subject to review and approval of the Commission or the RCA either by the Contract Administrator or a designated representative prior to the acceptance and approval of payment.

1.2 Task Order (TO) Procedures for Locally Funded TOs:

1.2.1 Locally funded TOs may be awarded by the designated project manager in the best interest of the Commission or the RCA. TO Proposals are not required for locally funded TOs.

1.3 Phase I – Initial Site Assessment

The Initial Site Assessment (ISA) is necessary for identifying hazardous and potentially hazardous problems within and adjacent to existing and proposed rights-of-way and facilities for the Commission's Measure A or other transportation projects or the RCA's projects. The ISA shall include all pertinent information regarding listed hazardous waste and potential hazardous waste sites in the vicinity of the project. The Consultant may be required to review and update prior environmental reports or remediation work.

During the performance of an ISA, the Consultant shall review published lists of hazardous waste sites and search as necessary available files of federal, state, regional and local agencies such as, but not limited to:

- Environmental Protection Agency (EPA) National Priority List (NPL) reports
- California Environmental Protection Agency (Cal/EPA)
- Regional Water Quality Control Board (RWQCB)
- Office of Emergency Services (hazardous materials management plans)
- Local health departments (site lists, permits, reports)
- Local fire departments (site lists, permits, reports)
- County Tax Assessors (parcel maps and files)
- County Court House (maps and files)
- Utility companies (maps, plans, records)
- Caltrans (right-of-way maps, aerial photos and files)

The Consultant shall also review Sanborn Fire Insurance Maps, aerial photographs and other reports, maps and photographs, as necessary, to determine past and present land uses and to identify known or potential hazardous waste sites on parcels of land for future highway improvement projects. The time frame for this record search shall extend as far back as necessary, or to the limitation of available records, to determine the use and presence of any hazardous wastes/materials on the parcels of land in question.

The Consultant shall review published data from the United States Geological Surveys (USGS), state and other available maps and reports in order to compile a general geologic map and general hydrologic profile of the right-of-way or facility.

As directed, the Consultant shall conduct a field survey for potential hazardous waste sites of all parcels of land within and adjacent to the proposed right-of-way or facility as specified in the Task Order. During this phase, it is not necessary to confirm the actual presence of hazardous waste in soil or groundwater on the site. Coordination and contacts with property owners and/or regulatory agencies shall be pre-approved by the Commission or by the RCA.

All of the work for Phase I ISA or Transaction Screen Reports (TSR) will be performed using American Society for Testing and Materials Standards (ASTM) 1527 or 1528. In circumstances when an ISA will be performed to obtain right of way for a Caltrans project, the work will be completed using the Caltrans Project Development Procedures Manual for Environmental Contamination, Chapter 18.

The Consultant shall be responsible for all Regulatory Agency Coordination through-out all phases of the Project.

General requirements for ISA reports are provided in Attachment I

1.4 Phase II – Site Investigation

If required, site investigations may include, but are not limited to, items such as work plans, health and safety plans, surveys and surface geophysical investigations (if necessary), drilling, sampling, laboratory analysis, and reporting.

All elements of the site investigations must meet all applicable standards set forth by local, state and federal regulatory agencies. There should be no deviation to the required standards. The investigative techniques (i.e., drilling methods, sampling collection and sampling handling procedures, analytical methods and equipment) must be procedurally acceptable to the Commission, the RCA and regulatory agencies.

During soil investigations, the drilling and sampling operations shall be supervised on-site by Professional Engineer (PE), Certified Engineering Geologist (CEG), or Registered Geologist (RG). Personnel with specific registration(s) may be required in a Task Order to conform to regulatory agency requirements.

1.4.1 Work Plans

A technical work plan shall be developed for all site investigations. The work plan shall be sufficiently detailed to fully describe the work to be performed. The Consultant shall submit a draft site-specific work plan to the Commission's or to the RCA's Project Manager for review. The draft shall be revised based on the Commission's or the RCA's comments and returned within seven (7) working days. The Commission or the RCA shall review and approve the plan prior to start of fieldwork.

Appropriate professional personnel shall develop work plans. Interpretation of geology, hydrogeologic, and/or hydrologic information shall be completed under the supervision of a California RG and/or CEG.

All work performed by the Consultant shall be in accordance with the site-specific final work plan as reviewed and approved by the Commission or by the RCA.

1.4.2 Health and Safety Plans

Throughout the performance of field soil investigations, the Consultant, its subcontractors, and their personnel are responsible for their own health and safety planning, monitoring and procedures.

All field soil investigations will require development of an appropriate Health and Safety Plan. The Commission or the RCA shall review and approve the plan prior to the start of work. The Consultant shall submit a draft site specific Health and Safety Plan to the Commission or to the RCA for review. The draft shall be revised based on the Commission's and/or the RCA's comments and returned to the Consultant within seven (7) calendar days. The Health and Safety Plan shall conform to all applicable regulatory requirements including, but not limited to 8CCR 5192 and 8CCR 3202.

The Consultant shall complete all work in accordance with the site Health and Safety Plan. The Consultant shall ensure that all employees, while on the project site, conform to the plan requirements.

1.4.3 Surveys of Buildings, Containers, Etc.

The Consultant may be required to provide survey activities. Survey activities may include the surveying and testing, as applicable, of buildings, structures, stored materials, tank contents and containers to determine whether hazardous waste or materials are present. Typical surveys may include inspection for the following:

- Asbestos containing materials (ACM) in buildings and pipelines
- Poly Chlorinated Biphenyl's (PCB) containing materials in transformers, equipment, containers
- Fuels and other chemicals in tanks, barrels and storage containers
- Review of buildings or structures to determine whether hazardous materials are being used or stored
- The presence of lead paint

Only when requested will a Certified Industrial Hygienist (CIH) be utilized for survey plans and work. Requests for a CIH will be through the Task Order process. When surveys are included in a Task Order, survey activities as well as results shall be included as a report or as part of the Site Investigation Report.

1.4.4 Surface Geophysical Investigations

Consultants shall provide surface geophysical investigative services for the purpose of acquiring data as specified in the Task Order. Surface geophysical work shall be coordinated and interpreted by a geophysicist certified in the state of California.

When geophysical activities are included in a Task Order, in addition to the general soil investigation reporting requirements, geophysical activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.5 Soil Gas Survey

Consultant shall provide subsurface soil gas sampling and analysis services. Gas survey personnel on site shall include a chemist or other experienced professional responsible for equipment operation and calibration.

When soil gas survey activities are included in a Task Order, in addition to the general soil investigation reporting requirements, soil gas survey activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.6 Trenching

Trenching may be required for shallow soil investigation purposes. Excavation may be needed to determine shallow subsurface conditions or to excavate and expose subsurface structures such as foundations, tanks, pipes and/or sumps. Trenching activities shall be observed and supervised by a site engineer, geologist or engineering geologist.

1.4.7 Drilling

Consultant shall provide drilling services that have the capability to drill and sample soft or poorly consolidated material, rock of varying densities, hardness, and degrees of fracturing, engineered fill, asphalt, Portland concrete cement (PCC), and wastes. Consultant shall also provide drilling services that have the capability to properly drill, construct, and develop groundwater monitoring wells.

Monitoring wells may be required to determine if groundwater contamination is present, the extent of the contamination, and the general characterization of the subsurface vadose and hydro geologic conditions. Monitoring wells shall be designed and constructed in accordance with all the appropriate regulations, requirements and to be able to obtain water samples from the appropriate aquifer zones.

The Consultant, prior to drilling and installation of wells, shall obtain all of the necessary well permit(s). The Consultant shall register all monitoring wells with the Department of

Water Resources. Copies of these records shall be included in the Site Investigation Report.

When drilling activities are included in a Task Order, in addition to the general soil investigation reporting requirements, drilling activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.8 Sampling

The objective of sampling is to obtain a representative sample of the subsurface soil, vadose and/or water conditions and levels of contamination at the specific site. Sampling intervals shall be site specific and reviewed and approved by the Commission, or by the RCA and/or regulatory agencies.

When sampling activities are included in a Task Order, in addition to the general soil investigation reporting requirements, sampling activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.9 Laboratory Analysis

Laboratory analyses for each parameter will be performed in accordance with EPA protocols established in the EPA document Test Methods for Evaluating Solid Waste, SW-846, Update III, dated June 1997. Analyses will be performed in accordance with the EPA method procedures unless project requirements necessitate the adoption of alternative methods. Analysis will be performed within the holding times. If an alternative method is used, it will be documented and reported.

Laboratories used to perform chemical analysis shall be certified by the California Department of Health Services (DHS). Asbestos and lead samples shall be submitted to an American Industrial Hygiene Association (AIHA) accredited laboratory.

For specific test methods not as yet certified by DHS, the laboratory can perform laboratory analysis only if presently certified by DHS for comparable test methods, e.g., volatile organics, semivolatile organics, etc. or is a currently certified US EPA Contract laboratory. Expected turnaround time for chemical analysis shall be seven (7) calendar days, unless otherwise requested.

Analysis shall be performed in accordance with the Contract Laboratory program protocol (CLP). The Consultant shall be responsible for sample transport from worksite to the laboratory, to provide clean or new sample containers, labels, appropriate preservation and chain-of-custody records.

1.4.9.1 Quality Assurance/Quality Control

Quality control of laboratory analyses is assessed by performing analytical methods according to protocols and analyzing laboratory QA/QC samples to measure precision and accuracy of laboratory methods and equipment, instrument calibration, and preventive maintenance.

1.4.9.1.1 General

Laboratory QA/QC samples that will be analyzed during the proposed assessment include method blanks, laboratory control samples, MSs, and duplicates. Specific acceptance limits for the samples will be per the respective analytical method and at the discretion of the laboratory QA/QC manager.

1.4.9.1.2 Method Blanks

A method blank is a sample of deionized water or clean sand prepared by and analyzed by the laboratory in the same manner as the samples. It is used to assess potential contamination in the laboratory process (e.g., contaminated reagents or improperly cleaned equipment). The laboratory will analyze one method blank sample per batch or every 20 samples for each analytical method.

1.4.9.1.3 Laboratory Control Samples

A laboratory control sample is a known matrix (e.g., deionized water) that has been spiked with a known concentration of specific target analytes. It is used to demonstrate the precision of the analytical process. A laboratory control sample will be analyzed at a frequency of one per preparation or analytical batch not to exceed 20 samples.

1.4.9.1.4 Matrix Spikes

The MS is an actual sample matrix spiked with known concentrations of specific target analytes. The purpose of an MS is to access the effect of a sample matrix on the recovery of target analytes (i.e., assess the potential for matrix interferences, either high or low). One MS will be analyzed per batch or every 20 samples for each analytical method.

1.4.9.1.5 Laboratory Duplicates

Duplicate samples are used to assess precision in the analytical method. An additional aliquot is extracted from a sample and analyzed using the procedures. Then the results are compared to assess the precision. Duplicates may be of three kinds – laboratory control sample duplicates, MS duplicates, and laboratory sample duplicates. Duplicates should be analyzed per batch or every 20 samples for each analytical sample.

1.4.10 Laboratory Reports

Complete copies of the laboratory reports, including QA/QC summary reports shall be placed in an appendix of the Site Assessment Report. Laboratory reports shall contain, but not limited to, the following information:

- Written explanation of higher detection limits, laboratory contaminants, or other unusual results.
- Name, address, and telephone number of laboratory
- Laboratory number for each sample reported
- Consultant's number for each sample recorded
- Date sample(s) collected
- Date sample(s) received by laboratory
- Date of laboratory testing
- Brief sample description (e.g. soil, water, sludge, etc.)
- Specific test method
- Extraction method utilized
- Test result for each sample and method
- Detection limit for each test method
- Date of test report
- Signature and title of the manager or director of the appropriate laboratory section

1.4.11 Reporting

General requirements for Site Investigation Reports are provided in Attachment II

1.5 Remedial Investigation/Feasibility Studies (RI/FS)

A comprehensive Remedial Investigation/Feasibility Study (RI/FS) will be perform to develop sufficient information to make an informed remedial alternative selection that eliminates, reduces, and/or controls the risks to human health and the environment. All elements of the RI/FS Work Plan shall conform to applicable federal, state and local guidelines, rules, regulations, and criteria negotiated with appropriate regulatory agencies. Appropriate professional personnel shall develop RI/FS Work Plans. Interpretation of geology, hydrogeology, and/or hydrology information shall be conducted under the supervision of a California Registered Geologist or Certified Engineering Geologist.

At the conclusion of the RI/FS, a RI/FS Report shall be prepared to include at a minimum, site characteristics, sources of contaminants, nature and extent of contamination, risk assessment, and review of all potentially feasible remedial actions and associated costs.

A Risk Assessment, included as part of the RI/FS work, may be necessary to determine the risk to human health and the environment from contaminants in the soil and/or groundwater. The Risk Assessment shall describe the environmental fate and transport

of the contaminants and consider all potential contaminant migration pathways in addition to all potential exposure routes to a receptor such as inhalation, ingestion, and dermal absorption.

The Risk Assessment must provide a comparison of the contaminant concentration at a receptor (estimated by the fate and transport element) with appropriate health-based standards. If the contaminant concentration at the receptor exceeds the appropriate health-based standards, then a potential unacceptable excess risk to the receptor exists and a risk management decision must be made (e.g. removal, treatment, stabilization, etc.).

The Risk Assessment must include a professional conclusion that is presented in an objective and technically defensible manner. The Risk Assessment must include a discussion of strengths and weaknesses of the assessment by describing uncertainties, explicitly stating assumptions and limitations, as well as providing scientific basis and rationale for each assumption. Conclusions regarding the potential risk to human health and/or the environment must be based on current federal, state and local guidelines, rules, regulations, and requirements.

General requirements for RI/FS reports are provided in Attachment III.

1.6 Remedial Action Plan and Remedial Action Design

The Remedial Action Plan (RAP) shall compile and summarize site data gathered during the RI/FS, in order to identify, and subsequently design, plan, and implement a final remedial action for the specific site. The RAP shall clearly and concisely describe the selected and rejected alternatives to the extent that the Commission or the RCA is provided an opportunity to comment on the remedial action(s). The RAP must also set forth specific remedial action objectives; rough order of magnitude cost estimates, and timeframes for completion of the remedial action(s).

The Consultant shall submit a draft RAP, potentially including a closure plan, to the appropriate regulatory agencies and the Commission or the RCA for review and approval prior to circulation for public/responsible party input and prior to being adopted as the final document for undertaking remedial action at the specific site.

A Remedial Action Design (RAD) shall be developed to provide technical and operational plans and engineering designs for implementation of the approved final RAP. Based on the selected alternative for remedial action as defined in the RAP, the Consultant shall develop a RAD in accordance with regulatory requirements, which shall include detailed construction designs for the selected remedial alternative. In addition, the work plan shall include sampling protocol for screening and verification sampling, onsite and off-site transportation routes, health and safety requirements for post construction activities. A schedule shall be developed for implementing the construction phase of the remedial action.

1.7 Remediation Oversight

Consultant may provide remediation oversight to monitor and control the adherence to the Remedial Action Design (RAD), and to ensure that the work is completed in a timely and competent manner.

2.0 Other Requirements

2.1 Reports – Progress and Investigative

The Consultant shall submit to the Commission or to the RCA monthly progress reports to report status, difficulties or special problems encountered so that remedies can be developed. Included in the progress report Consultant shall report on costs expended per Task Order and schedule status for current Task Orders.

Unless otherwise stipulated, one (1) electronic copy of the draft workplan, health and safety plan, and site investigation report must be submitted to the Commission's or to the RCA's Project Manager for approval. Work plans and investigation reports must be revised to address all comments, prior to being submitted in final form within the time specified in the Task Order. One (1) electronic copy of the final work plan and health and safety plan and one (1) electronic copy of the final investigation report must be submitted to the Commission's or to the RCA's Project Manager unless another quantity is specified.

2.2 Deliverable Approval and Correction Procedures

All data and documents produced by the Consultant shall be subject to acceptance by regulatory agencies and the Commission or the RCA.

In the event of non-acceptance by regulatory agencies or the Commission or the RCA, the Consultant shall have 14 calendar days to submit the corrections to the Commission or to the RCA.

2.3 Timing

Time is of the essence and time for performance may be a factor in issuance of a Task Order.

2.4 Meeting

The Consultant shall meet with a Commission or a RCA representative at a designated pre-work site visit to view the site and discuss Task Order execution. The Consultant shall provide a person at the pre-work site visit that will exercise responsible charge of the anticipated Task Order.

The Consultant shall meet with the Commission's or the RCA's designee, as needed, to discuss progress on the contract.

2.5 Monitoring and Review Procedures

The Commission or the RCA shall have the right to monitor and review the processes of the Consultant at any time by visiting the Consultant's facility or by requiring meetings.

3.0 MISCELLANEOUS PROVISIONS

3.1 Health and Safety

Consultant shall at all times conduct its operations in such a manner as to avoid any risk of bodily harm to persons or damage to property. Consultant shall promptly take all precautions that are reasonable or necessary to safeguard against such risk and shall make regular safety inspections of its operations. Consultant shall be solely responsible for the discovery, determination and correction of any unsafe conditions arising in connection with the performance of services by Consultant.

In addition, Consultant shall comply with all applicable health and safety laws, standards, codes, rules, regulations, including any safety programs established by the State of California and the U.S. Government as applicable. Consultant warrants the materials, equipment and facilities; whether temporary or permanent, furnished by Consultant in connection with the performance of services shall comply therewith. Consultant shall cooperate and coordinate with the Commission or the RCA and with other consultants on safety matters.

By its action of providing services, Consultant confirms that all of its employees, subcontractors and their employees, engage in field activities related to this agreement have been trained according to the requirements specified in 29 CFR 1910.120 and 8 CCR 5192. In addition, the Consultant shall include this requirement in all subcontracts performed on this project.

At the time any of Consultant's personnel are required to visit any work site, Consultant shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. Consultant's personnel who visit any of the Work Sites on a regular basis shall have a thorough knowledge and understanding of the safety requirements.

Samples suspected of containing asbestos and/or lead shall be collected by personnel certified by the State of California to collect such samples.

The Site Health and Safety Plan shall be developed by an industrial hygienist with sufficient knowledge to recognize and characterize the potential site hazards. During soil investigation activities, a Site Safety Officer (SSO) with be designated and will be responsible for enforcing the site safety plan. Upon the Commission's or the RCA's request, the site Health and Safety Plan will be signed by a Certified Industrial hygienist.

A copy of the Health and Safety Plan shall be distributed to all workers before the field investigation begins. All field investigation workers shall certify that they have read, understand, and agree to comply with the site Health and Safety Plan before the field investigation begins.

The Consultant shall provide safe access to the Work Site for representatives of the applicable local and/or state regulatory agencies during normal field investigations work hours. Designated observation areas outside the work zone shall be established for these site visits. Such inspection tours shall be arranged in advance with the SSO. The SSO shall accompany the representatives while on the site. On Commission owned facilities or RCA owned real property, Consultant shall advise the Project Manager when safety meetings are to be held.

Consultant shall report to the Commission or to the RCA any unsafe conditions observed by its personnel at any Work Site. Any of the consultant's personnel that the Commission or the RCA determines do not have the requisite knowledge shall, at the option of the Commission or the RCA, be removed from the performance of service.

The Consultant shall require the full compliance with this clause by all subcontractors of Consultant.

3.2 Site Safety Officer

The Consultant shall designate a Site Safety Officer (SSO) for each site under active investigation. A SSO or his designated representative shall be present at all times at each site under active investigation. Both persons must be familiar with hazardous waste laws and regulations in California and with Cal/OSHA requirements. The SSO or his designated representative shall be available to accompany the Commission or the RCA and/or representative of the applicable regulatory agencies while they are on site.

The SSO shall direct the implementation and operation of the Health and Safety Plan. The SSO shall enforce compliance with the Health and Safety Plan by all persons while they are within the site perimeter.

3.3 Owner/Regulatory Contacts

The Consultant shall only contact property owners as specifically directed and authorized by the Commission or the RCA. The Consultant shall coordinate with other agencies, such as federal Environmental Protection Agency (EPA), California Environmental Protection Agency (Cal-EPA), Regional Water Quality Control Board (RWQCB), local environmental health agency, and others as necessary to complete fieldwork. The Consultant shall notify and invite the Commission's or the RCA's representative to all regulatory agency meetings related to this investigation.

3.4 Right-of-Entry

The conditions of the right of entry agreement to the property will be explained to the Consultant during the pre-work site meeting. The Consultant shall know and follow the terms and conditions of the right of entry agreement at all times.

3.5 Permits and Licenses

Consultant shall be fully responsible for identifying and obtaining all necessary permits required for performing the services under this agreement. Consultant acknowledges that it has familiarized itself with the existing requirements of the Commission and all applicable federal, state, county and municipal laws, codes, rules, and regulations and the conditions of any required licenses and permits as they were in effect on the date of this Agreement. Consultant shall comply with all the foregoing, and except as otherwise provided herein, Consultant shall procure all licenses and registrations and shall furnish any bonds, security, or deposits required to conduct business without any increase in the Task Order cost or schedule on account of such compliance, regardless of whether such compliance would require additional labor, equipment, or materials not expressly provided for in this Agreement.

3.6 Underground Services Alert (USA)

Before any Task Order involving disturbance of the ground beyond surface sampling begins, the Consultant shall obtain any inquiry identification number from USA.

3.7 Traffic Control

Traffic control (barricades, portable flashing beacons, and detours), when necessary to accomplish the contract work, will be the responsibility of Consultant. The Consultant shall coordinate and obtain all the necessary permits from the local jurisdiction. Traffic control shall be addressed in the Health and Safety Plan.

3.8 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

The Consultant shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this Agreement.

The Consultant shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Consultant. The Consultant shall repair any damage, at its own cost or expense, to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Agreement or failure to exercise reasonable care in performing the work. If the consultant

fails or refuses to repair the damage promptly, the Commission or the RCA may have the necessary work performed and charge the cost to the Consultant.

3.9 Project Diary

A Project Diary must be maintained to support all work performed. The diary must be filled out and signed as to be true and correct. It must identify the person responsible for project management and must include, but not be limited to, additional notations, observations or remarks to further clarify work.

3.10 Decontamination/Disposal

If required, all personnel shall be decontaminated before leaving the site as specified in the Site Health and Safety Plan. Decontamination procedures shall generally follow the guidelines found in 8 CCR 5192 and shall be detailed in the Site Health and Safety Plan.

Consultant shall equip, supply and maintain an on-site decontamination station for the drilling, installation and sampling equipment. Consultant shall ensure that this station has the capacity to contain all decontamination fluids used in the decontamination procedure. Consultant shall collect these fluids in appropriate containers.

Consultant shall wash and clean all equipment prior to initiation of work at the site. This includes drilling machines, pipe rods, samplers, pumps, casings, screens and any other material brought on site. Before reuse of any equipment at another drilling location at the site, all equipment shall be cleaned and decontaminated.

General requirements for decontamination include, but not limited to:

- Auger flights and any other tools used in drilling operations, monitoring and sampling shall be steam cleaned before initial use and between boreholes.
- Before each use, sampling tubes, liners, and bailers shall be washed in a mixture of liquinox, or similar product, and clear water, rinsed in clear water, rinsed in distilled water and air dried.
- All suspect asbestos containing materials and lead paint materials shall be handled wet.

The Consultant shall avoid contamination of the project area and shall not dump waste oil, drilling fluids, rubbish and/or other materials on the ground. All equipment, unused materials, temporary facilities and other miscellaneous items resulting from or used in the operation shall be removed from the site.

Material removed from trenches, drill holes, etc. shall be properly collected in containers or stockpiled on plastic sheeting supplied by the Consultant. The project site must be maintained clean at all times.

3.11 Hazardous Waste Manifest

The Commission or the RCA will sign all Hazardous and Non-Hazardous Waste Manifests for waste removed from the site.

3.12 Regulatory Requirements

Consultant agrees that it will not store any hazardous substances at the job site for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by law, the Owner, the Commission, the RCA, whichever will be more restrictive. Consultant further agrees that it will not permit any accumulation in excess of the small quantity generator exclusion of 40 CFR Part 261 or other applicable law, as amended. Consultant agrees to report to the appropriate governmental agencies all discharges, releases, and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify the Commission or RCA Representative of same.

3.13 Expert Testimony

It shall be recognized that subsequent to the performance of this Agreement the need may arise to provide expert testimony during hearings and/or court proceedings involving site specific activities or other matters, with regard to which personnel provided by the Consultant under this Agreement (including subcontractor personnel) would have gained expertise as a result of the Tasks performed under this Agreement. Therefore the Consultant agrees to make available expert consulting services in support of future proceedings, including litigation support and to enter into any intent agreement as necessary with subcontractors to ensure the availability of subcontractor personnel provided under this Agreement to provide expert consulting services. Agreement to provide such services in the future serves as a notice of intent only.

Should the Consultant or any subcontractors at any tier ever testify in court in any case related to this Agreement, all his/her work will be considered proprietary to the Commission or to the RCA. In such a case, the Consultant and/or subcontractor of any tier shall not release any information to adverse parties.

3.14 Disclosure of Information

The Consultant agrees to notify and obtain the written approval of the Commission or the RCA prior to releasing any information to any third parties including the news media regarding any work under this Agreement except as required by law. The Consultant shall immediately notify the Commission or the RCA of the receipt of a demand by a third party for the disclosure of field test data generated under this Agreement. This requirement shall apply to all subcontractors.

ATTACHMENT I

PHASE I
INITIAL SITE ASSESSMENT REPORT

INITIAL SITE ASSESSMENT REPORT

GENERAL REQUIREMENTS

Contents of the Initial Site Assessment Report should include, but not limited to the following:

1. Title sheet, which identifies the Task Order number, project name, project location, contract number, Consultant name, name of author, and date.

2. Signature page with signature and title of persons who prepared and reviewed the project.

3. Table of Contents.

4. Investigative (Executive) Summary: This section should present and summarize the technical data and findings of the investigation.

5. Investigation narrative, which shall include, but not limited to, the following:

- Investigation methods and evaluation criteria.
- Known hazardous substance sites (name, location, contamination onsite, federal or state, impact, schedule for cleanup, etc.).
- Potential hazardous substance sites in the vicinity of the ISA site (name, location, type of operation, reason to suspect potential are of impact, etc.).
- Name, address, and telephone number of the business/owner(s) of each site.
- Type of hazardous substance and/or containers involved at each site (e.g. sludge pits, ponds, underground/above ground storage tanks, piping, etc.) This data shall be written in a clear and concise form, and summarized in a table form.
- Chemical/hazardous materials that have been stored/used in the past at each site and the known generators (if available) of the materials.
- Permits, violations, plans, records, and any other information reviewed.
- Sketches, photographs, and/or descriptive comments as necessary to identify important features such as buildings, ponds, utility lines, etc.
- Aquifer descriptions, (depths to groundwater, gradient, conductivity, yield, quality, and beneficial users). Public sources such as the Department of Water Resources reports and USGS reports will be sources of this type of information.
- Geologic units: Geologic and hydrologic information should be scaled to the freeway/rail project. The shallow subsurface conditions (e.g. less than 50 feet below ground surface) will have the greatest impact on construction.
- Location and use of all known groundwater and monitoring wells in the subject vicinity of the study area.

- All known or potential hazardous substance sites shall be identified with corresponding symbols and physical features such as geologic units, aquifer descriptions, and depth to groundwater on a project right-of-way map included in the ISA Report.
- How project may affect suspect sites (e.g. area of contamination vs. construction excavation).
- A list of sites recommended for site investigations shall be included, along with recommendations for follow-up investigations. These sites shall be ranked by significance using a rationale fully justified in the report and prioritized for scheduling this follow-up work.
- Degree of significance for each hazardous substance problem in terms of time to mitigate and approximate costs.
- Describe future plans, if any, of the EPA, Cal-EPA, RWQCB, or other agencies involved in remediating hazardous substance sites within or adjacent to the proposed right-of-way.
- Identify individuals or agencies contacted in developing the information included in the ISA Report.
- List of contact names, telephone numbers, and dates contacted, and information reviewed.
- Limitations in the adequacy and/or conclusions reached in this assessment shall be explained in detailed.

ATTACHMENT II

PHASE II
SITE INVESTIGATION REPORT

SITE INVESTIGATION REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 ½" by 11' size. Contents of the Site Investigation Report should include, but not limited to the following:

1. Title sheet, which identifies the contract number, Task Order number, project name, project location, Consultant name and date.

2. Signature page to include signature and title of persons who prepared and reviewed the report.

3. Table of Contents.

4. Investigative Summary: This section should present and summarize the technical data and findings of the investigation.

5. Introduction: At a minimum, this section should include:

    - Site Description
    - Surrounding Properties
    - Site History
    - Environmental Setting
        - Regional Geology
        - Site Geology and Hydrogeology
    - Purpose and Scope of Work

6. Site Investigation Procedures: This section should provide a work plan and field work methods used for the investigation and should include, at a minimum:

    - Soil Boring Locations
    - Atmospheric Monitoring
    - Borehole Drilling, Sampling and Backfilling
    - Field Screening
    - Equipment Decontamination
    - Chemical Analyses Program

7. Site Investigation Results: This section should provide an evaluation of soil investigation results and should include, at a minimum:

    - Maps to scale showing the site location, feature locations, boring and well locations, vertical and horizontal extent of contamination, contour maps of contaminant concentrations, and hydraulic gradient.
    - Cross-sections showing subsurface geologic and hydrogeologic conditions, sample results, and estimated extent of contamination. An

estimate of volume of contaminated soil and groundwater present must be given along with assumptions and calculations used.

- Statistical analysis of sample results estimating distribution and average concentration, and statistical analysis that demonstrate trends in contaminant level and distribution.
- Backup data for maps, cross sections, and graphs.
- Summary of laboratory results.

8. Conclusions and Recommendations: This section should include, at a minimum:

    - Nature, extend, and estimated volume of contamination.
    - Recommendations for additional work necessary to characterize the site and potential cost.

9. Appendices: All data used to support the report including, but not limited to:

    - Well and boring logs for both existing and new wells and borings (include all wells that can influence hydrogeologic conditions of the site).
    - Copies of all permits (e.g. drilling permits, well permits, excavation/grading permits, etc.) obtained from state, county and/or local regulatory agencies.
    - Laboratory analysis of each sample tested. Laboratory reports must include Chain-of-Custody forms.
    - Survey elevations and location of wells or borings, benchmark, or monument locations.

10. References

ATTACHMENT III

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 ½” by 11’ size. Contents of the Site Investigation Report should include, but not limited to the following:

1. Title sheet, which identifies the Contract number, Task Order number, project name, project location, Consultant name and date.

2. Signature page to include signature and title of persons who prepared and reviewed the report.

3. Table of Contents.

4. Introduction: At a minimum, this section should include, but not limited to:

    - Site Description
    - Surrounding Properties
    - Site History
    - Environmental Setting
        - ➢ Regional Geology
        - ➢ Site Geology and Hydrogeology
    - Purpose and Scope of Work

5. Study Area Investigation: This section should include, at a minimum:

    - Surface features (topographic mapping, natural and manmade features, etc.)
    - Contaminant source investigation
    - Meteorological investigations
    - Surface water and sediment investigations
    - Soil and vadose zone investigations
    - Groundwater investigations

6. Physical Characteristics of Study Area: This section at a minimum should include field activity results, which then determine physical characteristics including:

    - Surface features
    - Geology
    - Hydrogeology
    - Soils
    - Demography and land use

7. Nature and Extent of Contamination: This section should present results of soil characterization, both natural chemical components and contaminants in media and transport.

8. Fate and Transport should include, at a minimum:

   - Potential routes of migration
   - Contaminant persistence
   - Contaminant migration

9. Risk assessment should include, at a minimum:

   - Human health evaluation
   - Environmental evaluation

10. Identification and screening Technologies: This section should include, at a minimum:

    - Remedial Action Objectives
    - General Response Actions
    - Identification of appropriate and effective technologies for remediation of soil and/or groundwater contamination at the site

11. Development and Screening of Alternatives: This section should include, at a minimum:

    - Assembly of technologies into remedial alternatives capable of addressing all media/volumes/areas of contamination which are of concern
    - Discussion of rationale for combination of technologies/media into alternatives
    - Discuss screening/evaluating of alternatives
    - Screen alternatives on the basis of effectiveness, implementation, and cost
    - Discuss feasibility to implement alternatives given the site conditions, location, and time frame
    - Discussion of effectiveness of the treatment on the material in question
    - Discuss the reliability of the alternatives in terms of demonstrated effectiveness and the operation and maintenance requirements

12. Detailed Analysis of Alternatives: This section should include an analysis of the “No Action” alternative and at least two other remedial alternatives. Each alternate analysis should address: time, operation and maintenance requirements, risks to health and environment, cost-effectiveness, level of cleanup, potential economic impact on the responsible party, the physical limitations of the site, controlling regulations and permits, public health concerns, direct and indirect capital costs, and the impact of the cleanup methods on the

continuing site activities, future construction activities and Commission or RCA use of the property.

13. Summary and Conclusions

- Summary
- Recommendations

14. Recommended Remedial Alternative: Based on the results of the detailed analysis, this section should contain a detailed discussion of the recommended remedial alternative including the basis for this recommendation.

15. References

16. Appendices

EXHIBIT "B"
COMPENSATION AND PAYMENT

[ATTACHED BEHIND THIS PAGE]

EXHIBIT "B"

COMPENSATION SUMMARY[1]

FIRM	PROJECT TASKS/ROLE	COST
	Prime Consultant:	
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS	On-Call Environmental Site Assessment Services	$1,000,000.00
	TOTAL COSTS	**$1,000,000.00**

[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 "C"
FEDERAL REQUIREMENTS

[ATTACHED BEHIND THIS PAGE]

FTA FUNDING REQUIREMENTS

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.” The term “Consultant” shall have the same meaning as “Contractor” as used in 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. § 5323(l)(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. 633.15 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 C.F.R. 633.5, 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.

d. To permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

e. To require all subconsultants to comply with this provision.

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) <u>Nondiscrimination</u> – The following nondiscrimination requirements apply to the underlying contract:

(a) Consultant shall comply with:

(i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;

(ii) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21, including any amendments thereto.

(iii) Federal transit law, specifically 49 U.S.C. § 5332.

(b) The following is prohibited:

(i) Discrimination based on race, color, religion, national origin, sex (including sexual orientation), disability, or age.

(ii) Exclusion from participating in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332.

(iii) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332.

(iv) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

(b) Consultant shall follow:

(i) the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

(ii) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3.

(iii) All other applicable federal guidance that may be issued.

(2) <u>Equal Employment Opportunity</u> - 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, 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. . 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.
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"). The Contract is subject to these stipulated regulations.

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.

K. In accordance with the U.S. Department of Transportation (DOT) Disadvantaged Business Enterprise DBE Interim Final Rule (IFR) published on October 3, 2025 to amend 49 CFR Part 26:

a. Unless otherwise directed by FTA, and not withstanding any other provision herein, the Commission will not engage in compliance monitoring of DBE participation on the Agreement, and no DBE reporting is required.

b. Any DBE participation on the Agreement will not count towards any overall DBE goals.

c. Any changes to 49 CFR Part 26 as set forth in the IFR, as may be amended in the final rule, are hereby incorporated.

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.

(4) Consultant agrees to include, and require all subconsultants to include, this provision in all subcontracts.

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

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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 leading 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.

12. Buy America

To the extent applicable, the Consultant shall comply with the following:

1. The domestic preference procurement requirements of 49 U.S.C. 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR Part 661, to the extent consistent with 49 U.S.C. 5323(j).

2. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

3. Procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), 49 U.S.C. § 5323(u) (limitation on certain rolling stock procurements), and their implementing regulations.

13. Employment Provisions

To the extent applicable to the Services, Consultant shall comply with the following:

A. [For a construction or maintenance project over $2,000] **Davis–Bacon Act, as amended (40 U.S.C. 3141–3148).** When applicable, Contractor shall comply with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor shall pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Contractor shall also comply with the Copeland "Anti–Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides

that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. All suspected violations shall be reported to the FTA.

B. [For contracts in excess of $100,000 that involve the employment of mechanics or laborers] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** When applicable, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

C. [For contracts not involving construction] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3702).** Consultant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5.

D. [For contracts involving commerce] **Fair Labor Standards Act (FLSA) (29 USC 201, et. seq.)**. Consultant will comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the contract involving commerce,

E. 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.

14. 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.

15. 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.

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. §§ 1251-1388).

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. §§ 1251-1388).

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. Solid Wastes

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.

22. Safe Operation of Motor Vehicles

Pursuant to Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party consultant to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

a. The Consultant is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Consultant or RCTC.
b. The Consultant agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.

23. Notification to FTA.

a. If a current or prospective legal matter that may affect the Federal Government emerges, the Consultant must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which this Agreement is being performed. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

b. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

c. *Additional Notice to U.S. DOT Inspector General*. The Consultant must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Commission located, if Consultant has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Consultant. In this paragraph, "promptly" means to refer information without delay and without change.

24. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Contract. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

25. Prohibited Transactions

Consultant certifies that:

a. Consultant does not have any unpaid Federal tax liability assessed, for which all judicial and administrative have been exhausted or have lapsed, and that in a timely manner pursuant to an agreement authority responsible for collecting the tax liability

b. Consultant was not convicted of the felony criminal violation Federal law within the preceding 24 months.

c. If Consultant cannot so certify, RCTC agrees to refer the matter to FTA and not to enter into any contract with Consultant without FTA's written approval

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

26. Trafficking in Persons.

a. Consultant shall comply with section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended; 22 U.S.C. § 7104(g); and the terms of this section.

b. Definitions. Consultant agrees that for purposes of this section:

(i) Employee, for purposes of this section only, means either an individual who is employed by the Consultant or whose services are provided on a volunteer basis for the Consultant, and is participating in the Project or related activities as set forth in the Agreement,

(ii) Forced labor means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(iii) Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102. 23

(iv) Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

(vi) Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

c. Consultant requirements:

(i) Consultant shall inform FTA and RCTC immediately of any information it receives from any source alleging a violation of the prohibitions in this section.

(ii) Consultant agrees that it and its employees that participate in this Agreement, may not:

(1) Engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect,

(2) Procure a commercial sex act during the period of time that this Agreement is in effect, or

(3) Use forced labor in the performance of this Agreement or any subagreements hereunder.

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

27. Covered Unmanned Aircraft Systems

To the extent applicable, the Consultant shall comply with the requirements of the American Security Drone Act, Pub. L. No. 118-31, §§ 1821-32 (2023), including the prohibition on use of Federal funds for procurements and operation of covered unmanned aircraft systems from covered entities. Consultant shall ensure that any unmanned aircraft systems, including drones, purchased and/or used to complete the work under the Agreement are not manufactured or assembled by an American Security Drone Act-covered foreign entity. A list of covered foreign entities is maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM). The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.

CALTRANS/STATE REQUIREMENTS

1. **STATEMENT OF COMPLIANCE.**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant shall not discriminate against any employee for employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. 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. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section. Consultant shall include this provision in all subconsultants for Services to be provided under this Agreement.

2. Consultant and all subconconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, 12900 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., Title 2, 11000, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and all subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. Consultant shall, and shall require that its subconsultants, permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing

Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

4. Remedies for Willful Violation:

(a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act.

(b) For willful violation of this Fair Employment Provision, the Commission shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by Commission in securing the goods or services hereunder shall be borne and paid for by Consultant, and Commission may deduct from any moneys due or thereafter may become due to Commission, the difference between the price named in the Agreement and the actual cost to Commission to cure Consultant's breach of this Agreement.

2. **DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

3. PROMPT PAYMENT

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 15 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. Sections 6, Prompt Payment, of Exhibit "D" shall also apply.

4. RELEASE OF RETAINAGE

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

5. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

7. INVENTIONS.

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

8. **ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

9. **COMPLIANCE WITH ECONOMIC SANCTIONS IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE.**

Consultant shall fully and adequately comply with California Executive Order N-6-22 (“Russian Sanctions Program”). As part of this compliance process, Consultant shall also certify compliance with the Russian Sanctions Program by completing the form located in Exhibit “E” (Russian Sanctions Certification), attached hereto and incorporated herein by reference. Consultant shall also require any subconsultants to comply with the Russian Sanctions Program and certify compliance pursuant to this Section.

FEDERAL DEPARTMENT OF TRANSPORTATION
FHWA AND CALTRANS REQUIREMENTS

1. FHWA Title VI Assurances.

A. Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

B. Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports: Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.

E. Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, the Commission shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: i. withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or ii. cancellation, termination or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: Consultant shall include the provisions of paragraphs (A) through (F) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

Consultant shall take such action with respect to any sub-agreement or procurement as the Commission or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request Commission enter into such litigation to protect the interests of the State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

2. ADDITIONAL NONDISCRIMINATION REQUIREMENTS

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to: Pertinent Non-Discrimination Authorities:

• Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
• Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
• Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
• The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
• Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
• The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
• Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
• The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
• Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

• Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
• Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

3. DISCRIMINATION

The Commission shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the implementation of the Caltrans DBE program or the requirements of 49 CFR Part 26. The Commission shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, of sex in the performance of this Agreement. Consultant or subcontractor shall carry out applicable requirements of 49 CFR Part 26 and the Caltrans DBE program in the award and administration of DOT-assisted contracts, as further set forth below. Failure by the Consultant or subcontractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Commission deems appropriate.

4. PROMPT PAYMENT

A. Consultant agrees to pay each subconsultant under this Agreement for satisfactory performance of its contract no later than 15 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. This clause applies to both DBE and non-DBE subcontractors.

B. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from Consultant to a subconsultant, Consultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the Consultant to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

C. The above provisions apply to Consultant's subconsultants who retain subconsultants.

D. PROMPT PAYMENT CERTIFICATION. The Consultant shall submit Caltrans Exhibit 9-P (available at https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms and incorporated herein by reference) to the Commission by the 15th of the month following the month of any payment(s). If the Consultant does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Caltrans Exhibit 9-P. The submitted forms shall be reviewed by the Commission and submitted to Caltrans.

5. RELEASE OF RETAINAGE

No retainage will be held by the Commission from progress payments due to Consultant. Consultant and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the Commission's prior written approval. Any violation of these provisions shall subject the violating Consultant or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil 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, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

6. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

7. DBE PARTICIPATION

NOT USED. THERE IS NO DBE GOAL FOR THIS AGREEMENT. THERE ARE NO DBE REPORTING OR MONITORING REQUIREMENTS FOR THIS AGREEMENT.

8. CONTRACT ASSURANCE; REMEDIES

A. Contract Assurance. Under 49 CFR 26.13(b):
Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable

requirements of 49 CFR 26 in the award and administration of federal-aid contracts, as the same were amended by the DOT DBE Interim Final Rule.

B. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the Commission appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying Consultant from future proposing as non-responsible

9. DEBARMENT, SUSPENSION AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

In accordance with 49 CFR Part 29, which by this reference is incorporated herein, Consultant's subconsultants completed and submitted the Certificate of subconsultant Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion as part of the Consultant's proposal. If it is later determined that Consultant's subconsultants knowingly rendered an erroneous Certificate, the Commission may, among other remedies, terminate this Agreement.

10. ENVIRONMENTAL COMPLIANCE

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

11. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with

an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

12. PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES

Consultant shall not obligate or expend any funds to be reimbursed under this Agreement to:

• Procure or obtain;
• Extend or renew a contract to procure or obtain; or
• Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The prohibited vendors (and their subsidiaries or affiliates) are:
• Huawei Technologies Company;
• ZTE Corporation;
• Hytera Communications Corporation;
• Hangzhou Hikvision Digital Technology Company;
• Dahua Technology Company; and
• Subsidiaries or affiliates of the above-mentioned companies.
and customers is sustained.

13. COVERED UNMANNED AIRCRAFT SYSTEMS

To the extent applicable, the Consultant shall comply with the requirements of the American Security Drone Act, Pub. L. No. 118-31, §§ 1821-32 (2023), including the prohibition on use of Federal funds for procurements and operation of covered unmanned aircraft systems from covered entities. Consultant shall ensure that any unmanned aircraft systems, including drones, purchased and/or used to complete the work under the Agreement are not manufactured or assembled by an American Security Drone Act-covered foreign entity. A list of covered foreign entities is maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM). The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FHWA.

ADDITIONAL FEDERAL REQUIREMENTS

Additional federal requirements including, but not limited to, cost principles, accounting and auditing requirements are included in the model Agreement.

EXHIBIT "D"
CERTIFICATE OF CONSULTANT

[ATTACHED BEHIND THIS PAGE]

CERTIFICATE OF CONSULTANT

I HEREBY CERTIFY that I am the Principal Geologist/ Division Manager and duly authorized representative of the firm of Ninyo & Moore whose address is 7888 Cherry Ave., Unit I, Fontana, CA 92336, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: Anthony Lizzi
Signature

Anthony Lizzi, PG , CHG
Name

Principal Geologist/Division Manager
Title

EXHIBIT "E"
LOBBYING ACTIVITIES DISCLOSURE

[ATTACHED BEHIND THIS PAGE]

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:

☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:

☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:

☐ a. initial
b. material change

For Material Change Only:
year ____ quarter _________
date of last report __________

4. Name and Address of Reporting Entity

☐ Prime ☐ 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)

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)

$ _____________ ☐ actual ☐ planned

13. Form of Payment (check all that apply):

☐ a. cash
☐ b. in-kind; specify: nature _______________
Value _____________

14. Type of Payment (check all that apply)

☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e deferred
☐ f. other, specify ________________________

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** ☐ **No** ☐

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: Anthony Lizzi

Print Name: Anthony Lizzi, PG, CHG

Title: Principal Geologist/Division Manager

Telephone No.: 909-758-5960 ext 12214 Date: 3/3/2026

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EXHIBIT “F”
EXECUTIVE ORDER N-6-22 CERTIFICATION

[ATTACHED BEHIND THIS PAGE]

EXECUTIVE ORDER N-6-22 CERTIFICATION

Executive Order N-6-22 issued by Governor Gavin Newsom on March 4, 2022, directs all agencies and departments that are subject to the Governor's authority to (a) terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions against Russia and Russian entities and individuals; and (b) refrain from entering into any new contracts with such individuals or entities while the aforementioned sanctions are in effect.

Executive Order N-6-22 also requires that any contractor that: (1) currently has a contract with the Riverside County Transportation Commission ("Commission") funded through grant funds provided by the State of California; and/or (2) submits a bid or proposal or otherwise proposes to or enter into or renew a contract with the Commission with State of California grant funds, certify that the person is not the target of any economic sanctions against Russia and Russian entities and individuals.

The Consultant hereby certifies, SUBJECT TO PENALTY FOR PERJURY, that a) the Consultant is not a target of any economic sanctions against Russian and Russian entities and individuals as discussed in Executive Order N-6-22 and b) the person signing below is duly authorized to legally bind the Consultant. This certification is made under the laws of the State of California.

Signature: Anthony Lizzi

Printed Name: Anthony Lizzi, PG, CHG

Title: Principal Geologist/Division Manager

Company Name: Ninyo & Moore

Date: March 17, 2026

Agreement No 26-31-084-00

PROFESSIONAL SERVICES AGREEMENT
WITH FHWA, STATE, FTA AND PROPOSITION 1B FUNDING ASSISTANCE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AGREEMENT WITH
NV5 Environmental, LP
FOR ON-CALL RIGHT OF WAY (ROW)
ENVIRONMENTAL SITE ASSESSMENT SERVICES

Parties and Date.

This Agreement is made and entered into this __day of ________, 2026, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and NV5 Environmental, LP. ("Consultant"), a corporation. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

Recitals.

A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.

C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.

D. A source of funding for payment for on-call professional consulting services provided under this Agreement may be Federal Highway Administration ("FHWA") funds administered by the California Department of Transportation ("Caltrans") from the United States Department of Transportation, Proposition 1B funds ("Prop 1B") funds administered by Caltrans, and/or funds from the Federal Transit Administration ("FTA"). This Agreement shall not be deemed to be approved by the Commission until the certification shown in Exhibit "D" (Certificate of Consultant) and Exhibit "F" (Executive Order N-6-22 Certification) attached hereto and incorporated herein by reference, is executed.

E. Consultant desires to perform and assume responsibility for the provision of certain On-Call ROW Environmental Site Assessment Services. Services shall be provided on the terms and conditions set forth in this Agreement and in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement ("Task Order"). Consultant represents that it is experienced

in providing such services to public clients, is licensed in the State of California (if necessary), and is familiar with the plans of the Commission.

F. Commission desires to engage Consultant to render such services on an on-call basis. Services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein and in each Task Order (each such project shall be designated a “Project” under this Agreement).

Terms.

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the on-call design engineering and environmental services for the Projects ("Services"). The Services are generally described in Exhibit "A" attached hereto and incorporated herein by reference. The Services shall be more particularly described in the individual Task Orders issued by the Commission’s Executive Director or designee. No Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with, this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Task Orders; Commencement of Services; Schedule of Services. Services under this Agreement shall be requested by the Commission pursuant to Task Order requests. If Commission accepts Consultant’s Task Order proposal, Commission shall issue a purchase order or executed task order for the Services (“Commission’s Task Order Authorization”). Consultant’s agreement to the final terms of a proposed Task Order, Commission’s Task Order Authorization and Consultant’s commencement of the Services shall indicate the Parties’ agreement to the terms of the relevant Task Order.

Consultant shall commence Services under a Task Order within five (5) days of receiving Commission’s Task Order Authorization.

Consultant shall perform the Services expeditiously, in accordance with the Schedule of Services set forth in a Task Order. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, Commission shall respond to Consultant's submittals in a timely manner. Upon request of the Commission, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3. Pre-Award Audit. As a result of the funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a “Notice to Proceed” or

other authorization to proceed under a Task Order may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The funding provided under this Agreement is contingent on meeting all funding requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate State process reviews. In addition, Caltrans may require that prior to performance of any work for which funding reimbursement through Caltrans is requested and provided, that Caltrans must give to Commission an "Authorization to Proceed".

4. Audit Procedures.

4.1 Consultant and certain subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Indirect Cost Rate (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 22 and 23 of this Agreement..

4.2 During any Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, Commission will reimburse the Consultant at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines is received and approved by Caltrans.

Accepted rates will be as follows:

a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

4.3 If Caltrans is unable to issue a cognizant letter per Section 4.2 above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the Caltrans' management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

4.4 If the Consultant fails to comply with the provisions of this Section 4, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in Section 4.2 above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

4.5 Consultant may submit to Commission final invoice only when all of the following items have occurred: (1) Caltrans accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this Agreement has been completed to the satisfaction of Commission; and, (3) Caltrans has issued its final ICR review letter. The Consultant must submit its final invoice to Commission no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all Task Orders issued under this Agreement, and all other agreements executed between the Commission and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

5. <u>Term</u>.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall remain in effect for **three years** from the Effective Date, unless extended by contract amendment.

5.2 Consultant is advised that any recommendation for contract award is not binding on Commission until this Agreement is fully executed and approved by the Commission.

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services

within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Commission's Contract Administrator. The Commission hereby designates the Commission's Executive Director, or his or her designee, to act as its Contract Administrator for the performance of this Agreement ("Commission’s Contract Administrator"). Commission’s Contract Administrator shall have the authority to act on behalf of the Commission for all purposes under this Agreement. Commission’s Contract Administrator shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission’s Contract Administrator or his or her designee.

7. Consultant's Representative. Consultant hereby designates Jack Packwood to act as its Representative for the performance of this Agreement ("Consultant’s Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant’s Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission’s Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission’s Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement is: Jack Packwood or as otherwise identified in the Task Order.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own

cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

11. Project Progress.

11.1 Modification of the Schedule. Consultant shall regularly report to the Commission, through correspondence or progress reports, its progress in providing required Services within the scheduled time periods. Commission shall be promptly informed of all anticipated delays. In the event that Consultant determines that a schedule modification is necessary, Consultant shall promptly submit a revised Schedule of Services for approval by Commission's Contract Administrator.

11.2 Trend Meetings. Consultant shall conduct trend meetings with the Commission's Contract Administrator and other interested parties, as requested by the Commission, on a bi-weekly basis or as may be mutually scheduled by the Parties at a standard day and time. These trend meetings will encompass focused and informal discussions concerning scope, schedule, and current progress of Services, relevant cost issues, and future Project objectives. Consultant shall be responsible for the preparation and distribution of meeting agendas to be received by the Commission and other attendees no later than three (3) working days prior to the meeting.

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services.

Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

12.1 Excusable Delays. Should Consultant be delayed or prevented from the timely performance of any act or Services required by the terms of the Agreement by reason of acts of God or of the public enemy, acts or omissions of the Commission or other governmental agencies in either their sovereign or contractual capacities, fires, floods, pandemics, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, performance of such act shall be excused for the period of such delay.

12.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 12.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

12.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product fails to satisfy the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

14. Appearance at Hearings. If and when required by the Commission, Consultant shall render assistance at public hearings or other meetings related to the Project or necessary to the performance of the Services. However, Consultant shall not be required to, and will not, render any decision, interpretation or recommendation regarding questions of a legal nature or which may be construed as constituting a legal opinion.

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions

which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

16.1 If claims are filed by the Commission's contractor for the Project ("Contractor") relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required by the Commission in order to evaluate or defend against such claims; Consultant agrees to make reasonable efforts to make its personnel available for consultation with the Commission's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

16.2 Consultant's personnel that the Commission considers essential to assist in defending against Contractor claims will be made available on reasonable notice from the Commission. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.

16.3 Services of the Consultant's personnel and other support staff in connection with Contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.

16.4 Nothing contained in this Section shall be construed to in any way limit Consultant's indemnification obligations contained in Section 29. In the case of any conflict between this Section and Section 29, Section 29 shall govern. This Section is not intended to obligate the Commission to reimburse Consultant for time spent by its personnel related to Contractor claims for which Consultant is required to indemnify and defend the Commission pursuant to Section 29 of this Agreement.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth herein the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with Federal funding, it is hereby acknowledged and agreed that the United States Department of Transportation shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the United States Department of Transportation. Compliance with Federal procedures may include completion of the applicable environmental documents and approved by the United States Department of Transportation. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the United States Department of Transportation. For Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

19. Fees and Payment.

19.1 The method of payment for this Agreement will be based on actual cost plus a fixed fee. Commission shall reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the Services. Consultant shall not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant cost proposal attached hereto as Exhibit “B” and incorporated herein by reference, or any cost proposal included as part of a Task Order (“Cost Proposal”) unless additional reimbursement is provided for by written amendment. In no event, shall Consultant be reimbursed for overhead costs at a rate that exceeds Commission’s approved overhead rate set forth in the Cost Proposal. To the extent legally permissible, Consultant’s approved overhead rate shall be fixed for the term of this Agreement. In the event that Commission determines that a change to the Services from that specified in the Cost Proposal, this Agreement or any Task Order is required, the Agreement time or actual costs reimbursable by Commission shall be adjusted by written amendment to accommodate the changed work. The maximum total cost as specified in Section 19.8 shall not be exceeded, unless authorized by a written amendment.

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee to be set forth in each Task Order (“Fixed Fee”). The Fixed Fee is nonadjustable for each Task Order, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non- represented State employees under current State Department of Personnel Administration (DPA) rules, unless otherwise authorized by Commission. If the rates invoiced are in excess of those authorized DPA rates, and Commission has not otherwise approved said rates, then Consultant is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

19.4 When milestone cost estimates are included in the approved Cost Proposal for a Task Order, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. A pro rata portion of the Fixed Fee shall be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Scope of Services, Commission shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Section 21, Termination.

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

19.7 Consultant shall be reimbursed, as promptly as fiscal procedures will permit upon receipt by Commission's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title. Final invoice must contain the final cost and all credits due Commission including any equipment purchased under the Equipment Purchase provisions of this Agreement. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to Commission's Contract Administrator at the following address:

Riverside County Transportation Commission
Attention: Accounts Payable
P.O. 12008
Riverside, CA 92502

19.8 The total amount payable by Commission, including the Fixed Fee, shall not exceed the amount set forth in each Task Order.

19.9 Commission has or will enter into three (3) task order contracts for performance of the Scope of Services identified in Exhibit "A", including this

Agreement ("On-Call ROW Environmental Site Assessment Services Task Order Contracts"). The other On-Call ROW Environmental Site Assessment Services Task Order Contracts are Agreement No. 26-31-083-00 with Ninyo & Moore and Agreement No. 26-31-033-00 with Verdantas Inc. The total amount payable by Commission for the On-Call ROW Environmental Site Assessment Services Task Order Contracts shall not exceed a cumulative maximum total value of One Million Dollars ($1,000,000) "NTE Sum". It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under On-Call ROW Environmental Site Assessment Services Task Order Contracts through Task Orders. Each time a Task Order is awarded under any of the On-Call ROW Environmental Site Assessment Services Task Order Contracts, Commission must send written notification to Consultant and each of the other consultants entering into the On-Call Environmental Site Assessment Services Task Order Contracts. The notice must identify the total funds allocated under issued Task Orders, and the remaining unencumbered amount of the NTE Sum. Consultant acknowledges and agrees that Commission must not pay any amount under this Agreement that would exceed the NTE Sum, and Consultant must not enter into a Task Order that exceeds the NTE Sum.

19.10 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

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

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

20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant, provided that Consultant may seek relief in a court of law located in Riverside County, California if Consultant disagrees with the decision and Consultant has otherwise complied with all other dispute procedures in this Agreement.

20.2 Not later than 30 days after completion of all Services under this Agreement, Consultant may request review by the Commission's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

20.3 Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

21. Termination.

21.1 Commission reserves the right to terminate this Agreement upon thirty (30) calendar days written notice to Consultant, for any or no reason, with the reasons for termination stated in the notice. Commission may terminate Services under a Task Order, at any time, for any or no reason, with the effective date of termination to be specified in the notice of termination of Task Order.

21.2 Commission may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, Commission may proceed with the Services in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in the Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

21.3 In addition to the above, payment upon termination shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Contract Administrator to show the Services actually completed by Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination

21.4 Upon receipt of the written Notice of Termination, Consultant shall discontinue all affected Services as directed in the Notice or as otherwise provided herein, and deliver to the Commission all Documents and Data, as defined in this Agreement, as may have been prepared or accumulated by Consultant in performance of the Services, whether completed or in progress.

21.5 In addition to the above, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in this Agreement. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

21.6 The rights and remedies of the Parties provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

21.7 Consultant, in executing this Agreement, shall be deemed to have waived any and all claims for damages which may otherwise arise from the Commission's termination of this Agreement, for convenience or cause, as provided in this Section.

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

22.2 Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

22.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to Commission.

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

23. Retention of Records/Audit. For the purpose of determining compliance with, as applicable, 2 CFR Part 200, Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Consultant and it's certified public accountants (CPA) work papers that are pertinent to this Agreement and, if applicable, indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of $25,000 shall contain this provision.

23.1 Accounting System. Consultant _ and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate expenditures by line item for the Services. The accounting system of Consultant and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

24. Audit Review Procedures.

24.1 Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by Commission's Chief Financial Officer.

24.2 Not later than 30 days after issuance of the final audit report, Consultant may request a review by Commission's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

24.3 Neither the pendency of a dispute nor its consideration by Commission shall excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

25. Subcontracting.

25.1 Nothing contained in this Agreement or otherwise, shall create any contractual relation between Commission and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to Commission for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

25.2 Consultant shall perform the Services contemplated with resources available within its own organization and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by Commission's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

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

25.4 Any subcontract in excess of $25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

25.5 Any substitution of subconsultant(s) must be approved in writing by Commission's Contract Administrator prior to the start of work by the subconsultant(s).

25.6 Exhibit "B" may set forth the rates at which each subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "B" shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "B" or in a Task Order. The subconsultant rate schedules and cost proposals contained herein are for accounting purposes only.

26. Equipment Purchase

26.1 Prior authorization, in writing, by Commission's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

26.2 For purchase of any item, service or consulting work not covered in the Cost Proposal and exceeding $5,000 prior authorization, in writing, by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

26.3 Any equipment purchased as a result of this Agreement is subject to the following: Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of $5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than $5,000 is credited to the Project.

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

27. Labor Code Requirements.

27.1 Prevailing Wages.

(a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the Services.

(b) Any subcontract entered into as a result of this Agreement, if for more than $25,000 for public works construction or more than $15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the

minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See http://www.dir.ca.gov.

(d) Copies of the prevailing rate of per diem wages in effect at commencement of this Agreement are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

27.2 DIR Registration. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

27.3 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to Commission as a penalty, $50.00 for each worker employed in the execution of this Agreement by him, or by any sub-consultant under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

27.4 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade

shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data").

Consultant shall require all subcontractors to agree in writing that Commission is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

Commission shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Commission's sole risk.

28.2 Intellectual Property. In addition, Commission shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for

wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the Commission.

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

Commission further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

28.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Commission, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Commission's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Commission.

28.4 Infringement Indemnification. Consultant shall defend, indemnify and hold the Commission, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Commission of the Documents & Data, including any method, process, product, or concept specified or depicted.

29. Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, Caltrans and their directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, inverse condemnation, and any claims related to property acquisition and relocation rules or failure to detect or abate hazardous materials, which are brought by a third party, and which , in any manner arise out of or are incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, Caltrans, and their directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission, Caltrans or their directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission, Caltrans and their directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, Caltrans or their directors, officials officers, employees, consultants, agents, or volunteers.

If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

Consultant's obligations as set forth in this Section shall survive expiration or termination of this Agreement.

30. Insurance.

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

30.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; (2) *Automobile Liability:* $1,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of $1,000,000 per accident.

30.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. For Consultant, such insurance shall be in an amount not less than $1,000,000 per claim. This insurance shall be 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 the types of work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. Subconsultants of Consultant shall obtain such insurance in an amount not less than $2,000,000 per claim. Notwithstanding the foregoing, the Commission may consider written requests to lower or dispense with the errors and omissions liability insurance requirement contained in this Section for certain subconsultants of Consultant, on a case-by-case basis, depending on the nature and scope of the Services to be provided by the subconsultant. Approval of such request shall be in writing, signed by the Commission's Contract Administrator.

30.4 Aircraft Liability Insurance. Prior to conducting any Services requiring use of aircraft, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit as shall be required by the Commission. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

30.5 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Commission to add the following provisions to the insurance policies:

(a) General Liability.

(i) Commercial General Liability Insurance must include coverage for (1) bodily Injury and property damage; (2) personal Injury/advertising Injury; (3) premises/operations liability; (4) products/completed operations liability; (5) aggregate limits that apply per Project; (6) explosion, collapse and underground (UCX) exclusion deleted; (7) contractual liability with respect to this Agreement; (8) broad form property damage; and (9) independent consultants coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to this Agreement.

(iii) The policy shall give the Commission, its directors, officials, officers, employees, and agents additional insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be "primary and non-contributory" and will not seek contribution from the Commission's or Caltrans' insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(b) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the Commission, Caltrans and their directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the Commission, Caltrans and their directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Commission, Caltrans and their directors, officials, officers, employees and agents shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(c) Workers' Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against the Commission, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, Caltrans and their directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Commission (if agreed to in a written contract or agreement) before the Commission's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide the Commission at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Commission at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Commission has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Commission will be promptly reimbursed by Consultant or Commission will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Commission may cancel this Agreement. The Commission may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project at a local office of Consultant during normal business hours.

(viii) None of the Commission's directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Consultant has declared and Commission has reviewed and approved Consultant's deductibles or self- insured retentions in effect as of the effective date of this Agreement.

30.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the Commission.

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission may review complete copies of all insurance policies in effect for the duration of the Project at a local office of Consultant during normal business hours.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all

insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

30.10 Other Insurance. At its option, the Commission may require such additional coverage(s), limits and/or the reduction of deductibles or retentions it considers reasonable and prudent based upon risk factors that may directly or indirectly impact the Project. In retaining this option Commission does not warrant Consultant's insurance program to be adequate. Consultant shall have the right to purchase insurance in addition to the insurance required in this Section.

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its 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 its employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Commission has determined that the Project will contain areas that are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

32. Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same.

Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as "sole source" procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

(a) In addition to the changes authorized above, a modification which is signed by Consultant and the Commission's Executive Director, other than a Cardinal Change, may be made in order to: (1) make a negotiated equitable adjustment to the Agreement price, delivery schedule and other terms resulting from the issuance of a Change Order, (2) reflect definitive letter contracts, and (3) reflect other agreements of the parties modifying the terms of this Agreement ("Bilateral Contract Modification").

(b) Consultant shall not perform, nor be compensated for any change, without written authorization from the Commission's Executive Director as set forth herein. In the event such a change authorization is not issued and signed by the Commission's Executive Director, Consultant shall not provide such change.

33. Prohibited Interests.

33.1 Solicitation. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to rescind this Agreement without liability.

33.2 Consultant Conflict of Interest.

(a) Consultant shall disclose any financial, business, or other relationship with Commission that may have an impact upon the outcome of this Agreement, or any ensuing Commission construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing Commission construction project, which will follow.

(b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(c) Any subcontract in excess of $25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

(d) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under

this Agreement is also employed by the construction contractor for any project included within this Agreement.

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

33.4 Conflict of Employment. Employment by the Consultant of personnel currently on the payroll of the Commission shall not be permitted in the performance of this Agreement, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the Consultant of personnel who have been on the Commission payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the Consultant securing this or related Agreements with the Commission, is prohibited.

33.5 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to the terms herein, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

33.6 Rebates, Kickbacks or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Commission employee. For breach or violation of this warranty, Commission shall have the right in its discretion; to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

(a) If any funds other than federal appropriated funds have been paid, or will be paid to any person for the purpose of influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this Agreement, the Consultant shall complete and submit the attached Exhibit "E" “Lobbying Activities Disclosure,” in accordance with the attached instructions.

(b) The Consultant's certification provided in this Section is a material representation of fact upon which reliance was placed when this Agreement was entered into, and is a prerequisite for entering into this Agreement pursuant to Section 1352, Title 31, US. Code. Failure to comply with the restrictions on expenditures, or the disclosure and certification requirements set forth in Section 1352, Title 31, US. Code may result in a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(c) The Consultant also agrees by signing this Agreement that he/she shall require that the language set forth in this Section 3.23.5 be included in all Consultant subcontracts which exceed $100,000, and that all such subcontractors shall certify and disclose accordingly.

33.8 Employment Adverse to the Commission. Consultant shall notify the Commission, and shall obtain the Commission’s written consent, prior to accepting work to assist with or participate in a third-party lawsuit or other legal or administrative proceeding against the Commission during the term of this Agreement.

34. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

35. Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project.

36. Governing Law. This Agreement shall be governed by and construed with the laws of the State of California. Venue shall be in Riverside County.

37. Disputes; Attorneys' Fees.

37.1 Prior to commencing any action hereunder, the Parties shall attempt in good faith to resolve any dispute arising between them. The pendency of a dispute shall not excuse Consultant from full and timely performance of the Services.

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If

either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

38. Time of Essence. Time is of the essence for each and every provision of this Agreement.

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

40. Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CONSULTANT:	**COMMISSION:**
NV5 Environmental, LP	Riverside County
	Transportation Commission
7338 Sycamore Canyon Blvd, Ste 4	4080 Lemon Street, 3rd Floor
Riverside, CA 92508	Riverside, CA 92501
Attn: Jack Packwood	Attn: Executive Director

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid, and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

41. Conflicting Provisions. In the event that provisions of any attached exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services.

42. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

43. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.

44. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

45. Provisions Applicable When State Funds or Federal Funds Are Involved. When funding for the Services under a Task Order is provided, in whole or in part, from Caltrans or the FTA, Consultant shall also fully and adequately comply with the applicable provisions included in Exhibit "C" (Funding Requirements), which includes the California Department of Transportation and FTA Requirements, and is attached hereto and incorporated herein by reference.

46. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

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

48. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

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

50. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.

51. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

52. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, and shall not be assigned by Consultant without the prior written consent of Commission.

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

54. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any

rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

[Signatures on following page]

SIGNATURE PAGE
TO
PROFESSIONAL SERVICES AGREEMENT
WITH STATE, FHWA, FTA AND PROPOSITION 1B FUNDING/ASSISTANCE

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

RIVERSIDE COUNTY TRANSPORTATION COMMISSION By:___________________________ **Aaron Hake, Executive Director** *Approved as to Form:* By:___________________________ Best, Best & Krieger LLP General Counsel	**CONSULTANT** **NV5 Environmental, LP** By: ______________________________ Signature ______________________________ Name ______________________________ Title **ATTEST:** By: ______________________________ Its: ______________________________

* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to RCTC.

EXHIBIT "A"
SCOPE OF SERVICES

[ATTACHED BEHIND THIS PAGE]

SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

1.0 SCOPE OF WORK

The presence of hazardous substances within and adjacent to existing and proposed right of way and facilities for various Riverside County Transportation Commission (Commission) rail and highway projects or for various Western Riverside County Regional Conservation Authority (RCA) real property acquisitions for open space for wildlife and plant life conservation is possible. It is, therefore, necessary that the Commission and/or the RCA exercise due diligence in identifying hazardous and potential hazardous substances related problems. For purposes of this work, hazardous substances are substances or combinations of substances as defined in Title 22 California Code of Regulations, Section 66680, Division 20, Health and Safety Code, Sections 25115 and 25117, or those substances defined in Title 49 Code of Federal Regulations, Part 171.8.

On-Call Consultant will be required to furnish environmental engineering services, field services including, but not limited to, site assessment and investigations, remedial investigation/feasibility studies, remediation action plans, remediation action design, post-remediation monitoring at specified areas, hazardous waste remediation, abatement and removal of materials. Work will be assigned on a task order basis.

1.1 Task Order (TO) Procedures for Federally and Caltrans Funded TOs:

1.1.1 The Commission's and/or the RCA's Representative or designated project manager will issue TOs to consultant on an as-needed basis.

1.1.2 **REQUEST FOR TASK ORDER SUBMITTALS**. Upon a request for a TO Proposal by the Commission or by the RCA Representative, one or more consultants shall develop a plan and submit a proposal for the requested services. The TO shall include a schedule, number of labor hours, labor classification(s), and classification rates to provide the requested services.

1.1.3 **REVIEW AND AWARD OF TASK ORDERS**. The Commission's or the RCA's Representative or designated project manager will evaluate the submitted TO Proposal ensuring that the submittal is complete, consistent with the Commission's or the RCA's written or oral request for services, the personnel assigned are acceptable, the schedule is acceptable, that all costs proposed are appropriate, and that the item is in compliance with contractual requirements. If required, the Commission's or the RCA's Representative or designated project manager will conduct negotiations to address exceptions and clarify costs. The fully executed TO will serve as the record of negotiations.

1.1.4 **COMPLETION SCHEDULE**. The consultant's performance of services shall commence under each TO only upon written authorization by the Commission's or by the RCA's Representative or designated project manager.

1.1.5 Consultant shall complete the services within the time frame specified on a particular TO.

1.1.6 All work shall be subject to review and approval of the Commission or the RCA either by the Contract Administrator or a designated representative prior to the acceptance and approval of payment.

1.2 Task Order (TO) Procedures for Locally Funded TOs:

1.2.1 Locally funded TOs may be awarded by the designated project manager in the best interest of the Commission or the RCA. TO Proposals are not required for locally funded TOs.

1.3 Phase I – Initial Site Assessment

The Initial Site Assessment (ISA) is necessary for identifying hazardous and potentially hazardous problems within and adjacent to existing and proposed rights-of-way and facilities for the Commission's Measure A or other transportation projects or the RCA's projects. The ISA shall include all pertinent information regarding listed hazardous waste and potential hazardous waste sites in the vicinity of the project. The Consultant may be required to review and update prior environmental reports or remediation work.

During the performance of an ISA, the Consultant shall review published lists of hazardous waste sites and search as necessary available files of federal, state, regional and local agencies such as, but not limited to:

- Environmental Protection Agency (EPA) National Priority List (NPL) reports
- California Environmental Protection Agency (Cal/EPA)
- Regional Water Quality Control Board (RWQCB)
- Office of Emergency Services (hazardous materials management plans)
- Local health departments (site lists, permits, reports)
- Local fire departments (site lists, permits, reports)
- County Tax Assessors (parcel maps and files)
- County Court House (maps and files)
- Utility companies (maps, plans, records)
- Caltrans (right-of-way maps, aerial photos and files)

The Consultant shall also review Sanborn Fire Insurance Maps, aerial photographs and other reports, maps and photographs, as necessary, to determine past and present land uses and to identify known or potential hazardous waste sites on parcels of land for future highway improvement projects. The time frame for this record search shall extend as far back as necessary, or to the limitation of available records, to determine the use and presence of any hazardous wastes/materials on the parcels of land in question.

The Consultant shall review published data from the United States Geological Surveys (USGS), state and other available maps and reports in order to compile a general geologic map and general hydrologic profile of the right-of-way or facility.

As directed, the Consultant shall conduct a field survey for potential hazardous waste sites of all parcels of land within and adjacent to the proposed right-of-way or facility as specified in the Task Order. During this phase, it is not necessary to confirm the actual presence of hazardous waste in soil or groundwater on the site. Coordination and contacts with property owners and/or regulatory agencies shall be pre-approved by the Commission or by the RCA.

All of the work for Phase I ISA or Transaction Screen Reports (TSR) will be performed using American Society for Testing and Materials Standards (ASTM) 1527 or 1528. In circumstances when an ISA will be performed to obtain right of way for a Caltrans project, the work will be completed using the Caltrans Project Development Procedures Manual for Environmental Contamination, Chapter 18.

The Consultant shall be responsible for all Regulatory Agency Coordination through-out all phases of the Project.

General requirements for ISA reports are provided in Attachment I

1.4 Phase II – Site Investigation

If required, site investigations may include, but are not limited to, items such as work plans, health and safety plans, surveys and surface geophysical investigations (if necessary), drilling, sampling, laboratory analysis, and reporting.

All elements of the site investigations must meet all applicable standards set forth by local, state and federal regulatory agencies. There should be no deviation to the required standards. The investigative techniques (i.e., drilling methods, sampling collection and sampling handling procedures, analytical methods and equipment) must be procedurally acceptable to the Commission, the RCA and regulatory agencies.

During soil investigations, the drilling and sampling operations shall be supervised on-site by Professional Engineer (PE), Certified Engineering Geologist (CEG), or Registered Geologist (RG). Personnel with specific registration(s) may be required in a Task Order to conform to regulatory agency requirements.

1.4.1 Work Plans

A technical work plan shall be developed for all site investigations. The work plan shall be sufficiently detailed to fully describe the work to be performed. The Consultant shall submit a draft site-specific work plan to the Commission's or to the RCA's Project Manager for review. The draft shall be revised based on the Commission's or the RCA's comments and returned within seven (7) working days. The Commission or the RCA shall review and approve the plan prior to start of fieldwork.

Appropriate professional personnel shall develop work plans. Interpretation of geology, hydrogeologic, and/or hydrologic information shall be completed under the supervision of a California RG and/or CEG.

All work performed by the Consultant shall be in accordance with the site-specific final work plan as reviewed and approved by the Commission or by the RCA.

1.4.2 Health and Safety Plans

Throughout the performance of field soil investigations, the Consultant, its subcontractors, and their personnel are responsible for their own health and safety planning, monitoring and procedures.

All field soil investigations will require development of an appropriate Health and Safety Plan. The Commission or the RCA shall review and approve the plan prior to the start of work. The Consultant shall submit a draft site specific Health and Safety Plan to the Commission or to the RCA for review. The draft shall be revised based on the Commission's and/or the RCA's comments and returned to the Consultant within seven (7) calendar days. The Health and Safety Plan shall conform to all applicable regulatory requirements including, but not limited to 8CCR 5192 and 8CCR 3202.

The Consultant shall complete all work in accordance with the site Health and Safety Plan. The Consultant shall ensure that all employees, while on the project site, conform to the plan requirements.

1.4.3 Surveys of Buildings, Containers, Etc.

The Consultant may be required to provide survey activities. Survey activities may include the surveying and testing, as applicable, of buildings, structures, stored materials, tank contents and containers to determine whether hazardous waste or materials are present. Typical surveys may include inspection for the following:

- Asbestos containing materials (ACM) in buildings and pipelines
- Poly Chlorinated Biphenyl's (PCB) containing materials in transformers, equipment, containers
- Fuels and other chemicals in tanks, barrels and storage containers
- Review of buildings or structures to determine whether hazardous materials are being used or stored
- The presence of lead paint

Only when requested will a Certified Industrial Hygienist (CIH) be utilized for survey plans and work. Requests for a CIH will be through the Task Order process. When surveys are included in a Task Order, survey activities as well as results shall be included as a report or as part of the Site Investigation Report.

1.4.4 Surface Geophysical Investigations

Consultants shall provide surface geophysical investigative services for the purpose of acquiring data as specified in the Task Order. Surface geophysical work shall be coordinated and interpreted by a geophysicist certified in the state of California.

When geophysical activities are included in a Task Order, in addition to the general soil investigation reporting requirements, geophysical activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.5 Soil Gas Survey

Consultant shall provide subsurface soil gas sampling and analysis services. Gas survey personnel on site shall include a chemist or other experienced professional responsible for equipment operation and calibration.

When soil gas survey activities are included in a Task Order, in addition to the general soil investigation reporting requirements, soil gas survey activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.6 Trenching

Trenching may be required for shallow soil investigation purposes. Excavation may be needed to determine shallow subsurface conditions or to excavate and expose subsurface structures such as foundations, tanks, pipes and/or sumps. Trenching activities shall be observed and supervised by a site engineer, geologist or engineering geologist.

1.4.7 Drilling

Consultant shall provide drilling services that have the capability to drill and sample soft or poorly consolidated material, rock of varying densities, hardness, and degrees of fracturing, engineered fill, asphalt, Portland concrete cement (PCC), and wastes. Consultant shall also provide drilling services that have the capability to properly drill, construct, and develop groundwater monitoring wells.

Monitoring wells may be required to determine if groundwater contamination is present, the extent of the contamination, and the general characterization of the subsurface vadose and hydro geologic conditions. Monitoring wells shall be designed and constructed in accordance with all the appropriate regulations, requirements and to be able to obtain water samples from the appropriate aquifer zones.

The Consultant, prior to drilling and installation of wells, shall obtain all of the necessary well permit(s). The Consultant shall register all monitoring wells with the Department of

Water Resources. Copies of these records shall be included in the Site Investigation Report.

When drilling activities are included in a Task Order, in addition to the general soil investigation reporting requirements, drilling activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.8 Sampling

The objective of sampling is to obtain a representative sample of the subsurface soil, vadose and/or water conditions and levels of contamination at the specific site. Sampling intervals shall be site specific and reviewed and approved by the Commission, or by the RCA and/or regulatory agencies.

When sampling activities are included in a Task Order, in addition to the general soil investigation reporting requirements, sampling activities and results shall be included as a report or as part of the Site Investigation Report.

1.4.9 Laboratory Analysis

Laboratory analyses for each parameter will be performed in accordance with EPA protocols established in the EPA document Test Methods for Evaluating Solid Waste, SW-846, Update III, dated June 1997. Analyses will be performed in accordance with the EPA method procedures unless project requirements necessitate the adoption of alternative methods. Analysis will be performed within the holding times. If an alternative method is used, it will be documented and reported.

Laboratories used to perform chemical analysis shall be certified by the California Department of Health Services (DHS). Asbestos and lead samples shall be submitted to an American Industrial Hygiene Association (AIHA) accredited laboratory.

For specific test methods not as yet certified by DHS, the laboratory can perform laboratory analysis only if presently certified by DHS for comparable test methods, e.g., volatile organics, semivolatile organics, etc. or is a currently certified US EPA Contract laboratory. Expected turnaround time for chemical analysis shall be seven (7) calendar days, unless otherwise requested.

Analysis shall be performed in accordance with the Contract Laboratory program protocol (CLP). The Consultant shall be responsible for sample transport from worksite to the laboratory, to provide clean or new sample containers, labels, appropriate preservation and chain-of-custody records.

1.4.9.1 Quality Assurance/Quality Control

Quality control of laboratory analyses is assessed by performing analytical methods according to protocols and analyzing laboratory QA/QC samples to measure precision and accuracy of laboratory methods and equipment, instrument calibration, and preventive maintenance.

1.4.9.1.1 General

Laboratory QA/QC samples that will be analyzed during the proposed assessment include method blanks, laboratory control samples, MSs, and duplicates. Specific acceptance limits for the samples will be per the respective analytical method and at the discretion of the laboratory QA/QC manager.

1.4.9.1.2 Method Blanks

A method blank is a sample of deionized water or clean sand prepared by and analyzed by the laboratory in the same manner as the samples. It is used to assess potential contamination in the laboratory process (e.g., contaminated reagents or improperly cleaned equipment). The laboratory will analyze one method blank sample per batch or every 20 samples for each analytical method.

1.4.9.1.3 Laboratory Control Samples

A laboratory control sample is a known matrix (e.g., deionized water) that has been spiked with a known concentration of specific target analytes. It is used to demonstrate the precision of the analytical process. A laboratory control sample will be analyzed at a frequency of one per preparation or analytical batch not to exceed 20 samples.

1.4.9.1.4 Matrix Spikes

The MS is an actual sample matrix spiked with known concentrations of specific target analytes. The purpose of an MS is to access the effect of a sample matrix on the recovery of target analytes (i.e., assess the potential for matrix interferences, either high or low). One MS will be analyzed per batch or every 20 samples for each analytical method.

1.4.9.1.5 Laboratory Duplicates

Duplicate samples are used to assess precision in the analytical method. An additional aliquot is extracted from a sample and analyzed using the procedures. Then the results are compared to assess the precision. Duplicates may be of three kinds – laboratory control sample duplicates, MS duplicates, and laboratory sample duplicates. Duplicates should be analyzed per batch or every 20 samples for each analytical sample.

1.4.10 Laboratory Reports

Complete copies of the laboratory reports, including QA/QC summary reports shall be placed in an appendix of the Site Assessment Report. Laboratory reports shall contain, but not limited to, the following information:

- Written explanation of higher detection limits, laboratory contaminants, or other unusual results.
- Name, address, and telephone number of laboratory
- Laboratory number for each sample reported
- Consultant's number for each sample recorded
- Date sample(s) collected
- Date sample(s) received by laboratory
- Date of laboratory testing
- Brief sample description (e.g. soil, water, sludge, etc.)
- Specific test method
- Extraction method utilized
- Test result for each sample and method
- Detection limit for each test method
- Date of test report
- Signature and title of the manager or director of the appropriate laboratory section

1.4.11 Reporting

General requirements for Site Investigation Reports are provided in Attachment II

1.5 Remedial Investigation/Feasibility Studies (RI/FS)

A comprehensive Remedial Investigation/Feasibility Study (RI/FS) will be perform to develop sufficient information to make an informed remedial alternative selection that eliminates, reduces, and/or controls the risks to human health and the environment. All elements of the RI/FS Work Plan shall conform to applicable federal, state and local guidelines, rules, regulations, and criteria negotiated with appropriate regulatory agencies. Appropriate professional personnel shall develop RI/FS Work Plans. Interpretation of geology, hydrogeology, and/or hydrology information shall be conducted under the supervision of a California Registered Geologist or Certified Engineering Geologist.

At the conclusion of the RI/FS, a RI/FS Report shall be prepared to include at a minimum, site characteristics, sources of contaminants, nature and extent of contamination, risk assessment, and review of all potentially feasible remedial actions and associated costs.

A Risk Assessment, included as part of the RI/FS work, may be necessary to determine the risk to human health and the environment from contaminants in the soil and/or groundwater. The Risk Assessment shall describe the environmental fate and transport

of the contaminants and consider all potential contaminant migration pathways in addition to all potential exposure routes to a receptor such as inhalation, ingestion, and dermal absorption.

The Risk Assessment must provide a comparison of the contaminant concentration at a receptor (estimated by the fate and transport element) with appropriate health-based standards. If the contaminant concentration at the receptor exceeds the appropriate health-based standards, then a potential unacceptable excess risk to the receptor exists and a risk management decision must be made (e.g. removal, treatment, stabilization, etc.).

The Risk Assessment must include a professional conclusion that is presented in an objective and technically defensible manner. The Risk Assessment must include a discussion of strengths and weaknesses of the assessment by describing uncertainties, explicitly stating assumptions and limitations, as well as providing scientific basis and rationale for each assumption. Conclusions regarding the potential risk to human health and/or the environment must be based on current federal, state and local guidelines, rules, regulations, and requirements.

General requirements for RI/FS reports are provided in Attachment III.

1.6 Remedial Action Plan and Remedial Action Design

The Remedial Action Plan (RAP) shall compile and summarize site data gathered during the RI/FS, in order to identify, and subsequently design, plan, and implement a final remedial action for the specific site. The RAP shall clearly and concisely describe the selected and rejected alternatives to the extent that the Commission or the RCA is provided an opportunity to comment on the remedial action(s). The RAP must also set forth specific remedial action objectives; rough order of magnitude cost estimates, and timeframes for completion of the remedial action(s).

The Consultant shall submit a draft RAP, potentially including a closure plan, to the appropriate regulatory agencies and the Commission or the RCA for review and approval prior to circulation for public/responsible party input and prior to being adopted as the final document for undertaking remedial action at the specific site.

A Remedial Action Design (RAD) shall be developed to provide technical and operational plans and engineering designs for implementation of the approved final RAP. Based on the selected alternative for remedial action as defined in the RAP, the Consultant shall develop a RAD in accordance with regulatory requirements, which shall include detailed construction designs for the selected remedial alternative. In addition, the work plan shall include sampling protocol for screening and verification sampling, onsite and off-site transportation routes, health and safety requirements for post construction activities. A schedule shall be developed for implementing the construction phase of the remedial action.

1.7 Remediation Oversight

Consultant may provide remediation oversight to monitor and control the adherence to the Remedial Action Design (RAD), and to ensure that the work is completed in a timely and competent manner.

2.0 Other Requirements

2.1 Reports – Progress and Investigative

The Consultant shall submit to the Commission or to the RCA monthly progress reports to report status, difficulties or special problems encountered so that remedies can be developed. Included in the progress report Consultant shall report on costs expended per Task Order and schedule status for current Task Orders.

Unless otherwise stipulated, one (1) electronic copy of the draft workplan, health and safety plan, and site investigation report must be submitted to the Commission's or to the RCA's Project Manager for approval. Work plans and investigation reports must be revised to address all comments, prior to being submitted in final form within the time specified in the Task Order. One (1) electronic copy of the final work plan and health and safety plan and one (1) electronic copy of the final investigation report must be submitted to the Commission's or to the RCA's Project Manager unless another quantity is specified.

2.2 Deliverable Approval and Correction Procedures

All data and documents produced by the Consultant shall be subject to acceptance by regulatory agencies and the Commission or the RCA.

In the event of non-acceptance by regulatory agencies or the Commission or the RCA, the Consultant shall have 14 calendar days to submit the corrections to the Commission or to the RCA.

2.3 Timing

Time is of the essence and time for performance may be a factor in issuance of a Task Order.

2.4 Meeting

The Consultant shall meet with a Commission or a RCA representative at a designated pre-work site visit to view the site and discuss Task Order execution. The Consultant shall provide a person at the pre-work site visit that will exercise responsible charge of the anticipated Task Order.

The Consultant shall meet with the Commission's or the RCA's designee, as needed, to discuss progress on the contract.

2.5 Monitoring and Review Procedures

The Commission or the RCA shall have the right to monitor and review the processes of the Consultant at any time by visiting the Consultant's facility or by requiring meetings.

3.0 MISCELLANEOUS PROVISIONS

3.1 Health and Safety

Consultant shall at all times conduct its operations in such a manner as to avoid any risk of bodily harm to persons or damage to property. Consultant shall promptly take all precautions that are reasonable or necessary to safeguard against such risk and shall make regular safety inspections of its operations. Consultant shall be solely responsible for the discovery, determination and correction of any unsafe conditions arising in connection with the performance of services by Consultant.

In addition, Consultant shall comply with all applicable health and safety laws, standards, codes, rules, regulations, including any safety programs established by the State of California and the U.S. Government as applicable. Consultant warrants the materials, equipment and facilities; whether temporary or permanent, furnished by Consultant in connection with the performance of services shall comply therewith. Consultant shall cooperate and coordinate with the Commission or the RCA and with other consultants on safety matters.

By its action of providing services, Consultant confirms that all of its employees, subcontractors and their employees, engage in field activities related to this agreement have been trained according to the requirements specified in 29 CFR 1910.120 and 8 CCR 5192. In addition, the Consultant shall include this requirement in all subcontracts performed on this project.

At the time any of Consultant's personnel are required to visit any work site, Consultant shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. Consultant's personnel who visit any of the Work Sites on a regular basis shall have a thorough knowledge and understanding of the safety requirements.

Samples suspected of containing asbestos and/or lead shall be collected by personnel certified by the State of California to collect such samples.

The Site Health and Safety Plan shall be developed by an industrial hygienist with sufficient knowledge to recognize and characterize the potential site hazards. During soil investigation activities, a Site Safety Officer (SSO) with be designated and will be responsible for enforcing the site safety plan. Upon the Commission's or the RCA's request, the site Health and Safety Plan will be signed by a Certified Industrial hygienist.

A copy of the Health and Safety Plan shall be distributed to all workers before the field investigation begins. All field investigation workers shall certify that they have read, understand, and agree to comply with the site Health and Safety Plan before the field investigation begins.

The Consultant shall provide safe access to the Work Site for representatives of the applicable local and/or state regulatory agencies during normal field investigations work hours. Designated observation areas outside the work zone shall be established for these site visits. Such inspection tours shall be arranged in advance with the SSO. The SSO shall accompany the representatives while on the site. On Commission owned facilities or RCA owned real property, Consultant shall advise the Project Manager when safety meetings are to be held.

Consultant shall report to the Commission or to the RCA any unsafe conditions observed by its personnel at any Work Site. Any of the consultant's personnel that the Commission or the RCA determines do not have the requisite knowledge shall, at the option of the Commission or the RCA, be removed from the performance of service.

The Consultant shall require the full compliance with this clause by all subcontractors of Consultant.

3.2 Site Safety Officer

The Consultant shall designate a Site Safety Officer (SSO) for each site under active investigation. A SSO or his designated representative shall be present at all times at each site under active investigation. Both persons must be familiar with hazardous waste laws and regulations in California and with Cal/OSHA requirements. The SSO or his designated representative shall be available to accompany the Commission or the RCA and/or representative of the applicable regulatory agencies while they are on site.

The SSO shall direct the implementation and operation of the Health and Safety Plan. The SSO shall enforce compliance with the Health and Safety Plan by all persons while they are within the site perimeter.

3.3 Owner/Regulatory Contacts

The Consultant shall only contact property owners as specifically directed and authorized by the Commission or the RCA. The Consultant shall coordinate with other agencies, such as federal Environmental Protection Agency (EPA), California Environmental Protection Agency (Cal-EPA), Regional Water Quality Control Board (RWQCB), local environmental health agency, and others as necessary to complete fieldwork. The Consultant shall notify and invite the Commission's or the RCA's representative to all regulatory agency meetings related to this investigation.

3.4 Right-of-Entry

The conditions of the right of entry agreement to the property will be explained to the Consultant during the pre-work site meeting. The Consultant shall know and follow the terms and conditions of the right of entry agreement at all times.

3.5 Permits and Licenses

Consultant shall be fully responsible for identifying and obtaining all necessary permits required for performing the services under this agreement. Consultant acknowledges that it has familiarized itself with the existing requirements of the Commission and all applicable federal, state, county and municipal laws, codes, rules, and regulations and the conditions of any required licenses and permits as they were in effect on the date of this Agreement. Consultant shall comply with all the foregoing, and except as otherwise provided herein, Consultant shall procure all licenses and registrations and shall furnish any bonds, security, or deposits required to conduct business without any increase in the Task Order cost or schedule on account of such compliance, regardless of whether such compliance would require additional labor, equipment, or materials not expressly provided for in this Agreement.

3.6 Underground Services Alert (USA)

Before any Task Order involving disturbance of the ground beyond surface sampling begins, the Consultant shall obtain any inquiry identification number from USA.

3.7 Traffic Control

Traffic control (barricades, portable flashing beacons, and detours), when necessary to accomplish the contract work, will be the responsibility of Consultant. The Consultant shall coordinate and obtain all the necessary permits from the local jurisdiction. Traffic control shall be addressed in the Health and Safety Plan.

3.8 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

The Consultant shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this Agreement.

The Consultant shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Consultant. The Consultant shall repair any damage, at its own cost or expense, to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Agreement or failure to exercise reasonable care in performing the work. If the consultant

fails or refuses to repair the damage promptly, the Commission or the RCA may have the necessary work performed and charge the cost to the Consultant.

3.9 Project Diary

A Project Diary must be maintained to support all work performed. The diary must be filled out and signed as to be true and correct. It must identify the person responsible for project management and must include, but not be limited to, additional notations, observations or remarks to further clarify work.

3.10 Decontamination/Disposal

If required, all personnel shall be decontaminated before leaving the site as specified in the Site Health and Safety Plan. Decontamination procedures shall generally follow the guidelines found in 8 CCR 5192 and shall be detailed in the Site Health and Safety Plan.

Consultant shall equip, supply and maintain an on-site decontamination station for the drilling, installation and sampling equipment. Consultant shall ensure that this station has the capacity to contain all decontamination fluids used in the decontamination procedure. Consultant shall collect these fluids in appropriate containers.

Consultant shall wash and clean all equipment prior to initiation of work at the site. This includes drilling machines, pipe rods, samplers, pumps, casings, screens and any other material brought on site. Before reuse of any equipment at another drilling location at the site, all equipment shall be cleaned and decontaminated.

General requirements for decontamination include, but not limited to:

- Auger flights and any other tools used in drilling operations, monitoring and sampling shall be steam cleaned before initial use and between boreholes.
- Before each use, sampling tubes, liners, and bailers shall be washed in a mixture of liquinox, or similar product, and clear water, rinsed in clear water, rinsed in distilled water and air dried.
- All suspect asbestos containing materials and lead paint materials shall be handled wet.

The Consultant shall avoid contamination of the project area and shall not dump waste oil, drilling fluids, rubbish and/or other materials on the ground. All equipment, unused materials, temporary facilities and other miscellaneous items resulting from or used in the operation shall be removed from the site.

Material removed from trenches, drill holes, etc. shall be properly collected in containers or stockpiled on plastic sheeting supplied by the Consultant. The project site must be maintained clean at all times.

3.11 Hazardous Waste Manifest

The Commission or the RCA will sign all Hazardous and Non-Hazardous Waste Manifests for waste removed from the site.

3.12 Regulatory Requirements

Consultant agrees that it will not store any hazardous substances at the job site for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by law, the Owner, the Commission, the RCA, whichever will be more restrictive. Consultant further agrees that it will not permit any accumulation in excess of the small quantity generator exclusion of 40 CFR Part 261 or other applicable law, as amended. Consultant agrees to report to the appropriate governmental agencies all discharges, releases, and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify the Commission or RCA Representative of same.

3.13 Expert Testimony

It shall be recognized that subsequent to the performance of this Agreement the need may arise to provide expert testimony during hearings and/or court proceedings involving site specific activities or other matters, with regard to which personnel provided by the Consultant under this Agreement (including subcontractor personnel) would have gained expertise as a result of the Tasks performed under this Agreement. Therefore the Consultant agrees to make available expert consulting services in support of future proceedings, including litigation support and to enter into any intent agreement as necessary with subcontractors to ensure the availability of subcontractor personnel provided under this Agreement to provide expert consulting services. Agreement to provide such services in the future serves as a notice of intent only.

Should the Consultant or any subcontractors at any tier ever testify in court in any case related to this Agreement, all his/her work will be considered proprietary to the Commission or to the RCA. In such a case, the Consultant and/or subcontractor of any tier shall not release any information to adverse parties.

3.14 Disclosure of Information

The Consultant agrees to notify and obtain the written approval of the Commission or the RCA prior to releasing any information to any third parties including the news media regarding any work under this Agreement except as required by law. The Consultant shall immediately notify the Commission or the RCA of the receipt of a demand by a third party for the disclosure of field test data generated under this Agreement. This requirement shall apply to all subcontractors.

ATTACHMENT I

PHASE I
INITIAL SITE ASSESSMENT REPORT

INITIAL SITE ASSESSMENT REPORT

GENERAL REQUIREMENTS

Contents of the Initial Site Assessment Report should include, but not limited to the following:

1. Title sheet, which identifies the Task Order number, project name, project location, contract number, Consultant name, name of author, and date.

2. Signature page with signature and title of persons who prepared and reviewed the project.

3. Table of Contents.

4. Investigative (Executive) Summary: This section should present and summarize the technical data and findings of the investigation.

5. Investigation narrative, which shall include, but not limited to, the following:

    - Investigation methods and evaluation criteria.
    - Known hazardous substance sites (name, location, contamination onsite, federal or state, impact, schedule for cleanup, etc.).
    - Potential hazardous substance sites in the vicinity of the ISA site (name, location, type of operation, reason to suspect potential are of impact, etc.).
    - Name, address, and telephone number of the business/owner(s) of each site.
    - Type of hazardous substance and/or containers involved at each site (e.g. sludge pits, ponds, underground/above ground storage tanks, piping, etc.) This data shall be written in a clear and concise form, and summarized in a table form.
    - Chemical/hazardous materials that have been stored/used in the past at each site and the known generators (if available) of the materials.
    - Permits, violations, plans, records, and any other information reviewed.
    - Sketches, photographs, and/or descriptive comments as necessary to identify important features such as buildings, ponds, utility lines, etc.
    - Aquifer descriptions, (depths to groundwater, gradient, conductivity, yield, quality, and beneficial users). Public sources such as the Department of Water Resources reports and USGS reports will be sources of this type of information.
    - Geologic units: Geologic and hydrologic information should be scaled to the freeway/rail project. The shallow subsurface conditions (e.g. less than 50 feet below ground surface) will have the greatest impact on construction.
    - Location and use of all known groundwater and monitoring wells in the subject vicinity of the study area.

- All known or potential hazardous substance sites shall be identified with corresponding symbols and physical features such as geologic units, aquifer descriptions, and depth to groundwater on a project right-of-way map included in the ISA Report.
- How project may affect suspect sites (e.g. area of contamination vs. construction excavation).
- A list of sites recommended for site investigations shall be included, along with recommendations for follow-up investigations. These sites shall be ranked by significance using a rationale fully justified in the report and prioritized for scheduling this follow-up work.
- Degree of significance for each hazardous substance problem in terms of time to mitigate and approximate costs.
- Describe future plans, if any, of the EPA, Cal-EPA, RWQCB, or other agencies involved in remediating hazardous substance sites within or adjacent to the proposed right-of-way.
- Identify individuals or agencies contacted in developing the information included in the ISA Report.
- List of contact names, telephone numbers, and dates contacted, and information reviewed.
- Limitations in the adequacy and/or conclusions reached in this assessment shall be explained in detailed.

ATTACHMENT II

PHASE II
SITE INVESTIGATION REPORT

SITE INVESTIGATION REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 ½" by 11' size. Contents of the Site Investigation Report should include, but not limited to the following:

1. Title sheet, which identifies the contract number, Task Order number, project name, project location, Consultant name and date.

2. Signature page to include signature and title of persons who prepared and reviewed the report.

3. Table of Contents.

4. Investigative Summary: This section should present and summarize the technical data and findings of the investigation.

5. Introduction: At a minimum, this section should include:

    - Site Description
    - Surrounding Properties
    - Site History
    - Environmental Setting
        - Regional Geology
        - Site Geology and Hydrogeology
    - Purpose and Scope of Work

6. Site Investigation Procedures: This section should provide a work plan and field work methods used for the investigation and should include, at a minimum:

    - Soil Boring Locations
    - Atmospheric Monitoring
    - Borehole Drilling, Sampling and Backfilling
    - Field Screening
    - Equipment Decontamination
    - Chemical Analyses Program

7. Site Investigation Results: This section should provide an evaluation of soil investigation results and should include, at a minimum:

    - Maps to scale showing the site location, feature locations, boring and well locations, vertical and horizontal extent of contamination, contour maps of contaminant concentrations, and hydraulic gradient.
    - Cross-sections showing subsurface geologic and hydrogeologic conditions, sample results, and estimated extent of contamination. An

estimate of volume of contaminated soil and groundwater present must be given along with assumptions and calculations used.

- Statistical analysis of sample results estimating distribution and average concentration, and statistical analysis that demonstrate trends in contaminant level and distribution.
- Backup data for maps, cross sections, and graphs.
- Summary of laboratory results.

8. Conclusions and Recommendations: This section should include, at a minimum:

   - Nature, extend, and estimated volume of contamination.
   - Recommendations for additional work necessary to characterize the site and potential cost.

9. Appendices: All data used to support the report including, but not limited to:

   - Well and boring logs for both existing and new wells and borings (include all wells that can influence hydrogeologic conditions of the site).
   - Copies of all permits (e.g. drilling permits, well permits, excavation/grading permits, etc.) obtained from state, county and/or local regulatory agencies.
   - Laboratory analysis of each sample tested. Laboratory reports must include Chain-of-Custody forms.
   - Survey elevations and location of wells or borings, benchmark, or monument locations.

10. References

ATTACHMENT III

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 ½" by 11' size. Contents of the Site Investigation Report should include, but not limited to the following:

1. Title sheet, which identifies the Contract number, Task Order number, project name, project location, Consultant name and date.

2. Signature page to include signature and title of persons who prepared and reviewed the report.

3. Table of Contents.

4. Introduction: At a minimum, this section should include, but not limited to:

    - Site Description
    - Surrounding Properties
    - Site History
    - Environmental Setting
        - Regional Geology
        - Site Geology and Hydrogeology
    - Purpose and Scope of Work

5. Study Area Investigation: This section should include, at a minimum:

    - Surface features (topographic mapping, natural and manmade features, etc.)
    - Contaminant source investigation
    - Meteorological investigations
    - Surface water and sediment investigations
    - Soil and vadose zone investigations
    - Groundwater investigations

6. Physical Characteristics of Study Area: This section at a minimum should include field activity results, which then determine physical characteristics including:

    - Surface features
    - Geology
    - Hydrogeology
    - Soils
    - Demography and land use

7. Nature and Extent of Contamination: This section should present results of soil characterization, both natural chemical components and contaminants in media and transport.

8. Fate and Transport should include, at a minimum:

   - Potential routes of migration
   - Contaminant persistence
   - Contaminant migration

9. Risk assessment should include, at a minimum:

   - Human health evaluation
   - Environmental evaluation

10. Identification and screening Technologies: This section should include, at a minimum:

    - Remedial Action Objectives
    - General Response Actions
    - Identification of appropriate and effective technologies for remediation of soil and/or groundwater contamination at the site

11. Development and Screening of Alternatives: This section should include, at a minimum:

    - Assembly of technologies into remedial alternatives capable of addressing all media/volumes/areas of contamination which are of concern
    - Discussion of rationale for combination of technologies/media into alternatives
    - Discuss screening/evaluating of alternatives
    - Screen alternatives on the basis of effectiveness, implementation, and cost
    - Discuss feasibility to implement alternatives given the site conditions, location, and time frame
    - Discussion of effectiveness of the treatment on the material in question
    - Discuss the reliability of the alternatives in terms of demonstrated effectiveness and the operation and maintenance requirements

12. Detailed Analysis of Alternatives: This section should include an analysis of the "No Action" alternative and at least two other remedial alternatives. Each alternate analysis should address: time, operation and maintenance requirements, risks to health and environment, cost-effectiveness, level of cleanup, potential economic impact on the responsible party, the physical limitations of the site, controlling regulations and permits, public health concerns, direct and indirect capital costs, and the impact of the cleanup methods on the

continuing site activities, future construction activities and Commission or RCA use of the property.

13. Summary and Conclusions

- Summary
- Recommendations

14. Recommended Remedial Alternative: Based on the results of the detailed analysis, this section should contain a detailed discussion of the recommended remedial alternative including the basis for this recommendation.

15. References

16. Appendices

EXHIBIT "B"
COMPENSATION AND PAYMENT

[ATTACHED BEHIND THIS PAGE]

EXHIBIT "B"

COMPENSATION SUMMARY[1]

FIRM	PROJECT TASKS/ROLE	COST
Prime Consultant:		
NV5 Environmental, LP	On-Call Environmental Site Assessment Services	$1,000,000.00
	TOTAL COSTS	**$1,000,000.00**

[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 "C"
FEDERAL REQUIREMENTS

[ATTACHED BEHIND THIS PAGE]

FTA FUNDING REQUIREMENTS

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." The term "Consultant" shall have the same meaning as "Contractor" as used in 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. § 5323(l)(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. 633.15 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 C.F.R. 633.5, 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.

d. To permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

e. To require all subconsultants to comply with this provision.

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) <u>Nondiscrimination</u> – The following nondiscrimination requirements apply to the underlying contract:

(a) Consultant shall comply with:

(i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;

(ii) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21, including any amendments thereto.

(iii) Federal transit law, specifically 49 U.S.C. § 5332.

(b) The following is prohibited:

(i) Discrimination based on race, color, religion, national origin, sex (including sexual orientation), disability, or age.

(ii) Exclusion from participating in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332.

(iii) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332.

(iv) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

(b) Consultant shall follow:

(i) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

(ii) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3.

(iii) All other applicable federal guidance that may be issued.

(2) <u>Equal Employment Opportunity</u> - 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, 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. . 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.
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"). The Contract is subject to these stipulated regulations.

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. <u>There is no FTA DBE goal on this Project</u>.

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.

K. In accordance with the U.S. Department of Transportation (DOT) Disadvantaged Business Enterprise DBE Interim Final Rule (IFR) published on October 3, 2025 to amend 49 CFR Part 26:

a. Unless otherwise directed by FTA, and not withstanding any other provision herein, the Commission will not engage in compliance monitoring of DBE participation on the Agreement, and no DBE reporting is required.

b. Any DBE participation on the Agreement will not count towards any overall DBE goals.

c. Any changes to 49 CFR Part 26 as set forth in the IFR, as may be amended in the final rule, are hereby incorporated.

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.

(4) Consultant agrees to include, and require all subconsultants to include, this provision in all subcontracts.

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

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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 leading 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.

12. Buy America

To the extent applicable, the Consultant shall comply with the following:

1. The domestic preference procurement requirements of 49 U.S.C. 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR Part 661, to the extent consistent with 49 U.S.C. 5323(j).

2. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget’s “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

3. Procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), 49 U.S.C. § 5323(u) (limitation on certain rolling stock procurements), and their implementing regulations.

13. Employment Provisions

To the extent applicable to the Services, Consultant shall comply with the following:

A. [For a construction or maintenance project over $2,000] **Davis–Bacon Act, as amended (40 U.S.C. 3141–3148).** When applicable, Contractor shall comply with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor shall pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Contractor shall also comply with the Copeland “Anti–Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides

that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. All suspected violations shall be reported to the FTA.

B. [For contracts in excess of $100,000 that involve the employment of mechanics or laborers] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** When applicable, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

C. [For contracts not involving construction] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3702).** Consultant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5.

D. [For contracts involving commerce] **Fair Labor Standards Act (FLSA) (29 USC 201, et. seq.)**. Consultant will comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the contract involving commerce,

E. 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.

14. 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.

15. 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.

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. §§ 1251-1388).

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. §§ 1251-1388).

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. Solid Wastes

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.

22. Safe Operation of Motor Vehicles

Pursuant to Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party consultant to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

a. The Consultant is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Consultant or RCTC.
b. The Consultant agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.

23. Notification to FTA.

a. If a current or prospective legal matter that may affect the Federal Government emerges, the Consultant must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which this Agreement is being performed. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

b. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

c. *Additional Notice to U.S. DOT Inspector General*. The Consultant must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Commission located, if Consultant has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Consultant. In this paragraph, "promptly" means to refer information without delay and without change.

24. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Contract. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

25. Prohibited Transactions

Consultant certifies that:

a. Consultant does not have any unpaid Federal tax liability assessed, for which all judicial and administrative have been exhausted or have lapsed, and that in a timely manner pursuant to an agreement authority responsible for collecting the tax liability

b. Consultant was not convicted of the felony criminal violation Federal law within the preceding 24 months.

c. If Consultant cannot so certify, RCTC agrees to refer the matter to FTA and not to enter into any contract with Consultant without FTA's written approval

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

26. Trafficking in Persons.

a. Consultant shall comply with section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended; 22 U.S.C. § 7104(g); and the terms of this section.

b. Definitions. Consultant agrees that for purposes of this section:

(i) Employee, for purposes of this section only, means either an individual who is employed by the Consultant or whose services are provided on a volunteer basis for the Consultant, and is participating in the Project or related activities as set forth in the Agreement,

(ii) Forced labor means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(iii) Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102. 23

(iv) Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

(vi) Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

c. Consultant requirements:

(i) Consultant shall inform FTA and RCTC immediately of any information it receives from any source alleging a violation of the prohibitions in this section.

(ii) Consultant agrees that it and its employees that participate in this Agreement, may not:

(1) Engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect,

(2) Procure a commercial sex act during the period of time that this Agreement is in effect, or

(3) Use forced labor in the performance of this Agreement or any subagreements hereunder.

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

27. Covered Unmanned Aircraft Systems

To the extent applicable, the Consultant shall comply with the requirements of the American Security Drone Act, Pub. L. No. 118-31, §§ 1821-32 (2023), including the prohibition on use of Federal funds for procurements and operation of covered unmanned aircraft systems from covered entities. Consultant shall ensure that any unmanned aircraft systems, including drones, purchased and/or used to complete the work under the Agreement are not manufactured or assembled by an American Security Drone Act-covered foreign entity. A list of covered foreign entities is maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM). The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.

CALTRANS/STATE REQUIREMENTS

1. **STATEMENT OF COMPLIANCE.**

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Consultant shall not discriminate against any employee for employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. ADMINISTERING AGENCY will take affirmative action to ensure that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. 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. Consultant shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section. Consultant shall include this provision in all subconsultants for Services to be provided under this Agreement.

2. Consultant and all subconconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, 12900 et seq.), and the applicable regulations promulgated thereunder (Cal. Code Regs., Title 2, 11000, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and all subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. Consultant shall, and shall require that its subconsultants, permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by State, the State Fair Employment and Housing

Commission, or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

4. Remedies for Willful Violation:

(a) State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Consultant was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Consultant has violated the Fair Employment Practices Act.

(b) For willful violation of this Fair Employment Provision, the Commission shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by Commission in securing the goods or services hereunder shall be borne and paid for by Consultant, and Commission may deduct from any moneys due or thereafter may become due to Commission, the difference between the price named in the Agreement and the actual cost to Commission to cure Consultant's breach of this Agreement.

2. **DEBARMENT AND SUSPENSION CERTIFICATION**

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to Commission.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

3. PROMPT PAYMENT

Consultant agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 15 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. Sections 6, Prompt Payment, of Exhibit "D" shall also apply.

4. RELEASE OF RETAINAGE

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to Consultant and its subconsultants.

5. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

6. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

7. INVENTIONS.

Rights to Inventions and Data Made Under a Contract or Agreement — Consultant shall comply with Federal requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Contract, and shall be in compliance with 10 CFR 600.325 and Appendix A—Patent and Data Rights to Subpart D, Part 600.

8. **ENVIRONMENTAL COMPLIANCE**

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

9. **COMPLIANCE WITH ECONOMIC SANCTIONS IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE.**

Consultant shall fully and adequately comply with California Executive Order N-6-22 ("Russian Sanctions Program"). As part of this compliance process, Consultant shall also certify compliance with the Russian Sanctions Program by completing the form located in Exhibit "E" (Russian Sanctions Certification), attached hereto and incorporated herein by reference. Consultant shall also require any subconsultants to comply with the Russian Sanctions Program and certify compliance pursuant to this Section.

FEDERAL DEPARTMENT OF TRANSPORTATION
FHWA AND CALTRANS REQUIREMENTS

1. FHWA Title VI Assurances.

A. Compliance with Regulations: Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

B. Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports: Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts Consultant has made to obtain the information.

E. Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this agreement, the Commission shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: i. withholding of payments to Consultant under the Agreement within a reasonable period of time, not to exceed 90 days; and/or ii. cancellation, termination or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: Consultant shall include the provisions of paragraphs (A) through (F) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

Consultant shall take such action with respect to any sub-agreement or procurement as the Commission or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Consultant becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Consultant may request Commission enter into such litigation to protect the interests of the State, and, in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

2. ADDITIONAL NONDISCRIMINATION REQUIREMENTS

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to: Pertinent Non-Discrimination Authorities:

• Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
• The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
• Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
• Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
• The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
• Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
• The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
• Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
• The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
• Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

• Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
• Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

3. DISCRIMINATION

The Commission shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the implementation of the Caltrans DBE program or the requirements of 49 CFR Part 26. The Commission shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, of sex in the performance of this Agreement. Consultant or subcontractor shall carry out applicable requirements of 49 CFR Part 26 and the Caltrans DBE program in the award and administration of DOT-assisted contracts, as further set forth below. Failure by the Consultant or subcontractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Commission deems appropriate.

4. PROMPT PAYMENT

A. Consultant agrees to pay each subconsultant under this Agreement for satisfactory performance of its contract no later than 15 days from the receipt of each payment the Consultant receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. This clause applies to both DBE and non-DBE subcontractors.

B. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from Consultant to a subconsultant, Consultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the Consultant to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney’s fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

C. The above provisions apply to Consultant’s subconsultants who retain subconsultants.

D. PROMPT PAYMENT CERTIFICATION. The Consultant shall submit Caltrans Exhibit 9-P (available at https://dot.ca.gov/programs/local-assistance/forms/local-assistance-procedures-manual-forms and incorporated herein by reference) to the Commission by the 15th of the month following the month of any payment(s). If the Consultant does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Caltrans Exhibit 9-P. The submitted forms shall be reviewed by the Commission and submitted to Caltrans.

5. RELEASE OF RETAINAGE

No retainage will be held by the Commission from progress payments due to Consultant. Consultant and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the Commission’s prior written approval. Any violation of these provisions shall subject the violating Consultant or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil 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, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

6. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or “whistleblower” actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

7. DBE PARTICIPATION

NOT USED. THERE IS NO DBE GOAL FOR THIS AGREEMENT. THERE ARE NO DBE REPORTING OR MONITORING REQUIREMENTS FOR THIS AGREEMENT.

8. CONTRACT ASSURANCE; REMEDIES

A. Contract Assurance. Under 49 CFR 26.13(b):
Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable

requirements of 49 CFR 26 in the award and administration of federal-aid contracts, as the same were amended by the DOT DBE Interim Final Rule.

B. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the Commission appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying Consultant from future proposing as non-responsible

9. DEBARMENT, SUSPENSION AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

In accordance with 49 CFR Part 29, which by this reference is incorporated herein, Consultant's subconsultants completed and submitted the Certificate of subconsultant Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion as part of the Consultant's proposal. If it is later determined that Consultant's subconsultants knowingly rendered an erroneous Certificate, the Commission may, among other remedies, terminate this Agreement.

10. ENVIRONMENTAL COMPLIANCE

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

C. Energy Policy and Conservation Act (Pub. L. 94—163, 89 Stat. 871.) — Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871), which are incorporated by reference in this Contract. (10 CFR 600.236(i)(13).)

11. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with

an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

12. PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES

Consultant shall not obligate or expend any funds to be reimbursed under this Agreement to:

• Procure or obtain;
• Extend or renew a contract to procure or obtain; or
• Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The prohibited vendors (and their subsidiaries or affiliates) are:
• Huawei Technologies Company;
• ZTE Corporation;
• Hytera Communications Corporation;
• Hangzhou Hikvision Digital Technology Company;
• Dahua Technology Company; and
• Subsidiaries or affiliates of the above-mentioned companies.
and customers is sustained.

13. COVERED UNMANNED AIRCRAFT SYSTEMS

To the extent applicable, the Consultant shall comply with the requirements of the American Security Drone Act, Pub. L. No. 118-31, §§ 1821-32 (2023), including the prohibition on use of Federal funds for procurements and operation of covered unmanned aircraft systems from covered entities. Consultant shall ensure that any unmanned aircraft systems, including drones, purchased and/or used to complete the work under the Agreement are not manufactured or assembled by an American Security Drone Act-covered foreign entity. A list of covered foreign entities is maintained by the Federal Acquisition Security Council (FASC) and published in the System for Award Management (SAM). The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FHWA.

ADDITIONAL FEDERAL REQUIREMENTS

Additional federal requirements including, but not limited to, cost principles, accounting and auditing requirements are included in the model Agreement.

EXHIBIT "D"
CERTIFICATE OF CONSULTANT

[ATTACHED BEHIND THIS PAGE]

CERTIFICATE OF CONSULTANT

I HEREBY CERTIFY that I am the Vice President, EHS and duly authorized representative of the firm of NV5 Environmental, LP whose address is 7338 Sycamore Blvd., Suite 4,, Riverside, CA 92508, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

By: ______________________
Signature

David R. Schack, CAC
Name

Vice President, EHS
Title

March 17, 2026

EXHIBIT “E”
LOBBYING ACTIVITIES DISCLOSURE

[ATTACHED BEHIND THIS PAGE]

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:

☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:

☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:

☐ a. initial
b. material change

For Material Change Only:
year ____ quarter _________
date of last report __________

4. Name and Address of Reporting Entity

☐ Prime ☐ 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)

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)

$ _____________ ☐ actual ☐ planned

13. Form of Payment (check all that apply):

☐ a. cash
☐ b. in-kind; specify: nature _______________
Value _____________

14. Type of Payment (check all that apply)

☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e deferred
☐ f. other, specify _________________________

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** ☐ **No** ☐

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: _______________________________________

Title: ____

Telephone No.: ____________________ Date:___________

Authorized for Local Reproduction

Standard Form - LLL

Federal Use Only:

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies by signing and submitting this proposal/bid to the best of his or her knowledge and belief that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for 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 the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for 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 federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant also agrees by submitting his/her proposal/bid that he/she shall require that the language of this certification be included in all lower-tier subcontracts which exceed $100,000 and that all such sub-recipients shall certify and disclose accordingly.

Signed ______________________

Titled Vice President, EHS

Firm NV5 Environmental, LP

Date March 17, 2026

EXHIBIT “F”
EXECUTIVE ORDER N-6-22 CERTIFICATION

[ATTACHED BEHIND THIS PAGE]

EXECUTIVE ORDER N-6-22 CERTIFICATION

Executive Order N-6-22 issued by Governor Gavin Newsom on March 4, 2022, directs all agencies and departments that are subject to the Governor's authority to (a) terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions against Russia and Russian entities and individuals; and (b) refrain from entering into any new contracts with such individuals or entities while the aforementioned sanctions are in effect.

Executive Order N-6-22 also requires that any contractor that: (1) currently has a contract with the Riverside County Transportation Commission ("Commission") funded through grant funds provided by the State of California; and/or (2) submits a bid or proposal or otherwise proposes to or enter into or renew a contract with the Commission with State of California grant funds, certify that the person is not the target of any economic sanctions against Russia and Russian entities and individuals.

The Consultant hereby certifies, SUBJECT TO PENALTY FOR PERJURY, that a) the Consultant is not a target of any economic sanctions against Russian and Russian entities and individuals as discussed in Executive Order N-6-22 and b) the person signing below is duly authorized to legally bind the Consultant. This certification is made under the laws of the State of California.

Signature: Dave Schack

Printed Name: David R. Schack, CAC

Title: Vice President, EHS

Company Name: NV5 Environmental, LP

Date: March 17, 2026

AGENDA ITEM 9

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

DATE:	July 27, 2026
TO:	Western Riverside County Programs and Projects Committee
FROM:	Lisa Mobley, Administrative Services Director/Clerk of the Board Steve DeBaun, Legal Counsel
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Discontinuation of French Valley Satellite Meeting Location for the Western Riverside County Programs and Projects Committee

STAFF RECOMMENDATION:

This item is for the Committee to recommend the Commission take the following action(s):

1) Discontinue use of the French Valley satellite meeting location option for meetings of the Western Riverside County Programs and Projects Committee.

BACKGROUND INFORMATION:

In September 2024, the Commission implemented satellite meeting locations to provide Commissioners with additional options to participate in certain Commission and committee meetings. The satellite locations were established in French Valley and the Coachella Valley and were intended to support regional access and participation for Commissioners and members of the public.

Western Riverside County Programs and Projects Committee Satellite Location

Since implementation, Commissioners have observed that the French Valley satellite location has not been utilized for meetings of the Western Riverside County Programs and Projects Committee. Based on that observation, Commissioners requested that staff bring forward an item for consideration to discontinue the French Valley satellite location option for this committee.

Discontinuing the French Valley satellite location option for this committee would streamline meeting logistics while maintaining the regular noticed meeting location and existing public participation procedures. The proposed action would apply only to the Western Riverside County Programs and Projects Committee and would not affect any other committee unless separately considered by the Commission.

If approved, staff will remove the French Valley satellite location from future agendas for the Western Riverside County Programs and Projects Committee and make any related noticing or logistical adjustments necessary for subsequent meetings.