



MEETING AGENDA

Budget and Implementation Committee

Time: 9:30 a.m.

Date: March 28, 2022

Location: This meeting is being conducted virtually in accordance with AB 361 due to state or local officials recommending measures to promote social distancing.

COMMITTEE MEMBERS

Raymond Gregory, **Chair** / Mark Carnevale, City of Cathedral City

Jeremy Smith, **Vice Chair** / Larry Greene, City of Canyon Lake

Mary Hamlin / Alberto Sanchez, City of Banning

Lloyd White / David Fenn, City of Beaumont

Linda Molina / Wendy Hewitt, City of Calimesa

Steven Hernandez / Denise Delgado, City of Coachella

Scott Matas / Russell Betts, City of Desert Hot Springs

Bob Magee / Natasha Johnson, City of Lake Elsinore

Lisa DeForest / Cindy Warren, City of Murrieta

Jan Harnik / Kathleen Kelly, City of Palm Desert

Lisa Middleton / Dennis Woods, City of Palm Springs

Chuck Conder / Patricia Lock Dawson, City of Riverside

Michael Heath / Alonso Ledezma, City of San Jacinto

Ben J. Benoit / Joseph Morabito, City of Wildomar

Chuck Washington, County of Riverside, District III

STAFF

Anne Mayer, Executive Director

John Standiford, Deputy Executive Director

AREAS OF RESPONSIBILITY

Annual Budget Development and Oversight

Competitive Federal and State Grant Programs

Countywide Communications and Outreach Programs

Countywide Strategic Plan

Legislation

Public Communications and Outreach Programs

Short Range Transit Plans

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
BUDGET AND IMPLEMENTATION COMMITTEE**

www.rctc.org

AGENDA*

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

9:30 a.m.

Monday, March 28, 2022

This meeting is being conducted virtually in accordance with AB 361 due to state or local officials recommending measures to promote social distancing.

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Join Zoom Meeting

<https://rctc.zoom.us/j/83668183168>

Meeting ID: 836 6818 3168

One tap mobile

+16699006833,,83668183168# US (San Jose)

Dial by your location

+1 669 900 6833 US (San Jose)

For members of the public wishing to submit comment in connection with the Budget and Implementation Committee Meeting please email written comments to the Clerk of the Board at lmobley@rctc.org and your comments will be made part of the official record of the proceedings as long as the comment is received before the end of the meeting's public comment period. Members of the public may also make public comments through their telephone or Zoom connection when recognized by the Chair.

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

In compliance with the Americans with Disabilities Act, Government Code Section 54954.2, Executive Order N-29-20, and the Federal Transit Administration Title VI, please contact the Clerk of the Board at (951) 787-7141 if special assistance is needed to participate in a Committee meeting, including accessibility and translation services. Assistance is provided free of charge. Notification of at least 48 hours prior to the meeting time will assist staff in assuring reasonable arrangements can be made to provide assistance at the meeting.

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

- 4. PUBLIC COMMENTS** – *Under the Brown Act, the 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. Each individual speaker is limited to speak three (3) continuous minutes or less.*

- 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 – FEBRUARY 28, 2022

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6B. QUARTERLY REPORTING OF CONTRACT CHANGE ORDERS FOR CONSTRUCTION CONTRACTS

Page 7

Overview

This item is for the Committee to:

- 1) Receive and file the Quarterly Report of Contract Change Orders for Construction Contracts for the three months ended December 30, 2021; and
- 2) Forward to the Commission for final action.

7. AWARD OF BUDGET DATABASE SOFTWARE AND IMPLEMENTATION SERVICES TO QUESTICA LTD.

Page 9

Overview

This item is for the Committee to:

- 1) Award Agreement No. 21-19-069-00 to Questica Ltd. For the implementation, integration, and report development of the budget database software package, including annual cloud-based services or Software as a Service (SaaS) to replace the Commission's current budget tools for a five-year term, and in the amount of \$1,333,358, plus a contingency amount of \$133,336, for a total amount not to exceed \$1,466,694;

- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement, including option years, on behalf of the Commission;
- 3) Authorize the Executive Director, or designee, to approve contingency work pursuant to the agreement terms up to the total amount; and
- 4) Forward to the Commission for final action.

8. STATE AND FEDERAL LEGISLATIVE UPDATE

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Overview

This item is for the Committee to:

- 1) Receive and file an update on state and federal legislation; and
- 2) Forward to the Commission for final action.

9. AGREEMENT FOR RIVERSIDE COUNTY ZERO-EMISSION BUS ROLLOUT AND IMPLEMENTATION PLANS

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Overview

This item is for the Committee to:

- 1) Award Agreement No. 22-62-008-00 to Center for Transportation and the Environment (CTE) to develop the Riverside County Zero-Emission Bus Rollout and Implementation Plans, for a two-year term in the amount of \$412,676, plus a contingency amount of \$41,267, for a total amount not to exceed \$453,943;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement including the option term, 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
- 3) Forward to the Commission for final action.

10. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

11. EXECUTIVE DIRECTOR REPORT

12. COMMISSIONER COMMENTS

Overview

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

13. ADJOURNMENT

The next Budget and Implementation Committee meeting is scheduled to be held at **9:30 a.m., April 25, 2022.**

AGENDA ITEM 6A

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

BUDGET AND IMPLEMENTATION COMMITTEE

Monday, February 28, 2022

MINUTES

1. CALL TO ORDER

The meeting of the Budget and Implementation Committee was called to order by Chair Raymond Gregory at 9:30 a.m. via Zoom Meeting ID 830 1187 1262. This meeting was conducted virtually in accordance with AB 361 due to state or local officials recommending measures to promote social distancing.

2. ROLL CALL

Members/Alternates Present

Ben J. Benoit
Chuck Conder
Raymond Gregory
Jan Harnik
Bob Magee
Scott Matas
Lisa Middleton
Linda Molina
Jeremy Smith
Chuck Washington
Lloyd White

Members Absent

Lisa DeForest
Mary Hamlin
Steven Hernandez
Michael Heath

3. PLEDGE OF ALLEGIANCE

Commissioner Ben Benoit led the Budget and Implementation 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 (Molina/Matas) to approve the following Consent Calendar item(s):

6A. APPROVAL OF MINUTES – JANUARY 24, 2022

6B. QUARTERLY SALES TAX ANALYSIS

- 1) Receive and file the sales tax analysis for the Quarter 3, 2021 (3Q 2021); and
- 2) Forward to the Commission for final action.

6C. QUARTERLY FINANCIAL STATEMENTS

- 1) Receive and file the Quarterly Financial Statements for the six months ended December 31, 2021; and
- 2) Forward to the Commission for final action.

6D. QUARTERLY INVESTMENT REPORT

- 1) Receive and file the Quarterly Investment Report for the quarter ended December 31, 2021; and
- 2) Forward to the Commission for final action.

7. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, OCTOBER-DECEMBER 2021

Ariel Alcon Tapia, Senior Management Analyst, presented the Quarterly Public Engagement Metrics report for October – December 2021, highlighting the following:

- Data driven approach
 - ✓ Adjust strategies, goals
 - ✓ Analyze strengths, weaknesses
 - ✓ Experience with new features and platforms
 - ✓ Boost transparency
 - ✓ Compare data over time
- Six Sets of Data
 - ✓ Overall public engagement activities
 - ✓ 60 Truck Lanes Project
 - ✓ I-15 Railroad Canyon Interchange Project
 - ✓ I-215 Placentia Avenue Interchange Project
 - ✓ 91 Corridor Operations Project
 - ✓ 15/91 Express Lanes Connector Project

- Updates on:
 - ✓ Overall public engagement; social media; the website, the Point E-Newsletter
 - ✓ Route 60 Truck Lanes Project - Social media followers, website visits, e-mails and texts
 - ✓ I-15 Railroad Canyon Interchange Project - Social media followers, website visits, e-mails and texts
 - ✓ I-215 Placentia Avenue Interchange Project - Social media followers, website visits, e-mails and texts
 - ✓ 91 Corridor Operations Project - Social media followers, website visits, e-mails and texts
 - ✓ 15/91 Express Lanes Connector Project - Social media followers, website visits, e-mails and texts

Commissioner Jan Harnik expressed appreciation about how helpful all those posts have been as they post them on the *Engage Palm Desert*, and it has really been an asset to the community.

M/S/C to:

- 1) **Receive and file Quarterly Public Engagement Metrics Report for October-December 2021; and**
- 2) **Forward to the Commission for final action.**

8. PROPOSED POLICY GOALS AND OBJECTIVES FOR FISCAL YEAR 2022/23 BUDGET

Sergio Vidal, Chief Financial Officer, presented the Commission's Policy Goals and related Fiscal Policies, highlighting the following:

- Budget Development
 - ✓ Commission goals and policies
 - ✓ Department goals and objectives
 - ✓ Budget development and adoption
- Commission Goals and Objectives
 - ✓ Quality of Life
 - ✓ Operational Excellence
 - ✓ Connecting the Economy
 - ✓ Responsible Partner
- Short-Term Objectives
 - ✓ Capital Project Development and Delivery
 - ✓ Operations
 - ✓ Regional Programs
 - ✓ Management Services
- Guiding Fiscal Policies

- ✓ Financial planning
- ✓ Revenues
- ✓ Expenditures/expenses
- ✓ Debt management
- ✓ Cash management
- ✓ Accounting and reporting
- Next steps

Chair Gregory stated in looking at the Commission's goals, objectives, and the fiscal policies they seem very similar to what they have had in the past, which should be expected since they are following a proven path. He then asked if there are changes to this from last year as to their goals, objectives, and the fiscal policies.

Sergio Vidal replied there were no dramatic changes within the policies and objectives, but there was an inclusion of increased emphasis on mobility throughout the County. He stated there were some administrative changes but mainly that was the big push this year and as Chair Gregory mentioned the Commission's policies are proven and they are being continued forward to the upcoming fiscal year budget.

Commissioner Chuck Washington stated this was a very good report and he made the motion.

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

- 1) Review and approve the proposed Commission Policy Goals and Objectives for the Fiscal Year (FY) 2022/23 Budget;**
- 2) Review and approve the Fiscal Accountability Policies for the FY 2022/23 Budget; and**
- 3) Forward to the Commission for final action.**

9. STATE AND FEDERAL LEGISLATIVE UPDATE

David Knudsen, Interim External Affairs Director, presented an update for the state and federal legislative activities.

Chair Gregory expressed appreciation for the report especially the discussion on the bill regarding tolling and stated hopefully the efforts will be successful to at least point out the difference between the different types of tolling.

Commissioner Washington explained in 2003 he had run for city council in Temecula to replace a gentleman who was trying to solve a traffic problem by insisting that all developers for new development not build homes with garages that accommodated no more than two vehicles on the thinking that it would reduce the number of cars. Also, he wanted to restrict drivers to a minimum age of 18 instead of 16 years old, which the city

does not have the regulatory jurisdiction to do that and adding a tax of \$300 per vehicle that was sold in Temecula, which would drive purchasers away from Temecula. Commissioner Washington expressed AB 1778 seems to be similarly misguided and suggested it is a good position for the Commissioners to take an opposition. He then made the motion.

M/S/C (Washington/Middleton) to:

- 1) Receive and file an update on state and federal legislation;**
- 2) Adopt the following bill position:**
 - a) AB 1778 (Cristina Garcia)—Oppose; and**
- 3) Forward to the Commission for final action.**

10. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

There were no items pulled from the consent calendar.

11. EXECUTIVE DIRECTOR REPORT

Anne Mayer announced:

11A. Regarding the Commission's adopted 2022 State and Federal Legislative Platform, this Committee is going to be hearing a lot each month related to legislation that is being brought forward. What staff has seen and has heard so far will likely mean they will have to be really engaged this year and as it was mentioned, this legislative process can sometimes start moving really quickly and they will do everything they can to make sure updates are brought back in a timely fashion to this committee and followed by the Commission. If they run out of time due to an immediate action, staff will follow the Commission's adopted 2022 State and Federal Legislative Platform. If anything out of the ordinary occurs and staff needs quick action or input they do consult with the Commission's Officers.

11B. There will be a decision made by March 2 whether the March 9 Commission meeting will be held as a hybrid or in-person. Staff will reach out to the Coachella Valley to possibly have an alternative location that could be posted on the agenda should it be an in-person meeting.

12. COMMISSIONER COMMENTS

There were no comments from the Commissioners.

13. ADJOURNMENT

There being no further business for consideration by the Budget and Implementation Committee, the meeting was adjourned at 10:07 a.m.

Respectfully submitted,

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

Lisa Mobley
Administrative Services
Manager/Clerk of the Board

AGENDA ITEM 6B

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	March 28, 2022
TO:	Budget and Implementation Committee
FROM:	Bryce Johnston, Construction Manager
THROUGH:	Marlin Feenstra, Project Delivery Director
SUBJECT:	Quarterly Reporting of Contract Change Orders for Construction Contracts

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file the Quarterly Report of Contract Change Orders for Construction Contracts for the three months ended December 30, 2021; and
- 2) Forward to the Commission for final action.

BACKGROUND INFORMATION:

During the past quarter, October through December 2021, the Commission has had the following projects under construction:

1. Mid County Parkway (MCP) Placentia project
2. I-15 Railroad Canyon Interchange project
3. SR-91 Pachappa Underpass project
4. SR-60 Truck Lanes project
5. Downtown Riverside Station Layover Facility project
6. I-15 Express Lanes project
7. SR-91 Corridor Operations project (91 COP)
8. 15/91 Express Lanes Connector

DISCUSSION:

At the direction of the Executive Committee at its March 2021 meeting, a report will be filed each quarter listing the construction contract change orders that were issued in the previous quarter. The following table summarizes the Contract Change Orders that occurred in the last quarter (2nd quarter of FY 2021/22).

Contractor Change Orders executed in the 4th Quarter of CY 2021			
Project	CCO No.	Description	Amount
MCP Placentia Project	CCO 11	Import borrow material	\$545,624.00
I-15 Railroad Canyon Interchange Project	CCO 23-S1	Grind and pave Diamond Drive	136,832.75
	CCO 30-S1	Arco planter supplemental	6,223.00
	CCO 35	Abutment Alignment Adjustment	11,407.62
	CCO 36	Type B joint seal replacement	75,918.00
	CCO 39	Treated Wood Waste	10,000.00
	CCO 40	Gravel Mulch Spec Change (Type 2)	0.00
	CCO 41	EVMWD Hot Taps/ Potholing	10,000.00
	CCO 41-S1	EVMWD Hot Taps	200,000.00
	CCO 42	Shotcrete Mix Design	0.00
	CCO 44	Rock Blanket revised unit price	97,519.87
	CCO 45	Electrical Pole Adjustments City Location 2	36,926.76
	CCO 46	Stage 3 and 4 combined (RFI 146)	55,464.69
	CCO 48	Temporary falsework lighting	(1,250.00)
	CCO 49	Grape St. signal interconnect	\$17,000.00
	CCO 51	City Location 2 foundation removal	7,000.00
	CCO 52	Caltrans Location 1 left turn	80,000.00
	CCO 53	Caltrans signal pole reflectors	10,000.00
	CCO 54	In N Out Hand Rail	7,145.00
	CCO 55	Increased width HMA	29,404.00
	CCO 57	Soil Amendment - sulfur	(3,877.19)
	CCO 60	Backflow preventer: EVMWD spec vs Caltrans spec	8,385.00
	CCO 61	Repair of chain link fence	5,207.40
	CCO 67	Rapid Set Concrete	(14,105.00)
SR-91 Pachappa Underpass Project	CCO 24	Erosion Control Item Changes	\$0.00
SR-60 Truck Lanes Project	CCO 8-S3	In line crash cushions additional funds	\$90,000.00
	CCO 63	Retaining Wall 618 Treated Permeable Base Limits	395,764.52
	CCO 67	Fence topper	82,600.00
	CCO 68	SCE access gates (7ea.)	61,670.28
	CCO 70	Retaining Wall 618 Treated Permeable Base Limits, added drains	23,189.26
	CCO 71	Plant substitution	0.00
Downtown Riverside Station Layover	CCO 18	RailWorks Settlement	\$45,443.36
I-15 Express Lanes Project	CCO 12.1	Partnering Provisional Sum (replaces CCO 12)	(\$60,824.00)
	CCO 14.1	Disputes Review Board Provisional Sum (replaces CCO 14)	(40,701.00)
	CCO 13.1	Extra Maintenance Provisional Sum (replaces CCO 13)	(83,583.00)
	CCO 106	Partial Termination of ELC Work Associated with Amendment 2	(453,933.00)
	CCO 108	Reimbursement for SCE Services after April 10, 2021	17,443.00
91 C.O.P	CCO 15	Crash cushion modification	\$34,964.92
	CCO 7-S1	Differing Site Conditions	50,000.00
15/91 Express Lanes Connector	CCO 12-S1	Supplement 1 - Provisional Sum for Design Work - EB 2.0 (Superseded by CCO 12.2)	\$450,000.00

FISCAL IMPACT:

The Contract Change Orders were executed using available contingency authorized with the construction contract for each project.

AGENDA ITEM 7

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	March 28, 2022
TO:	Budget and Implementation Committee
FROM:	Michele Cisneros, Deputy Director of Finance
THROUGH:	Sergio Vidal, Chief Financial Officer
SUBJECT:	Award of Budget Database Software and Implementation Services to Questica Ltd.

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Award Agreement No. 21-19-069-00 to Questica Ltd. for the implementation, integration, and report development of the budget database software package, including annual cloud-based services or Software as a Service (SaaS) to replace the Commission's current budget tools for a five-year term, and in the amount of \$1,333,358, plus a contingency amount of \$133,336, for a total amount not to exceed \$1,466,694;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement, including option years, on behalf of the Commission;
- 3) Authorize the Executive Director, or designee, to approve contingency work pursuant to the agreement terms up to the total amount; and
- 4) Forward to the Commission for final action.

BACKGROUND INFORMATION:

In May 2021, staff in collaboration with its Enterprise Resource Planning software implementation project consultant, SDI Presence LLC, issued a Request for Proposal (RFP) for the replacement of the Commission's current budget tools that consists of Microsoft Word and Excel. The development of the Commission's annual budget requires extensive manual process involvement and is resource intensive for all Commission staff. Microsoft Word and Excel is not an ideal tool to develop, analyze, and produce the Commission's annual budget. Staff desires to advance beyond its current budget tools to gain efficiencies and update the existing processes through a best of breed budget database software, focusing on improving the timeliness, efficiency, and consistency of information, while improving internal operations by reducing the amount of staff resources dedicated to budget creation. Staff requires the professional services of a qualified consultant to implement and integrate a cloud-based or SaaS budget database software and report developer.

PROCUREMENT PROCESS:

Staff commenced a competitive procurement for a budget database software that included the following features:

- Consolidates information, links, processes, and functions, and eliminates separate departmental tools/spreadsheets in favor of a single system that connects Commission's financial and non-financial applications;
- Eliminates the need for redundant data entry;
- Eliminates the need for manual input when preparing the annual budget;
- Provides a user friendly and intuitive user interface to promote system use and productivity;
- Provides embedded processes designed to seamlessly integrate different aspects of the budget functions together;
- Streamlines business processes to take advantage of best practices through automation, integration, and workflows;
- Provides interface capabilities with third-party systems;
- Improves and provides necessary reports and access to data through inquiry or drill down capabilities, including a user-friendly self-service ad-hoc reporting tool;
- Cloud-based service or SaaS software licensing and delivery in which the software is licensed on a subscription basis and centrally accessibly anywhere; and
- Matches the required document file formats for the Commission's printer

Staff determined the weighted factor method of source selection to be the most appropriate for this procurement as it allows the Commission to identify the most advantageous proposal with price and other factors considered. Non-price factors include elements such as qualifications of the firm and personnel, proposed solution, implementation approach and work plan, and ongoing maintenance and support for a budget database software and implementation as set forth under the terms of RFP No. 21-19-069-00.

RFP No. 21-19-069-00 for budget database software and implementation was released by staff on May 10, 2021. The RFP was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Utilizing PlanetBids, emails were sent to 236 firms, 23 of which are located in Riverside County. Through the PlanetBids site, 36 firms downloaded the RFP, 1 of which is located in Riverside County. Staff responded to all questions submitted by potential proposers prior to the May 24, 2021 clarification deadline date. Seven firms – Questica Ltd. (Pasadena); GNC Consulting, Inc. (Frankfort, IL); Deloitte Consulting, LLP (Costa Mesa); Clarity Partners (Chicago, IL); truED Consulting (Broomfield, CO); InVizion, LLC (Bala Cynwyd, PA); and Nuebrain, LLC (Boston, MA) submitted responsive proposals prior to the 5:00 p.m. submittal deadline on May 28, 2021. Utilizing the evaluation criteria set forth in the RFP, all firms were evaluated and scored by an evaluation committee comprised of Commission staff.

Based on the evaluation committee's assessment of the written proposals and pursuant to the terms of the RFP, the evaluation committee shortlisted and invited three firms to the interview

phase of the evaluation and selection process. Interviews of the shortlisted firms – Questica Ltd.; GNC Consulting; and Deloitte Consulting, LLP were conducted on October 11, 2021.

As a result of the completion of the evaluation process, the evaluation committee recommends contract award to Questica Ltd. to implement, integrate, and develop reporting of the budget database software package for a five-year term, with three one-year options to extend the agreement for annual cloud-based services or SaaS, as this firm earned the highest total evaluation score. Questica Ltd. specializes in budget solutions and serves public sector and non-profit organizations across the U.S. and Canada, including the city of Riverside. A summary of the proposed costs submitted with the written proposal and the total score rankings following the final evaluation are summarized below:

Firm	Price	Overall Ranking
Questica, Ltd.	\$1,166,358	1
GNC Consulting	\$902,435	2
Deloitte Consulting, LLP	\$1,502,506	3

Subsequently, staff negotiated the scope, including an alternative robust report writing module and on-site training with Questica Ltd. for the budget database software and implementation and established a fair and reasonable price. Negotiations with Questica Ltd. yielded an increase of \$167,000 from the firm's original proposed price. The agreement is in final review with the Commission's legal counsel.

RECOMMENDATION:

Staff recommends the award of an agreement for the budget database software package and implementation for a five-year term in the amount of \$1,333,358, plus a contingency amount of \$133,336, for a total amount not to exceed \$1,466,694. Oversight of the budget database software and implementation will be managed by SDI Presence LLC in concurrence with Commission staff. Staff recommends the Commission authorize the Executive Director, pursuant to legal counsel's final review, to execute the agreement on behalf of the Commission and the Executive Director or designee to approve contingency work up to the authorized amount, and the three one-year options for annual cloud-based services or SaaS.

	One-time Implementation ¹	Cloud-based services or SaaS ²					Total
		Year 1	Year 2	Year 3	Year 4	Year 5	
Questica Ltd. budget database software implementation and report writing module	\$455,000	\$172,535	\$172,535	\$172,535	\$177,711	\$183,042	\$1,333,358
Contingency							133,336
Total							\$1,466,694


¹One-time implementation includes: configuration, implementation, project management, training, and report writer developer.

²Cloud-based services or SaaS includes 3% inflationary increase in years 4 and 5.

FISCAL IMPACT:

Staff included sufficient budget authority in the FY 2021/22 budget and does not require a budget adjustment to cover the one-time cost of implementation and the cloud-based services or SaaS for three months of the remaining fiscal year. No federal funds will be used to fund the costs of the new budget database software package and implementation.

Since a cloud-based service or SaaS solution is recommended, it will not be necessary to obtain new servers. If new equipment is needed, the equipment will be procured separately. Additional costs may be necessary for additional consultant support to help staff manage the implementation of the new budget database software and implementation. If additional consultant support is needed, staff will return to the Commission for approval. Staff intends to have the new budget database software package fully implemented by January 31, 2023.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23 +	Amount:	\$400,000 \$1,066,694
Source of Funds:	Measure A, Local Transportation Fund, and Other			Budget Adjustment:	No N/A
GL/Project Accounting No.:	001001 90101 00000 0000 101 19 90101				
Fiscal Procedures Approved:				Date:	03/17/2022

Attachment: Draft Agreement No. 21-19-069-00 with Questica Ltd.



QUESTICA SOFTWARE SUBSCRIPTION AGREEMENT

This **SOFTWARE SUBSCRIPTION AGREEMENT** (the “**Agreement**”) is made () (the “**Effective Date**”) by and between QUESTICA LTD., a corporation incorporated under the laws of the State of Delaware (“**Questica**”) and **Riverside County Transportation Commission**, including, without limitation, all its departments within its legal scope and jurisdiction (collectively, the “**Subscriber**” or “**Customer**”).

1. DEFINITIONS

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses, and other harmful or malicious code, files, scripts, agents or programs.

“**Order Form**” means the documents for placing orders hereunder, including addenda thereto, that are entered into between You and Us from time to time, including addenda and supplements thereto.

“**Services**” means the products and services that are ordered by You or Your Affiliates under an Order Form and made available by Us online.

“**User Guide**” means the on-line users guide for the Services, made available on-line.

“**Users**” means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been ordered, and who have been supplied user identifications and passwords by You, (or by Us at your request). Users may include but are not limited to Your employees, consultants, contractors and agents, and third parties with which You transact business.

“**We**,” “**Us**,” “**Our**,” “**Questica Inc.**,” “**Questica LTD.**” or “**Questica**” means the company or entity providing the Services in the Agreement

“**You**,” “**Your**,” “**Subscriber**,” “**Customer**” means the company or other legal entity for which you are accepting the Agreement and Affiliates of that company or entity.

“**Your Data**” means all electronic data or information submitted by You to the Services, including but not limited to any data, content (including user content), information and files.

2. PROVISION OF SERVICES

2.1 Terms of Service. Terms, provisions, or conditions on any purchase order, acknowledgement, or other business form or writing that Customer may use in connection with the provision of Services (or software) by Questica will have no effect on the rights, duties, or obligations of the parties hereunder, regardless of any failure of Questica to object to such terms, provisions, or conditions.

2.2 Provision of Services. We shall make the Services available to You pursuant to this Agreement and the relevant Order Forms during a subscription term. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms shall be deemed incorporated herein by reference. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

2.3 User Subscriptions. Unless otherwise specified in the applicable Order Form, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the applicable subscription term at the same price as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added and (iii) the added User subscriptions shall terminate on the same

day as the pre-existing subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one user but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

2.4 Hosting, Product Maintenance and Support. For the first year of this Agreement, upon paying the Subscription Fee and for each year thereafter, provided that Subscriber continues to pay the Subscription Fees in accordance with the fees set out in Appendix A, Questica shall provide Hosting, Maintenance and Technical Support Services for the software as outlined in Appendix B, if the Subscriber is not otherwise in breach of the provisions of this Agreement.

2.5 Implementation Services. Questica shall provide the professional service as defined in the Scope of Work ("SOW"), Appendix C, in a professional manner, consistent with industry standards. Unless otherwise agreed upon by both parties, or as the result of a delay on the part of Questica, the obligation to provide professional services to the Subscriber expires the earlier of:

- 1) completion of the services described in the SOW
- 2) 12 months from the effective date of the relevant Order Form.

2.6 Acceptance of Custom Work. Within fifteen (15) business days from the delivery of each individual Custom Work (or such longer period as mutually agreed upon in unusual circumstances), the Customer/Subscriber shall, in its sole discretion, review the Product Customization and notify Questica whether it finds the Customizations satisfactory or unsatisfactory. If it is determined that the Customizations are unsatisfactory, then it shall state in writing the reasons for its determination, including identifying any nonconformance with the Subscriber's specifications or expectations. Questica will promptly correct the deficiencies and reinstall the Customizations, and the approval procedure shall be reapplied until Subscriber finally declares the Customizations satisfactory. In the absence of a written response within 15 Business Days after the delivery of the Customizations (or such longer period as mutually agreed upon in unusual circumstances) or once the Subscriber has declared the Customizations satisfactory, the Customizations shall be considered 'Accepted'. You may still report defects or failure of the Customizations to comply with the standard of care as set forth in this Agreement.

3. USE OF THE SERVICES

3.1 Our Responsibilities. We shall: (i) provide Our basic support for the Services to You at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 24 hours' notice via the Services and which We shall schedule to the extent practicable during the weekend hours from 9:00 pm Friday to 6:00 am Monday Eastern Time), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), Internet services provider failure or delays, or denial of service attacks, and (iii) provide the Services only in accordance with applicable laws and government regulations.

3.2 Our Protection of Your Data. We shall maintain reasonable administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 6.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services and prevent or address service or technical problems, or at Your request in connection with customer support matters.

3.3 Your Responsibilities. You shall (i) be responsible for Users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Service or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

4. FEES AND PAYMENTS FOR SERVICES

4.1 Fees. You shall pay all fees specified in all Order Forms as set out in Appendix A. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions

purchased cannot be decreased during the relevant subscription term stated on the Order Form. User subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged for the full monthly period and the monthly periods remaining in the subscription term.

- 4.2 Invoicing and Payment.** You will provide Us with a valid purchase order or alternative document reasonably acceptable to Us. We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.
- 4.3 [Reserved.]**
- 4.4 Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our services is 60 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full. We will give You at least 7 days prior notice that Your account is overdue, in accordance with Section 11.1 (Manner of Giving Notice), before suspending services to You.
- 4.5 Payments and Disputes.** We shall not exercise Our rights under Section 4.3 (Overdue Charges) or 4.4 (Suspension of Service and Acceleration) if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.
- 4.6 Taxes.** Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal, or foreign jurisdiction (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against it based on Our income, property and employees.
- 4.7 Travel Costs.** Unless noted otherwise, this quotation does not include any travel, lodging, or on-site expenses. If such travel is required and subsequently authorized, Questica's standard travel and per diem rates shall apply. Air Travel, Rental Car (with associated fuel and parking costs), and Lodging costs shall be reimbursed at cost. Questica is not responsible for unpredictable (including Commercial Airline Travel) delays which may increase travel cost.
- 5. PROPRIETARY RIGHTS**
- 5.1 Reservation of Rights in Services.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- 5.2 Restrictions.** You shall not (i) permit any third-party to access the Services except as permitted herein or in an Order Form (ii) create derivative works based on the Services except as contained herein, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.
- 5.3 Your Applications and Code.** If You, a third party acting on Your behalf, or a User creates applications or program code using the Services, You authorize Us to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Us to provide the Services in accordance with this Agreement. Subject to the above, We acquire no right, title or interest from You or Your licensors under this Agreement in or to such applications or program code, including any intellectual property rights therein.
- 5.4 Your Data.** Subject to the limited rights granted to You hereunder, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data, including any intellectual property rights therein.
- 5.5 Suggestions.** We shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services. We may additionally develop, modify, improve, support, and operate Our Services based on Your use, as applicable, of any Services.

6. CONFIDENTIALITY

- 6.1 Definition of Confidential Information.** As used herein, “**Confidential Information**” means all confidential information disclosed by a party (“**Disclosing Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. In no case shall You be liable for any inadvertent disclosure of any Confidential Information or any disclosure made by You upon a good faith belief that disclosure is required by law, including the California Public Records Act, and We waive any claims We may have had related to such disclosure.
- 6.2 Protection of Confidential Information.** The Receiving party shall use the same degree of care that uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and their legal counsel and accountants without the other party’s prior written consent.
- 6.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, including, but not limited to, by the California Public Records Act, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest such disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding or otherwise to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable costs of compiling and providing secure access to such Confidential Information.

7. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

- 7.1 Our Warranties.** We represent and warrant that (i) We have validly entered into this Agreement and have the legal authority to do so, (ii) the Services shall perform materially in accordance with the User Guide, (iii) the functionality of the Services will not be materially decreased during a subscription term, and (iv) We will not transmit Malicious Code to You, provided we are not in breach of this subsection (iv) if You or a User uploads a file containing Malicious Code into the Services and later downloads that file containing Malicious Code. For any breach of a warranty above, Your exclusive remedy shall be as provided in Section 10.3 (Termination for Cause) and Section 10.4 (Refund or Payment upon Termination) below.
- 7.2 Your Warranties.** You represent and warrant that (i) You have validly entered into this Agreement and have the legal authority to do so; (ii) You will use the Services in accordance with applicable laws; and (ii) You have all necessary rights to use and upload any Data for use with the Services.
- 7.3 Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING ANY REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. INDEMNIFICATION

- 8.1 Indemnification by Us.** We shall defend You and your officials, employees and agents against any claim, demand, suit, or proceeding made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates any Canadian or United States’ registered patents, copyrights or trade-mark rights of a third party (a “**Claim Against You**”), and shall indemnify You for any damages, legal fees and costs finally awarded against You as a result of, and for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You; (b) Give Us sole control of the defense and settlement of the Claim Against You

(provided that We may not settle any Claim Against You unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense. In the event of a Claim against You, or if we reasonably believe the Services may infringe or misappropriate, We may in Our discretion and at no cost to you (i) modify the Services so that they no longer infringe or misappropriate, without breaching Our warranties under "Our Warranties" above, (ii) obtain a license for Your continued use of the Services in accordance with this Agreement, or (iii) terminate Your User subscriptions for such services upon 30 days' written notice and refund to You any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination.

8.2 We will indemnify and hold harmless you and your officials, employees and agents from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

8.3 Exclusive Remedy. This Section 8 states the our sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

9. LIMITATION OF LIABILITY

9.1 Limitation of Liability. NEITHER PARTY'S CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE TOTAL AMOUNT PAID BY YOU UNDER THIS CONTRACT. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 4 (FEES AND PAYMENT FOR SERVICES). THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTION 8.

9.2 Exclusion of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

9.3 Insurance. During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$2,000,000, per occurrence and \$4,000,000 in the aggregate; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Cyber Liability of at least \$2,000,000 per occurrence (d) Workers Compensation complying with applicable statutory requirements. We will add you as an additional insured to our Commercial General Liability, Automobile Liability and Cyber Liability policies. Such coverage may be met using an excess/umbrella liability policy. We will provide you with copies of certificates of insurance on standard ACORD certificate upon your written request.

10. TERM AND TERMINATION

10.1 Term of Agreement. This Agreement commences on the date You accept it and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated.

10.2 Term of Purchased User Subscriptions. User subscriptions purchased by You commence on the effective date of this Agreement and continue for 5 years. Additional user subscriptions will be prorated from the applicable order date through the remainder of the 5-year term. All user subscriptions shall automatically renew for additional one-year at the end of the then current term, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless We have given You written notice of a pricing increase at least 60 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 5% of the pricing for the relevant Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.

10.3 Termination for Convenience. You may terminate this Agreement without cause by giving thirty (30) days advance written notice to Us of your election to terminate this Agreement pursuant to this provision. In the event of such termination, You agree to pay to Us a SaaS Recovery Amount equivalent to 50% of the subscription fees for the remainder of the initial term of the Agreement. For clarity, if You were to terminate under this provision during the 3rd year of the Agreement, a SaaS Recovery Amount equal to 50% of 2 years' subscription fees would be due to Us.

10.4 Termination for Cause. A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceedings relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Lack of Appropriations: If you should not appropriate or otherwise make available funds sufficient to utilize Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

10.5 Refund or Payment upon Termination. Upon any termination for cause initiated by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause initiated by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

10.6 Return of Your Data. Upon request made by You within 30 days after termination of a Services subscription, We will make available to You for download a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, and shall delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

10.7 Surviving Provisions. Section 4 (Fees and Payment for Services), 5 (Proprietary Rights), 6 (Confidentiality), 7.3 (Disclaimer), 8 (Mutual Indemnification), 9 (Limitation of Liability), 10.5 (Refund or Payment upon Termination), 10.6 (Return of Your Data), 10.7 (Surviving Provisions), 11 (Notices, Governing Law, Jurisdiction) and 12 (General Provisions) shall survive any termination or expiration of the Agreement.

11. NOTICES, GOVERNING LAW AND JURISDICTION

11.1 Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) delivery by confirmed facsimile, (iv) delivery by confirmed email (provided that email shall not be sufficient for notices of termination or an indemnifiable claim) Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant Services system administrator designated by You.

11.2 Dispute Resolution. In the event of any dispute arising out of or relating to and/or in connection with this Agreement, the parties' project managers shall use every reasonable effort to resolve such dispute in good faith within 10 Business Days. If the project managers have failed to resolve the dispute within such time frame, then the dispute shall be escalated to the next escalation level. At each escalation level, the designated executives shall negotiate in good faith in an effort to resolve the dispute. For the purposes of this Agreement, a "Business Day" means a day other than a Saturday, Sunday, or holiday in Ontario or California.

Escalation Level	Questica Management Level	Subscriber Management Level	Period of Resolution Efforts
First Level	Project Manager	Project Manager	10 Business Days
Second Level	Customer Success Director	Deputy Director of Finance	10 Business Days
Third Level	VP, Professional Services	CFO	10 Business Days

- 11.3 Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the State of California and the federal laws of the United States of America without regard to the conflict of law provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Subject to Section 11.2 above, the parties attorn to the exclusive jurisdiction of the courts of Riverside County, California in respect of this Agreement.
- 11.4 Waiver of Jury Trial.** Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
- 12. GENERAL PROVISIONS**
- 12.1 Anti-Corruption.** You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.
- 12.2 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 12.3 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- 12.4 Export Compliance.** The Services, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States, Canada and other jurisdictions. Each party represents that it is not named on any US or Canadian government denied-party list. You shall not permit Users to access or use Services in a US or Canada embargoed country or in violation of any US or Canadian export law or regulation.
- 12.5 Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.
- 12.6 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 12.7 Legal Fees.** 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 attorney's fees and costs of such actions.
- 12.8 Assignment.** Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 12.9 Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted.

However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

- 12.10 Cooperative Statement.** Other government organizations and educational or health care institutions may elect to participate in this Agreement (piggyback) at their discretion, provided We also agrees to do so.
- 12.11 Authorized reseller status; Option to purchase affiliate products.** Questica is a subsidiary of GTY Technology Holdings Inc. ("GTY") and an authorized reseller of products and services produced and provided by other subsidiaries of GTY (such subsidiaries, "Questica Affiliates"). These products and services include software-as-a-service technology for the procurement and vendor supplier sourcing industry, digital services and payment technology through a software-as-a-service platform, software solutions for grants management and indirect cost reimbursement and related implementation and consulting services, software tools to streamline permitting and licensing services, and additional web-based budgeting preparation, performance, management and data visualization solutions ("Affiliate Products"). Questica Affiliates include Bonfire Interactive Ltd., Bonfire Interactive US Ltd., eCivis Inc., CityBase, Inc., Open Counter Enterprise Inc. and Sherpa Government Solutions LLC. In addition to the products and services that are the subject of this Agreement, Subscriber has the option to purchase from either Questica, as an authorized reseller, or Questica Affiliates, Affiliate Products on terms and conditions, including pricing, to be agreed upon in writing by Subscriber and Questica or Subscriber and the applicable Questica Affiliate.
- 12.12 Media Releases.** Neither party shall use the name, trademark or logo of the other party without the prior written consent of the other party. Notwithstanding the foregoing, We may use the Your name and identify You as a Questica client in advertising, marketing materials, press releases and similar materials.
- 12.13 Order of Precedence.** For clarity, the documents comprising this Agreement shall be considered in the following order of precedence:
- This Agreement and its Appendices
 - Questica Proposal
 - RCTC RFP

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

**RIVERSIDE COUNTY TRANSPORTATION
COMMISSION**

QUESTICA LTD.

Per: _____

Per: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

I have authority to bind the organization

I have authority to bind the organization

APPENDIX A – Order Form

Software-as-a-Service (SaaS)

Description		Amount
Software as a Service		
Questica Budget Software Subscription	Included	\$172,535
Questica provides server, database, software, server management, software maintenance.		
Additional Operating License Seats	82	
Additional Personnel License Seats	3	
Additional Capital License Seats	82	
Unlimited Read-Only Licences	Included in the annual licensing fee – no additional cost per use	
Allocations	Included in the annual licensing fee – no additional cost per use	
Statistical Ledger	Included in the annual licensing fee – no additional cost per use	
Performance	Included in the annual licensing fee – no additional cost per use	
OpenBook Software Subscription	Included in the annual licensing fee – no additional cost per use	
Questica Budget Book, powered by Workiva	Included in the annual licensing fee – no additional cost per use	
Total Year 1 SaaS Subscription		\$172,535
Professional Services (Per Scope of Work)	See Appendix C for details on each service and module. Where conflict exists between the following summaries of services and Schedule C, Schedule C will prevail. Fixed price includes these services for overall budget functionality, the Operating Module, the Personnel Planning & Budget Module, the Capital Module, the Performance Measures Module, the OpenBook Cloud service, and the design and configuration of the Budget Book.	
Design, Analysis & Configuration	Fixed price includes one weekly status meeting for the estimated project timeline of 40 weeks, including reporting on project status, schedule, and issues or risks.	
Project Management	Fixed price includes ongoing consulting services related to module design and deployment, including approach recommendations and implementation of budget best practices.	
Consulting	Fixed price includes online resources live train-the-trainer services (including up to 2 onsite training visits) including the planning, scheduling, and execution of training content as outlined in Section 2.8.	
Training	Unless otherwise specified in Appendix C, system customizations are not included in the quoted price.	
Customizations		

Custom Reports	Unless otherwise specified in Appendix C, custom reports are not included in the quoted price.
IT Services	Fixed price includes IT services related to the implementation, including hosting configuration and environment deployment, application-level security tasks, single sign-on, data imports, and other technical services.
Workiva Budget Book- Joint-Implementation	Fixed price includes the development of a Budget Book using the Workiva platform as described in Appendix C Section 2.9.
Total Professional Services:	\$455,000
Travel Expenses (If Applicable)	Fixed price includes 4 onsite visits (2 PM visits, 2 training visits)
Total Travel Expenses:	\$ -
Grand Total Year 1	\$627,535

Pricing Notes

Quotation ID#: Riverside County Transportation Commission

- Questica annual subscription fee is \$172,535 per year (based on 5 Year subscription)
- Questica has agreed to secure the proposed annual costs for 3 years from the contract effective date and will apply a 3% inflationary increase beginning in Year 4
- Questica Annual fees
 - Year 1 is \$627,535 (SaaS and Professional Services)
 - Year 2 is \$172,535
 - Year 3 is \$172,535
 - Year 4 is \$177,711 (includes 3% increase)
 - Year 5 is \$183,042 (includes 3% increase)
 - Total 5 Year contract is \$1,333,358
- Above pricing in US dollars
- Applicable Taxes Extra
- Terms of Payment (Net 30):
 - Software:
 - 100% upon Contract Effective Date and software installation
 - Year 2 due 365 days from Contract Effective Date and annually thereafter
 - Professional Services:
 - 25% due the earlier of software installation or 30 days from Contract Effective Date
 - 25% due the earlier of historical (Operating) budget available for validation or 90 days from Contract Effective Date
 - 25% due the earlier of (Operating) actuals import integration configuration created & tested or 180 days from Contract Effective Date
 - 20% due the earlier of completion of training or 300 days from Contract Effective Date
 - 5% due the earlier of final acceptance or 60 days continued use in a production environment.

Notwithstanding the foregoing due dates, if the referenced services have not been completed, the parties hereto agree that the Project Managers will strive to agree to revised payment milestones that are mutually agreeable. In the event such agreement is not achieved, the Project Managers will follow the dispute process as outlined in Article 11.2.

- Additional Professional Services are available upon request at Questica's then current hourly rate, currently set at \$225/hr.
- Additional Licenses can be purchased for \$500/User/Module/Year
- Travel credit: Questica will provide a credit to RCTC of \$5,000 for each unused onsite visit/trip

APPENDIX B – Hosting, Maintenance and Technical Support Services

- (A) **Hosting Services.** Questica shall provide technical support and the associated hardware infrastructure to maintain the various Questica databases in a hosted environment. This includes performance tuning, database backups, disaster recovery availability, applying software upgrades and patches at the direction of the Subscriber, performing 24X7 server monitoring. Hosting Services do not include:

- I. Testing customizations during an upgrade
- II. Restoring a database backup required because of a Subscriber error
- III. Migrating data or reports among instances (example: from training or testing to production)

Questica may at its sole discretion, periodically make reasonable modifications or changes to the Hosting Services provided.

Subscriber is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Software.

Technical support relating to the Hosting Services is available through Questica's normal business hours, Monday through Friday, 8:00am through 8:00pm, Eastern Standard Time on Business Days. Extended coverage is available for an additional fee. Questica will provide an initial response to all properly submitted support requests within two (2) business hours of initial submission.

- (B) **Product Maintenance.** On an as-available basis, Questica will provide enhancements, modifications or upgrades to the Software as Questica may from time to time make available to its Subscribers generally ("**Updates**") but excluding any New Product (a "**New Product**" being a solution which, in Questica's determination and subject to general industry standards, does not replace the Software licensed hereunder.) Updates do not include:

- I. Platform extensions including product extensions to (i) different hardware platforms; (ii) different windowing system platforms; (iii) different operating system platforms
- II. New applications
- III. Services associated with the application or installation of Updates

If requested, Questica will provide assistance in the testing of any site-specific customizations. Questica will provide a quote for any required rework associated with customizations resulting from the upgrade.

- (C) **Technical Support Services.** Questica will provide phone and e-mail based technical support of a reasonable nature as described herein. A technical support incident or problem is a single user defined problem seeking resolution. It must be related to the original intent and design of the software. Technical Support Services include the support of Questica supplied integrations that have not been modified by the Subscriber. Each Technical Support Service incident is deemed closed when a remedy, workaround, or recommendation for the installation of a current maintenance release has been offered, and a commercially reasonable effort has been made to restore operation to the original intent and design of the Software. Technical Support Service does not include:

- I. Custom programming services;
- II. On-site support;
- III. Subscriber developed interfaces, API interactions, or customizations;
- IV. Subscriber developed reports;
- V. End-User training or re-training;
- VI. Subscriber hardware or network issues;
- VII. Correction of data issues derived from user error or Software misuse;
- VIII. Changes to Questica developed custom reports or Permitted Customizations (including Questica supplied custom business rules or customized user screens) that are outside the scope of the accepted specification, scope of work, or authorized change requests;
- IX. Corrections to Questica developed custom reports or Permitted Customizations beyond six (6) months from the date of delivery (the upgrade protection period); and

- X. Changes to integration functionality made necessary due to Subscriber server modifications/replacement, or changes by upgrades or changes to the integrated financial system software or hardware.

Questica may at its sole discretion, periodically make reasonable modifications or changes to the Technical Support Services and/or Product Maintenance Services, providing such changes do not materially reduce service levels.

Subscriber is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Software.

Technical Support Service is available through Questica's normal business hours, Monday through Friday, 8:00am through 8:00pm, Eastern Standard Time on Business Days. Extended coverage is available for an additional fee.

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APPENDIX C – Scope of Work (SOW)

Scope of Work

Questica Budget Implementation for Riverside County Transportation Commission

Revision History

Rev.	Date	Authors	Notes/Changes
1			

1. General**1.1. Shared Responsibility**

Questica and Customer agree that the implementation of Questica Budget is a shared responsibility, and that they will employ their best efforts to complete their agreed tasks on a timely basis. Neither Questica nor Customer is expected to have resources available to mitigate timeframe slippage caused by the other party, and neither shall have an obligation to do so.

1.2. General Clarification**Initial Data Load**

“Data import”, “import workbooks”, and “initial data load” are synonymous terms referring to the initial migration of data from Customer's existing systems into Questica.

Where this initial data load is to be performed by Questica, the data shall be returned to Questica in Excel workbooks. Questica's Project Manager will provide blank workbooks for this purpose as an output of initial discovery meetings. These are adapted from standard templates to use Customer's terminology and to incorporate all elements of Customer's chart of accounts, other data entities, and columns within those data entities. Such data provided must be “clean”, consistent, and complete. The Questica PM is not responsible for cleaning data, and will not repeatedly load data in order to repair issues and/or add missing information.

Customer can use the software's user interface or Questica's Excel® export/import feature to further amend and maintain data, or to load data where this is a customer task.

For example, where Questica's work to load prior year data may be limited to a specific number of years in order to reduce implementation cost, there is no system limit to the number of prior years that the customer can load using Excel® export/import.

Data Model

The Questica Budget system is a relational database built on a standard data model. Using the system's user interface, this data model may be enhanced to mirror Customer's data structures, notably the chart of accounts that is unique to Customer's institution. While all of the standard tables ('entities') must be retained, the following points are held to be true:

- Any of the standard entities may be renamed to match Customer's terminology;
- Out-of-the-box entities may be ignored, or in some cases filled with place-holder data, if not useful;

- There is a defined, immutable, relationship between certain entities - for example Costing Centers (Operating) and Projects (Capital) roll up to a single Department, each in turn rolling up to a single Division;
- The GL Account/Account Category, Division/Department, Fund Category/Fund, and Asset Category/Asset Type structures must be consistent across all years and across the modules (Operating, Personnel, Capital, Financial Statements, and Performance);
- GL Account Categories must be categorized as containing either a revenue or expenditure accounts (accommodation is made for other account types in the Financial Statements module);
- Questica Budget enacts data integrity through the use of relational data structures. Data structures which do not follow accepted data principles (for example, re-using GL Accounts/Object Codes to mean different things to different Departments) can typically be accommodated but is not guaranteed and such accommodation can extend the import timeframe;
- A list of the standard entities and their relationship is available upon request.

Integrations

“Integration” as used in this Scope of Work refers to the automation of data exchange between Questica Budget and 3rd party systems. For each of the integrations in scope, Questica shall be responsible for:

- Configuring data transformations, as described by Customer during the implementation.
- Providing the software interface into Questica Budget, and the operational infrastructure required to manage the integration, as well as the operational infrastructure required to manage the integration (e.g. FTP server).

Questica does not offer services to build the 3rd party system end of integrations. Customer is responsible for creating data sources and destinations within their 3rd party systems, either through their IT team or through their system’s integrator. Such data sources and destinations may be database queries, delimited files, and/or web services.

Customer is advised that in a “cloud” environment, Questica is unlikely to be granted the local network access to Customer’s other enterprise systems for a direct database-to-database integration. The most likely mode of integration will be exchange of formatted text (.CSV) files transmitted using secure FTP (SFTP or FTPS). Integration via web services may be possible where the 3rd party system provides a web services interface that provides/accepts data required by Customer. It will be Customer’s responsibility to create or cause to be created the necessary file transfer mechanism on their side of the transfer; and to ensure that the 3rd party system’s integration components are available, including web services where used.

For all integrations in scope, the following are held to be true except where specifically listed as a customization:

- Records being copied into Questica require a unique key to unambiguously match incoming data with pre-existing records. This key may be a single field value (e.g. Object Code) or a combination of multiple values (e.g. Position+Employee Number). An exception report is provided for data elements which cannot be thus matched. In the case of the Capital integrations this is particularly noteworthy: each record must include a unique project identifier (e.g. Project Number).
- While it is likely that Questica can accommodate any chart of account segments (“chart fields”), and Questica shall accommodate reasonable requests for mapping chart fields to accommodate situations such as legacy account structures, the encoding and decoding of arbitrary structures and mappings (those which cannot be logically described) is not in-scope.
- Questica integrations do not include the synchronization of chart of account strings, segments, or combinations; which is to say that the list of funds, GL accounts, costing Active, and projects, etc. is not automatically updated from the general ledger or other external system.
- Each distinct data source and/or output file is considered one point of integration. For example, if Statistical Actuals are required from multiple data sources, Questica will need to configure one integration for each data source and a single Statistical Actuals integration will be insufficient.

- Filtering is coded into the integration and there is no custom user interface for the selective export of sections of the budget except to choose a budget year, or in the case of Actuals imports the date range.
- Standard budget export integrations, where in scope, do not have the ability to export only changes since the last export. The entire budget is exported each time. A budget amendment export integration is required in order to export selected parts of the budget, such as changes since the last export.
- Amended budget export integrations, where in scope, will be either export individual amendments as created, or export the batch of amendments since the last export, or import amendments from the general ledger system as read-only budget lines. Which of these options is used is a detail determined during the implementation, but each amendment integration will only work in one of these modes.
- Actuals Import integrations cannot be used to amend the budget.

Customizations

Customizations include custom business rules, modifiers, user interface (grids, forms, etc.), non-standard integrations, hand-crafted reports, and ad hoc entities. They are all detailed in section “2.10. Customizations” of this Scope of Work document. Sections prior to “2.10. Customizations” detail the delivery of standard product functionality and services.

2. Scope of Work

In the Scope of Work tables, entries in the column headed “Scope of Work” are defined as follows:

Entry	Meaning
In scope	The task or function is within the scope of work to be undertaken by Questica professional services. There may be additional refinement of the scope.
Customer task	The task or function is not within the scope of work to be undertaken by Questica professional services, but will be undertaken by Customer, with such help from Questica as is detailed in the item description. There may be additional information qualifying this.
Not in scope	The task or function is not within the scope of work to be undertaken by Questica professional services, nor will it be undertaken by Customer.

2.1. Questica Budget Configuration & Shared Components

Functional Area	Description	Scope of Work
Implementation Hosting	Hosting of production and test instances of Questica Budget during the implementation period.	N/A System to be implemented on Questica production hosting environment.
Production Hosting	<p>Hosting of a single production instance of the Questica Budget system, as well as additional sandboxes for Customer's development/test/QA/training needs.</p> <p>In addition to these server instances, Customer must provide user workstation environments as follows:</p> <ul style="list-style-type: none"> • A web browser: supported browsers - Microsoft Edge, Firefox latest release, Chrome latest release; • Microsoft .NET Runtime 4.6 installed; • Microsoft Excel® 2007 or newer (if spreadsheet export/import feature is required, and/or saving 	In scope: As per hosting agreement.

	<p>reports as Excel is required);</p> <ul style="list-style-type: none"> • Microsoft Word® 2007 or newer (if scheduled reporting and/or saving reports as Word is required); • A ClickOnce browser extension (if self-serve report authoring is required from browsers other than Internet Explorer or Edge), or Microsoft's freely available desktop version of Report Builder installed. 	
<p>Consulting Services - BPI</p>	<p>Questica will facilitate a review of:</p> <ul style="list-style-type: none"> - The budget process for both the operating and capital budgets; - The chart of accounts; - Personnel planning and budgeting; - Reporting requirements. This process will require the participation of stakeholders in group workshops and may include or one-on-one workshops. <p>-Budget Process End to end review, including high level descriptions of the tasks performed, the timing of these tasks, and dependencies. Questica will facilitate a design of the budget process as it relates to the Questica Budget system being implemented, seeking opportunities for improvement. This output will be documentation of:- Budget process stages;- What happens in each stage;- Input, outputs, and participants in each stage;- Stage permission requirements.Chart of AccountsDetermine the data model, including the COA, roll-ups (whether part of the GL or not), and other budgetary fields of data. Complete field mapping and prototyping in Questica Budget.Personnel BudgetingReview and refine personnel budgeting process and data. To include common personnel budget issues including vacant positions, overtime, benefits, allowances, and statutory deductions.Reporting RequirementsEnsure reporting is supported by the data model. Identify reports in three primary groups: those required for developing budget, those required for managing budget, and those disseminating for information "up and out" (management and public). Reporting can be through traditional print reports, saved searches, dashboards, smart reports, and OpenBook.Customer will assume responsibility for maintaining all process documents after hand-off.</p>	<p>In scope with:- a maximum of 2 half day workshop(s);- Gap document describing Questica's understanding of gaps, options for filling the gaps, selected option (where one has been identified).</p> <p>'Sessions will be used to discuss current and future-state, and will be conducted on an iterative basis between Questica and RCTC staff.'</p>
<p>Consulting Services - Change Management</p>	<p>Questica will facilitate a change management process in relation to the implementation of Questica Budget. This process will require the participation of stakeholders in group workshops and may include or one-on-one workshops.</p> <p>A change management plan document will be produced based on the information gathered, containing:</p> <ul style="list-style-type: none"> - What is changing; - Organizations impacted by the change; - Each organization's ability and willingness to 	<p>In scope with:</p> <ul style="list-style-type: none"> - a maximum of 2 half day workshop(s) (or equivalent in one-on-one interviews); - Change management plan;

	<p>change;</p> <ul style="list-style-type: none"> - A training plan; - Strategies for dealing with the change. <p>Note that the change management included in this item offer the benefit of Questica's experience in the domain of budget system implementation. It is not the enactment of, or replacement for, a comprehensive project of change management as may be required by the customer's PMO (project management office), or for a significant change beyond the introduction of a new system that approximates to current processes and procedures.</p>	
Project Management & Analysis	<p>Questica will assign a Project Manager/Analyst ("PM") to lead this implementation on Questica's behalf. The role and responsibility of the PM is to ensure that the product is implemented according to this Scope of Work and to carry out the tasks detailed in sub-section "2.11.1. Questica Project Management Responsibilities" of this Scope of Work. Limitations:- Weekly status meetings is the number of scheduled meetings for the purpose of status reporting that the Questica PM is obligated to attend/host. Exceeding this limit is at the discretion of Questica's PM. This does not limit his or her availability for ad-hoc contact as needed.- The scope includes overhead of project management and analysis as stated in the "Scope or Work" column at right. Where delays are not on the part of Questica, additional project management and analysis beyond this limit may be billable at Questica's standard services rate.</p>	<p>In scopewith:- One weekly status meeting;- 40 weeks of project management and analysis contiguous from project kick-off, or until all other implementation services are delivered, whichever occurs first.</p>
On-Site PM Visits	<p>Each on-site visit by the Questica PM, and other implementation staff (excluding training, see below) shall be a minimum of one day and no more than five consecutive business days within the same working week. Where more than one individual is on-site at the same time this is considered as multiple visits (one per individual attending). Meeting premises, facilities (including external internet access) and equipment are to be provided by Customer. Costs associated with travel, board and lodging for on-site visits are payable by Customer as per contract. All other work by the Questica lead(s) will be carried out off-site and contact will be via normal telecommunication channels. Questica hereby attests that travel expenses incurred will not include any alcohol.</p>	<p>In scope: Provision is made for up to 2 on-site visits.</p>
Application-Level Security	<p>Determine how and when to use the various security levels available within Questica Budget, enter users and assign them to groups and roles.</p>	<p>Customer task: Questica will assist with this task until administrators have received training in security configuration.</p>
Single Sign-On	<p>Configure Questica Budget to use Customer's existing Windows, LDAP, CAS, Google, or SAML Authentication, for user logon.</p>	<p>In scope: Configure production instance to use Customer's</p>

		SAML (AD FS) Authentication for user logon. Questica is not responsible for software and configuration changes required to make it authenticate with non-standard implementations of authentication protocols.
Import Configuration ...		
Import Master Configuration Data	Configuration and data import of the following Questica standard data structures, using data supplied by Customer in Excel® workbooks provided by Questica: • Division/Department hierarchy; • Fund Categories and Funds; • Account Categories and Expense and Revenue GL Accounts • Statistical Account Categories and Statistical Accounts • Other Chart of Account Segment Values • Performance Measure Units	In scope
Analytics ...		
Standard Reports	Provision of Questica Budget's standard reports. These reports are provided as-is and may not fully address Customer's specific reporting requirements.	In scope
Administrator Authored Reporting	Questica's reporting infrastructure allows users to create ad hoc views which can be used as datasets when using Report Builder 3.0 for administrator authored reporting; as the data source for dashboard widgets; and as part of the ad-hoc analytics interface. Each ad hoc view requires a base "entity" (database table), which can be one of Questica's native data entities; a user configured entity; or a custom built "report entity" which consolidates the data from multiple entities and presents it to the ad hoc view as a single entity ready to report on.	In scope

2.2. Operating Module

The Questica Budget Operating module is included in this installation.

Functional Area	Description	Scope of Work
Configuration ...		
Import Costing Centers	Configuration and data import of standard Questica Operating data structures, using data supplied by Customer in Excel® workbooks provided by Questica. At a minimum, the files will contain the data necessary to: <ul style="list-style-type: none"> • Create Costing Centers (for each historical and current/future budget year to be loaded); • Add Costing Centers to Departments consistent with, and shared by, the Capital budget module; • Associate Costing Centers with Funds; • Define Budget Promotion Stages. 	In scope
Initial Data Load ...		
Import Initial Budget	Import the current/future Operating budget from data import workbooks: <ul style="list-style-type: none"> • Create dollar budget line items at the chart of account level ... by Costing Center. 	In scope: Questica will import the most recent budget with 1 years of future forecast data. Questica will repeat the import once, to accommodate a refresh prior to going live.
Import Historic Budgets	Import prior years' Operating budgets. All prior years must have a chart of account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget will be imported in each of these prior years, but not both.	In scope: Questica will import 2 prior years' budgets.
Import Actuals Transactions	Import Operating actuals transactions from data import workbooks.	Customer task: Customer can add their historical data manually, or using Questica's Excel® export/import feature, or with an automated integration.
Import Initial Statistical Budget	Import the current/future Operating statistical budget from data import workbooks: <ul style="list-style-type: none"> • Create statistical budget line items at the statistical account level ... by Costing categorized. 	Customer task: Customer will enter their statistical budget data using the Questica user interface or Questica's Excel® export/import feature.
Import Historic Statistical Budgets	Import prior years' Operating statistical budgets. All prior years must have a statistical account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget will be imported in each of these prior years, but not both.	Customer task: Customer can add their historical statistical budget data using the Questica user interface or Questica's Excel® export/import feature.

Import Statistical Actuals Transactions	Import Operating statistical actuals transactions from data import workbooks.	Customer task: Customer can add their historical data manually, or using Questica's Excel® export/import feature, or with an automated integration.
Integration ...		
Budget Export	<p>Automated facility to transfer the Operating module budget data from Questica Budget to Customer's Tyler Munis general ledger at the approved budget object/costing centre level when invoked by a user.</p> <p>Note that this scope item is in addition to the built-in budget export, which will create a CSV file using the configured account structure suitable for import into most general ledger systems.</p>	<p>In scope: Questica will create no more than 2 points of integration for the approved operating budget.</p> <p>Note: 1 integration point will be to Tyler Eden system. The other integration point will be to Tyler Munis. Timing for the Tyler Munis integration is to be determined by RCTC.</p>
Amended Budget Export	<p>Automated facility to transfer individual approved amendments to the Operating module budget data, from Questica Budget to Customer's Tyler Munis general ledger, or the other direction as required. This interface is required only in the case where Customer requires the amended budget to be synchronized between the two systems and where the general ledger cannot be updated by re-running the full export provided in the item in the "Budget Export" item above.</p>	<p>In scope: Questica will create no more than 2 points of integration for the operating budget amendments.</p> <p>Note: 1 integration point will be to Tyler Eden system. The other integration point will be to Tyler Munis. Timing for the Tyler Munis integration is to be determined by RCTC.</p>
Actuals Import	<p>Automated facility to transfer actual data from Customer's Tyler Munis general ledger to the Questica Budget Operating module at a transaction level on a daily basis when automatically scheduled; and/or on demand.</p> <p>Note that this scope item is in addition to the built-in actuals import which is able to read a CSV file, provided it conforms to some simple formatting requirements and the configured account structure.</p>	<p>In scope: Questica will create no more than 2 points of integration for the operating actual costs.</p> <p>Note: 1 integration point will be to Tyler Eden system. The other integration point will be to Tyler Munis. Timing for the Tyler Munis integration is to be determined by RCTC.</p>
Statistical Budget Export	Automated facility to transfer the Operating statistical budget data from Questica Budget to a single target system at the approved budget object/costing centre level when invoked by a user.	Not in scope

Amended Statistical Budget Export	<p>Automated facility to transfer individual approved amendments to the Operating statistical budget data, from Questica Budget to a single target system, or the other direction as required.</p> <p>This interface is required only in the case where Customer requires the amended budget to be synchronized between the two systems and where the 3rd party system cannot be updated by re-running the full export provided in the item in the “Statistical Budget Export” item above.</p>	Not in scope
Statistical Actuals Import	Automated facility to transfer actual data from a single target system to the Questica Budget Operating statistics at a transaction level on a daily basis when automatically scheduled; and/or on demand.	Not in scope

2.3. Personnel Planning & Budgeting Module

The Questica Budget Personnel Planning & Budgeting module is included in this installation.

Functional Area	Description	Scope of Work
Initial Data Load ...	<p>Configuration and data import of standard Questica Personnel data structures, using data supplied by Customer in Excel® workbooks provided by Questica. At a minimum, the files will contain the data necessary to:</p> <ul style="list-style-type: none"> • Create positions; • Create salary grades; • Create salary grade steps; • Create modifiers (benefits); • Create employees; • Allocate employees to positions; • Allocate positions to costing centers. <p>For the purpose of the above, the definitions of positions, grades, grade steps, employees and modifiers shall be those found in the Questica Budget Personnel manual. The relationships between them shall be those currently supported by Questica Budget and described in the Questica Budget Operating Manual.</p>	
Import Positions & Employees	Import from data import workbooks.	In scope
Import Grades & Scales	Import from data import workbooks.	In scope
Create Benefits (Modifiers)	<p>Create “modifiers” to generate supplementary personnel costs such as benefits, allowances, and insurance.</p> <p>Note that modifiers are not simple 2-dimensional data that can be represented in a spreadsheet. It is not possible to load modifiers in bulk from Excel® workbooks.</p>	Customer task: Questica will assist with this task until administrators have received training in modifier configuration.
Import Position/Costing Center Allocations	Import from data import workbooks.	In scope
Integration ...		

Payroll Actuals Import	Automated facility to transfer actual payroll transactions at the employee/position detail level from Customer's HR or payroll system to the Questica Budget Operating module; automatically scheduled, and/or on demand. This data may be used to replace existing GL Actuals with payroll detail or may be stored in a separate table.	Not in scope
HR Data Sync.	Automated facility to synchronize Personnel data between Questica Budget and Customer's HR or payroll system. This integration synchronizes: <ul style="list-style-type: none"> • New, deleted, and updated employees; • New, deleted, and updated positions; • Changes in employee-position relationships; • Changes in position-costing centre relationships. 	Not in scope

2.4. Capital Module

The Questica Budget Capital module is included in this installation.

Functional Area	Description	Scope of Work
Configuration ...		
Import Projects	Configuration and data import of standard Questica Operating data structures, using data supplied by Customer in Excel® workbooks provided by Questica. At a minimum, the files will contain the data necessary to: <ul style="list-style-type: none"> • Create Projects (including closed projects where historical budget is to be loaded); • Add Projects to Departments consistent with, and shared by, the Operating budget module; • Define Project Promotion Stages. The configuration data may optionally contain data necessary to: <ul style="list-style-type: none"> • Define Asset Categories & Asset Types; • Define Project Regions; • Define a Single Set of Project Ranking Metrics. 	In scope
Initial Data Load ...		
Import Initial Budget	Import the current/future capital budget from data import workbooks: <ul style="list-style-type: none"> • Create dollar budget line items with GL Accounts and Funds ... by Project. 	In scope: Questica will import the most recent budget with 5 years of future forecast data. Questica will repeat the import once, to accommodate a refresh prior to going live.

Import Historic Budgets	Import prior years' capital budgets. All prior years must have a chart of account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget will be imported in each of these prior years, but not both.	In scope: Questica will import 2 prior years' budgets.
Import Actuals Transactions	Import capital actuals transactions from data import workbooks.	Customer task: Customer can add their historical data manually, or using Questica's Excel® export/import feature, or with an automated integration.
Import Initial Statistical Budget	Import the current/future capital statistical budget from data import workbooks: <ul style="list-style-type: none"> • Create statistical budget line items at the statistical account level ... by Project 	Customer task: Customer will enter their statistical budget data using the Questica user interface or Questica's Excel® export/import feature.
Import Historic Statistical Budgets	Import prior years' capital statistical budgets. All prior years must have a statistical account structure that is the same, or a subset of, the initial budget. Only the amended OR the approved budget will be imported in each of these prior years, but not both.	Customer task: Customer can add their historical statistical budget data using the Questica user interface or Questica's Excel® export/import feature.
Import Statistical Actuals Transactions	Import capital statistical actuals transactions from data import workbooks.	In scope: Questica will import up to 2 years of actual costs. Customer can add older actuals manually or using Questica Budget's spreadsheet import feature if desired.
Integration ...		
Budget Export	Automated facility to transfer the Capital module budget data from Questica Budget to Customer's Tyler Munis general ledger or project system at the approved budget object/costing centre level when invoked by a user. Note that this scope item is in addition to the built-in budget export, which will create a CSV file using the configured account structure suitable for import into most general ledger systems.	In scope: Questica will create no more than 2 points of integration for the approved capital budget. Note: 1 integration point will be to Tyler Eden system. The other integration point will be to Tyler Munis. Timing for the Tyler Munis integration is to be determined by RCTC.

Amended Budget Export	<p>Automated facility to transfer individual approved amendments to the Capital module budget data, from Questica Budget to Customer's Tyler Munis general ledger or project system, or the other direction as required.</p> <p>This interface is required only in the case where Customer requires the amended budget to be synchronized between the two systems and where the general ledger cannot be updated by re-running the full export provided in the item in the "Budget Export" item above.</p>	<p>In scope: Questica will create no more than 2 points of integration for the capital project budget amendments.</p> <p>Note: 1 integration point will be to Tyler Eden system. The other integration point will be to Tyler Munis. Timing for the Tyler Munis integration is to be determined by RCTC.</p>
Actuals Import	<p>Automated facility to transfer actual data from Customer's Tyler Munis general ledger or project system to the Questica Budget Capital module at a transaction level on a daily basis when automatically scheduled; and/or on demand.</p> <p>Note that this scope item is in addition to the built-in actuals import which is able to read a CSV file, provided it conforms to some simple formatting requirements and the configured account structure.</p>	<p>In scope: Questica will create no more than 2 points of integration for the capital project actuals.</p> <p>Note: 1 integration point will be to Tyler Eden system. The other integration point will be to Tyler Munis. Timing for the Tyler Munis integration is to be determined by RCTC.</p>
Statistical Budget Export	Automated facility to transfer the Capital statistical budget data from Questica Budget to a single target system at the approved budget object/costing centre level when invoked by a user.	Not in scope
Amended Statistical Budget Export	Automated facility to transfer individual approved amendments to the Capital statistical budget data, from Questica Budget to a single target system, or the other direction as required. This interface is required only in the case where Customer requires the amended budget to be synchronized between the two systems and where the 3rd party system cannot be updated by re-running the full export provided in the item in the "Statistical Budget Export" item above.	Not in scope
Statistical Actuals Import	Automated facility to transfer actual data from a single target system to the Questica Budget Capital statistics at a transaction level on a daily basis when automatically scheduled; and/or on demand.	Not in scope

2.5. Reserved

2.6. Performance Measures

The Questica Budget Performance Measures module is included in this installation.

This section of the SoW relates only to the configuration of the system. Unless explicitly included as a consulting activity (above), it is Customer's responsibility to plan, design, and roll-out the performance measurement program(s).

The 'Unlimited Read Only' license does not pertain to this module, as it is provisioned with unlimited read+write licenses.

Functional Area	Description	Scope of Work
Configuration ...		
Measure Categories and Units	Configuration of Performance Measures Categories and Units, establishing those lookup values within the system.	In scope: Questica will, with the help of Customer, determine and configure the Performance Measures Categories and Units, establishing those lookup values within the system.
Initial Data Load ...		
Measures	Configuration of the initial set of performance measures.	In scope: Questica will import the initial set of performance measures, to a limit of 4 hours of consulting.
Scorecards	Configuration of the initial set of performance measurement scorecards, and including them on dashboards.	In scope: Questica will, with the help of Customer, create the initial set of scorecards, to a limit of 4 hours of consulting.
Integration ...		
Measure Actuals Import	Automated facility to load actual data from Customer's 3rd party data collection systems to the Questica Budget performance measures on a scheduled basis; and/or on demand.	Not in scope: Users will enter measure actuals data using the user interface or Excel export/import.

2.7. OpenBook

Questica's "OpenBook" cloud service for data transparency is included in this implementation.

Functional Area	Description	Scope of Work
Configuration ...		
System Administration	General configuration of OpenBook to set the look-and-feel, captions, and add users.	Customer task: As a customer task, Customer will leverage Questica's training material and reasonable assistance of Questica's PM or consultant to understand the administration options.
Configuration of Visualizations	Customer is able to add multiple "visualizations" of their data to their OpenBook site. Each dataset is displayed according to a template selected from a library of visualization styles.	In scope: A Questica consultant will assist in configuring OpenBook "Visualizations", to a limit of 10 hours of consulting time (* additional services can be purchased at Questica's standard hourly rate).
Configuration of Questica Budget	Configure ad hoc views in Questica Budget as a convenient source of source of OpenBook data.	In scope: Questica will, with the help of Customer, configure up to 3 ad hoc views as a source of OpenBook data. Customer is able to configure as many additional ad hoc views as required.
Integration ...		
Import from Questica Budget	Connection of OpenBook to Questica Budget, through a shared API key, and the publication of ad hoc views for seamless import of data into OpenBook from Questica Budget.	In scope
Import from CSV Files	Initial and ongoing population of datasets through the import of .CSV files.	Customer task: As a customer task, Customer will leverage Questica's training material and reasonable assistance of Questica's PM or consultant to load and configure datasets from CSV files.

2.8. Training

Functional Area	Description	Scope of Work
Online Resources	Questica has invested in creating and maintaining a substantial library of online training courseware in the Questica Help and the Questica Academy. Having signed-up with a valid Customer email address, all material is available to all users during and after the implementation.	
Training Approach	<p>Questica's standard training model is to train the trainers and/or advanced users within Customer's organization in all aspects of the application related to the system delivered. Training is a blend of online courseware and "live" training, either in a classroom (if in scope, see "Training Location" below) or via a web conference. In the case of video training Questica's PM will field outstanding questions after the scheduled viewing.</p> <p>Where a specialist trainer is "In Scope" below this might be as a follow-up to a video or presentation of the entire course.</p>	
Training Schedule	<p>Questica's PM will help determine at which point in the implementation the delivery of training is most appropriate. Customer may prefer to receive some or all of their training in the early stages of the implementation, in the knowledge that such training will need to be carried out using a generic training database. Alternatively Customer may choose to wait until the implementation is substantially complete in order to be trained on their own instance of Questica.</p> <p>Having received train-the-trainer training, Customer is responsible for training the end users, except where explicitly included in scope (below).</p>	
Training Location	<p>* Note that this item relates only to location of training and does not confer training in addition to those items scoped below.</p> <p>On-Site Training: A Questica trainer will deliver training using facilities and equipment at premises provided by Customer. The on-site training will be spread over no more than 2 visits, each of which shall be a minimum of one day and no more than five consecutive business days within the same working week. Costs associated with travel, board and lodging for on-site training are payable by Customer.</p> <p>Remote Training: Additional training provided by Questica will be delivered using web conferencing tools. Attendees are able to participate in the training from multiple locations using their own computer, or in a conference room with shared screen (their own computer is recommended). Audio is provided by telephone or the computer's own audio facilities. These sessions may be recorded upon request, with the unedited recording provided to Customer for storage and dissemination using their own media repository.</p>	
Instructional Videos/eLearning Courseware	Custom Instructional on-boarding videos (one per module) or full eLearning courseware (covering all modules) aimed at end-users. This material will show general system usage, and how to enter and query budgets tailored to Customer's process.	Not in scope

The following sections detail the proposed training. Customer's PM will work with Questica's PM or training specialist to determine the final training plan and topics may be swapped to receive more of one and less of another, provided that the total amount of training does not exceed this proposed plan.

Training: Administration	Training in Questica Budget administration is delivered via a series of training courseware, such as pre-recorded videos.	In scope: This will be delivered in one training session.
Training: Administrator Authored Reporting	Training in the use of ad hoc views and dashboards is delivered via pre-recorded training videos. Questica also provides instructional videos on the use of the Report Builder 3.0 report authoring tool but recommend that users make use of the many online resources to gain expertise in this tool.	In scope: Up to 2 training sessions will be held on this topic.
Train-the-Trainer: Operating	"Train the trainer" training in the use of Questica Budget's Operating module.	In scope: This will be delivered in one training session.
Train-the-User: Operating	"Train the user" training in the use of Questica Budget's Operating module.	In scope: Up to 5 training sessions will be held on this topic.
Train-the-Trainer: Personnel	"Train the trainer" training in the use of Questica Budget's Personnel Planning & Budgeting module.	In scope: This will be delivered in one training session.
Train-the-User: Personnel	"Train the user" training in the use of Questica Budget's Personnel Planning & Budgeting module.	Customer task
Train-the-Trainer: Capital	"Train the trainer" training in the use of Questica Budget's Capital module.	In scope: This will be delivered in one training session.
Train-the-User: Capital	"Train the user" training in the use of Questica Budget's Capital module.	In scope: Up to 5 training sessions will be held on this topic.
Train-the-Trainer: Financial Statements	"Train the trainer" training in Questica Budget's Financial Statements feature is delivered via a pre-recorded training video.	Not in scope
Train-the-Trainer: Performance Measures	"Train the trainer" training in the use of Questica Budget's Performance module is via pre-recorded training video.	In Scope
Train-the-User: Performance Measures	"Train the user" training in the use of Questica Budget's Performance module.	Customer task

2.9. Budget Book

Statement of Work

Riverside County Transportation Commission (Client) Joint Onboarding Workiva BB Automation

Project Description:

- F.H. Black & Company (FHB) to guide the Client in reproducing the prior year Riverside County Transportation Commission, FY 2021/22 Budget (BB) in Wdesk:
 - We have utilized the BB provided by the Client as the definition of your scoping requirements. Should the size of the document (164 pages) being setup vary in size or complexity significantly, additional fees may accrue.
 - Includes building 164 pages of content as formatted and outlined in the BB (located here: <https://www.rctc.org/wp-content/uploads/2021/07/RCTC-Budget-Book-FY22.pdf>)
 - During implementation we may make recommendations for changes to improve usability, to simplify ongoing maintenance by your team or in rare occasions due to technical capabilities of software.
 - Workiva BB Automation timeline is 12-14 weeks.

FHB Responsibilities

1. CPA, Project Manager and Client Success Manager assigned to engagement.
2. Guide the Client through the entire implementation.
3. Provide data model purpose-built for municipalities.
4. Integration with one data source either via direct connection or loading standard exported content.
5. Setup Wdata and chains/scripts, building a connection from Client's Wdata to accounting system or folder.
6. Assist with loading data and demonstrate how to assign imported data to group codes.
7. Importing the BB into a Wdesk document, setup sections and link all tables to supporting non- calculating spreadsheets.
8. For 123 pages of the document:
 - a. FHB will convert the non-calculating spreadsheets to calculating by:
 - i. creating formulas to Wdata Connected Sheets
 - ii. creating formulas to other supporting sheets
 - b. FHB will create calculating spreadsheets for narrative values and link to the document
9. Provide supplements to the standard Workiva training with custom training based on setup.

Client Responsibilities

1. Client provides FHB with access to the organization's Wdesk instance.
2. Team members working in the project will take the courses recommended by FHB from the Workiva Learning Hub (approximately 10 hours per person).
3. With the Joint Onboarding the Client is responsible for performing implementation tasks necessary to complete the project on a timely basis. Consequently, Client will be primarily responsible for meeting project timelines and deadlines.
4. The Client uploads the BB related data and documents per FHB instructions for the FHB consultant to review prior to Project Kickoff.
5. Provide on-going guidance to the FHB team respecting presentation and disclosure requirements, general ledger structure, year-end processes, etc., as necessary.
6. Provide a mapping/group legend for each value in the report.
7. Assign all accounts by, at minimum, by Object and Function as recommended/advised by FHB within Wdesk.
8. For the remaining 41 pages of the 164 page document not linked by FHB:
 - a. Client will convert the non-calculating spreadsheets to calculating by:
 - i. creating formulas to Wdata Connected Sheets
 - ii. creating formulas to other supporting sheets
 - b. Client will create calculating spreadsheets for narrative values and link to the document
9. Complete miscellaneous tasks as may be assigned during the implementation including the configuration of any work papers deemed necessary to automate complex values.

10. Reconcile the financial data within the Wdesk as necessary to agree with previously published reports.
11. Review, test and sign-off on all FHB work within five (5) business days of receipt

Project Completion

The project is complete when the Riverside County Transportation Commission FY 2021/22 Budget is recreated in Wdesk.

Twenty-five hours of aftercare support included. Aftercare hours are valid for one year from the date of project completion. Additional hours can be added at anytime with the purchase of a Service Level Agreement.

Any work required beyond the above scope will be billed at \$225/hour. Payment Terms: Fixed fee. Billed up front.

2.10. Customizations

2.10.1. Custom Business Rules (CBRs), Modifiers, User Interface

This Scope of Work does not include the development of customizations.

Customizations not listed here can be accommodated upon receipt and acceptance of a change order, which will include a specification and may include an estimate for the work to be charged on a time & materials basis at the applicable rate.

2.10.2. Custom Reports, Custom Ad Hoc Entities and Custom Dashboards

This Scope of Work does not include the development of custom reports or ad hoc entities.

Custom reporting and dashboard requirements not listed here can be accommodated upon receipt and acceptance of a change order, which will include a specification and may include an estimate for the work to be charged on a time & materials basis at the applicable rate.

2.10.3. Specifications

Before Questica undertakes any customizations described herein, as well as integrations with other systems, and data imports, Customer and Questica shall prepare and sign-off on the detailed specifications ("Specifications") for the work to be performed.

2.10.4. Change Orders

Any changes to the agreed specifications, including changes requested by Customer within the warranty period, shall be the subject of a new change order and the work to be carried out thereunder shall be separately quoted, agreed, and billed and shall not be included as part of this Scope of Work.

2.10.5. Warranty

Once completed the custom work shall be warranted by Questica in accordance with the "Technical Support Services" section of the Questica Software License Agreement.

2.11. Project Management

2.11.1. Questica Project Management Responsibilities

1. Coordinating the development of the project plan in consultation with Customer project manager and team members.
2. Ensure the timely execution of Questica's deliverables.
3. Ensuring that members of Customer team are sufficiently educated in the Questica Budget application understand the implications of initial design decisions.
4. Providing Customer with timely and detailed descriptions of the items identified as "Customer task" within this SoW, along with their expected completion dates.
5. Providing regular progress status reports to the key team members.
6. Advising Customer of the impact on the expected delivery dates of any Questica or Customer deliverable is advanced or delayed.
7. Tracking issues through an issue log.
8. Author and coordinate the approval of change order estimates, and the execution of the deliverables approved.

2.11.2. The Customer Project Management Responsibilities

1. Running Customer's project according to Customer's norms, standards, practices, and protocols.
2. Acting as primary communication point with the Questica PM.
3. Providing definitive responses to the Questica PM on all decision points.
4. Ensuring the timely execution of Customer's deliverables, as identified within this SoW, and advising the Questica PM of expected completion dates.
5. Ensuring that implementation training material is reviewed in a timely manner.
6. Ensuring that change orders contain a full specification of the changes required.
7. Ensuring that customizations are fully specified and documented.
8. Ensuring that all Customer team members have a clear understanding of their responsibilities to the project.
9. Approving (sign-off) Questica deliverables.

2.11.3. Project Planning

1. The project plan will be prepared by the Questica project manager in consultation with Customer's project manager and team members.
2. The project planning phase will determine whether Questica Budget modules are to be implemented serially or in parallel and, if serially, the order of module implementation.
3. The implementation of each Questica Budget module will involve the following stages:
 - a. An overview of, and training in, the module and the ways in which the module can be extended by configuration and customizations.
 - b. A determination of how best to configure and, if necessary, customize the module to meet the objectives of Customer.
 - c. An overview of the advantages and, if present, disadvantages of the proposed configuration and customizations.
 - d. Documentation of the agreed configuration and customizations.
 - e. The preparation of data import templates consistent with the agreed configuration and customizations.
 - f. The completion by Customer of the data import templates.
 - g. The import by Questica of the data import templates.
 - h. Customer approval of the imported Questica Budget structures and data.
 - i. The creation of custom report entities to support Customer's reporting, where such reporting is not readily available within Questica Budget's natural data model.
 - j. Training in the creation of (ad hoc) views, and ad hoc print reports using Microsoft Report Builder 3.0.
 - k. Determination of custom reporting requirements that cannot be met by the standard reports and the use of the out-of-the-box ad hoc reporting features.
 - l. The preparation of change orders and specification for any custom reports not detailed in this Scope of Work.
 - m. The development by Questica of any required custom reports, whether detailed in this Scope of Work or added to the scope through a change order.
 - n. The testing and acceptance of custom reports and report views.
 - o. The deployment of custom reports and report views.
 - p. The development of an integration strategy for updating the Questica Budget database with actual result data from the financial system and the passing of budget data into the financial system.
 - q. The development by Customer of the integration components (queries, intermediate tables, file output/input etc.) which are required to access actual data from the financial system/HR System and update the financial system with budget data.
 - r. The development by Questica of:
 - i. integration components which transform budget data prior to updating the financial system;
 - ii. integration components which transform actual result data prior to updating the Questica Budget database;
 - iii. integration components required to initiate the execution of integrations.
 - s. The deployment of all integration components.
 - t. The testing and acceptance by Customer of the integration components.

3. Customer Resources

1. The requirement for Customer resources is variable with:
 - a. The duration of the project.
 - b. The degree of internal Customer consultation.
 - c. The level of internal Customer agreement.
 - d. The number of customizations.
 - e. The familiarity of Customer staff with their General Ledger, ERP, HR, and other 3rd party systems.

DRAFT

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END OF SOFTWARE SUBSCRIPTION AGREEMENT DOCUMENT

AGENDA ITEM 8

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	March 28, 2022
TO:	Budget and Implementation Committee
FROM:	David Knudsen, Interim External Affairs Director
THROUGH:	John Standiford, Deputy Executive Director
SUBJECT:	State and Federal Legislative Update

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Receive and file an update on state and federal legislation; and
- 2) Forward to the Commission for final action.

BACKGROUND INFORMATION:

State Update

The State Legislature continues its work on the budget and other legislation. A total of 2,020 bills were introduced for 2022, of which 1,361 were Assembly measures, and 659 were Senate measures. While many of these bills are considered “spot bills,” staff continues to be actively engaged in the legislative process.

State Funding Request

On February 22 and 23, RCTC submitted written and oral public comments to Senate and Assembly Budget Subcommittees for Transportation regarding the Implementation of the State Transportation Infrastructure Package. This package is part of Governor Newsom’s 2022-23 state budget proposal. Staff comments and letters reiterated RCTC’s support of the Inland Empire Caucus request for \$2.245 billion in budget funding to deliver transportation projects to provide immediate relief for the region’s residents. As a result of the projected \$45.7 billion surplus, there is a unique opportunity to leverage the unprecedented investments expected from the federal Infrastructure Investment and Jobs Act and equitably provide resources that will benefit communities across the Inland Empire.

Assembly Bill 2438 (Friedman) – Information Only

Staff is closely monitoring Assembly Bill 2438 authored by the Assembly Transportation Committee Chair, Assemblymember Laura Friedman (Glendale). As currently written, the bill would require all transportation projects funded at the local or state level to align with the

California Transportation Plan and the Climate Action Plan for Transportation Infrastructure (CAPTI) adopted by the California State Transportation Agency.

CalSTA developed CAPTI to detail state recommendations to prioritize or redirect billions of existing discretionary transportation dollars annually to “combat and adapt to climate change while supporting public health, safety and equity.” CAPTI builds on executive orders signed by Governor Newsom in 2019 and 2020 targeted at reducing greenhouse gas (GHG) emissions in transportation to reach the state's climate goals.

According to CalSTA, the implementation of CAPTI will not change the “fix-it-first” approach to maintaining the state’s highways, roads, and bridges via SB 1. However, where feasible and within existing funding program structures, the state will invest transportation funds in infrastructure projects that do not incent increased Vehicle Miles Traveled (VMT). CAPTI calls for increased investments to support zero-emission transit, freight and rail, as well as projects that expand access to walking, biking, and transit to reduce dependence on driving.

RCTC staff provided feedback to CalSTA regarding the implementation of CAPTI by submitting comments and participating in meetings to reinforce the local perspective that a “one size fits all” climate action approach will not work. This is especially true for regions like Riverside County, one of the fastest growing counties in the state with a significant population commuting outside the County to job-centers. The region is also a growing freight and goods movement corridor between the Ports of Los Angeles and Long Beach and the rest of the country. Without local flexibility and substantial new investments from the state unlike anything the region has seen before, residents will be disproportionately impacted by this policy shift and left behind.

This bill is largely considered a “spot bill” intended to be developed over the next few months. However, it is the author’s intent to codify, part or all of CAPTI’s policies and implement new transportation policy to help the state achieve its climate action goals. CAPTI is also influencing the evaluation of state progress toward its GHG reduction goals. The recently released report “Evaluation of California State and Regional Transportation Plans and Their Prospects for Attaining State Goals,” highlighted by staff last month, states that California is not on track to meet its GHG reduction targets and is likely to fall short of attainment.

As this bill is amended to reflect more concrete policy, staff will provide the Commission with a position recommendation.

Federal Update

Infrastructure Investment and Jobs Act Implementation

The U.S. Department of Transportation (USDOT) continues to work on implementation of the Infrastructure Investment and Jobs Act (IIJA). There are a multitude of changes to existing programs and dozens of new programs included in the five-year legislation. The implementation efforts include several Requests for Information (RFI). On February 18, 2022, RCTC responded to

a USDOT RFI to provide the Commission’s input on how the IIJA can be implemented to maximize the benefits to Riverside County. RCTC provided comments on eleven discretionary programs included in the IIJA. Those programs include:

- Promoting Resilient Operations for Transformative, Efficient and Cost-saving Transportation Program;
- Bridge Investment;
- Wildlife Crossing Pilot Program;
- National Infrastructure Project Assistance Program;
- Local and Regional Project Assistance Program;
- Advanced Transportation Technologies and Innovative Mobility Deployment Program;
- Highway Safety Improvement Program;
- Congestion Mitigation and Air Quality Program;
- National Significant Freight and Highway Projects Program; and
- Preliminary Engineering and Transportation Alternatives programs.

The RCTC comments to the Federal Register are attached to this staff report. RCTC continues to educate federal decision-makers about the transportation needs in Riverside County and how the discretionary grant programs in the IIJA can help meet those needs.

The Senate Environment and Public Work (EPW) Committee held a hearing on March 2, 2022, on USDOT’s ongoing implementation of the IIJA. Secretary Pete Buttigieg testified that the USDOT is working to implement the infrastructure investments according to the new law, with a focus on “making our nation’s roads safer; making our transportation systems cleaner, more accessible, and more resilient to climate impacts; and enabling all Americans to share in the benefits equitably.” Senator Alex Padilla is a member of the EPW Committee and as part of the hearing preparation, RCTC provided the Senator’s office with a suggested question for written response by Secretary Buttigieg. The question highlighted the importance of having USDOT discretionary grant programs address the transportation needs of areas with high population growth, while also addressing multimodal solutions, the safety and congestion needs of disadvantaged communities and the environmental impacts of freight and goods movement.

FY 2022 Federal Appropriations

President Biden signed a \$1.5 trillion omnibus appropriations package on March 15 to fund the federal government through the remainder of the fiscal year. This omnibus appropriations bill caps off months of negotiations in Congress to fund federal programs. Included in this spending package is \$5 million in Community Project Funding for the I-15 Smart Freeway Pilot Project. Representative Ken Calvert submitted this project for funding at the request of RCTC.

In addition to the I-15 Smart Freeway Pilot Project, in April 2021, RCTC submitted the following projects to the Riverside County House delegation, as well as Senators Feinstein and Padilla, for Community Project Funding in the FY 22 appropriations bill:

- Interstate 10 Highland Springs Interchange Improvements
- Moreno Valley/March Field Station Improvements Project

These projects did not receive funds from the earmark process.

FISCAL IMPACT:

This is a policy and information item. There is no fiscal impact.

Attachments:

- 1) State and Federal Update Legislative Matrix – March 2022
- 2) RCTC Comments on USDOT Request for Information on IIJA Implementation

RIVERSIDE COUNTY TRANSPORTATION COMMISSION - POSITIONS ON STATE AND FEDERAL LEGISLATION – MARCH 2022

Legislation/ Author	Description	Bill Status	Position	Date of Board Adoption
AB1778 (Cristina Garcia)	This bill would prohibit any state funds or personnel time from being used to fund or permit freeway widening projects in areas with high rates of pollution and poverty.	Referred to Assembly Transportation Committee February 10, 2022	<i>Oppose</i>	March 9, 2022
AB 1499 (Daly)	Removes the January 1, 2024 sunset date for Department of Transportation and regional transportation agencies to use the design-build procurement method for transportation projects in California.	Signed by the Governor September 22, 2021	<i>SUPPORT</i>	April 14, 2021
SB 623 (Newman)	Clarifies existing law to ensure toll operators statewide can improve service to customers and enforce toll policies while increasing privacy protections for the use of personally identifiable information (PII).	Failed to Pass House of Origin by January 31, 2022 deadline. February 1, 2022	<i>SUPPORT</i> <i>Staff action based on platform</i>	April 5, 2021
SB 261 (Allen)	This bill would require that the sustainable communities strategy be developed to additionally achieve greenhouse gas emission reduction targets for the automobile and light truck sector for 2045 and 2050 and vehicle miles traveled reduction targets for 2035, 2045, and 2050 established by the board. The bill would make various conforming changes to integrate those additional targets into regional transportation plans.	Failed to Pass House of Origin by January 31, 2022 deadline. February 1, 2022	<i>OPPOSE</i>	May 12, 2021
Federal				
HR 972 (Calvert)	This bill establishes the Western Riverside County Wildlife Refuge which would provide certainty for development of the transportation infrastructure required to meet the future needs of southern California.	Ordered Reported by the House Committee on Natural Resources July 14, 2021	<i>SUPPORT</i> <i>Staff action based on platform</i>	June 11, 2021



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February 18, 2022

Ms. Stephanie Pollack, Deputy Administrator
 Federal Highway Administration
 c/o Docket Management Facility
 1200 New Jersey Ave, SE – W12-140
 Washington, D.C. 20590

Subject: RCTC Comments on Request for Information, Implementation of the Infrastructure Investment and Jobs Act (Federal Highway Administration – Docket No. FHWA–2021–0021)

Dear Administrator Pollack:

The Riverside County Transportation Commission (RCTC) appreciates the opportunity to comment on the Federal Highway Administration's (FHWA) Notice of Request for Information (RFI) published on December 1, 2021, regarding implementation of the Infrastructure Investment and Jobs Act (referred to in the RFI as the Bipartisan Infrastructure Law or BIL).

Riverside County Transportation Commission

In 1976, California Governor Edmund G. Brown created RCTC as a county transportation commission and regional planning agency with the intent to enhance public transit, prioritize highway and transit projects, improve air quality, and other related goals. Today, RCTC plans and implements transportation and transit improvements, assists local governments with funding for local streets and roads, facilitates goods movement, provides commuters with congestion relief on local highways, operates tolled express lanes, and ensures everyone has access to transportation.

RCTC is governed by a board with elected representatives from all 28 cities in Riverside County, the five County Supervisors, and one Governor's appointee. According to the latest U.S. Census, Riverside County is currently the 10th most populous county in the country with over 2.5 million residents – which is an increase in population of approximately 15% since 2010.

Riverside County is both geographically and economically diverse - spanning over 7,000 square miles with both urban and rural areas. We have the population of New Mexico in an area the size of New Jersey.

To the west and south are Orange, Los Angeles, and San Diego counties while to the north and east are San Bernardino and Imperial counties and the state of Arizona. A wide array of industries and employers thrive in Riverside County, including but not limited to public and private higher education institutions, leading technology firms, medical and healthcare facilities, vineyards and wineries, farming, music festivals, state and national parks and monuments, tourism, and goods movement.

Stephanie Pollock, Deputy Administrator

February 18, 2022

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Located adjacent to Los Angeles County, which has two of the largest port complexes in the world, Riverside County is home to some of the largest warehousing and distribution centers in the country. Transportation in Riverside County is severely impacted by goods being distributed all over the United States. Primary rail and highway freight corridors, including Interstates 10 and 15 and Burlington Northern Santa Fe (BNSF) and Union Pacific (UP) rail lines, bisect the county. These corridors facilitate the distribution of economically vital goods, but not without leaving a large air quality and congestion impact on Riverside County.

Given the diversity of the transportation needs throughout Riverside County, RCTC is committed to a broad array of transportation solutions to meet these challenges that reflect a commitment to improved mobility, environmental protection, sustainability, and equity.

Riverside County is a “self-help” county. In 1988, as the population of Riverside County was increasing, RCTC proposed a half-cent sales tax measure to Riverside County voters. This sales tax measure, known as Measure A, required a two-thirds approval of the voters, of which 78.9 percent voted yes. The original Measure A was a 20-year plan that promised to deliver critically important mobility improvements throughout Riverside County. Because RCTC delivered on those promises to the voters and because of our commitment to fulfilling our promises, the voters in the county have approved an extension of Measure A for another 30 years with a new expiration date of 2039.

RCTC supports the FHWA’s efforts to solicit input on the implementation of the BIL. RCTC’s comments on the RFI are set forth in this letter and the attachment. The attached comments include proposed items for consideration by the FHWA and provides a concise and convenient manner for USDOT staff to review RCTC’s response. The responses to the specific items in the RFI are intended to be read in the context of the overview points made in this letter.

RCTC stands ready to assist the FHWA and the U.S. Department of Transportation on the implementation of the BIL. If you have any questions, please do not hesitate to contact Interim External Affairs Director David Knudsen at (951) 787-7141.

Sincerely,



Anne Mayer
Executive Director

Enclosure: *Riverside County Transportation Commission Response to the Request for Information (6 pgs.)*

Riverside County Transportation Commission Response to the Request for Information

(i) Potential opportunities and challenges for implementing new BIL programs

Promoting Resilient Operations for Transformative, Efficient and Cost-saving Transportation Program – PROTECT

Specific reference

Section 11405 – Section 176 of title 23, United States Code

Detailed description

RCTC requests that USDOT and FHWA allow for flexibility in the demonstration of resiliency need. Vulnerability to natural disasters and projected increases of regional natural disasters should be given as much weight as established histories of regional natural disasters. Such flexibility will promote the need for a forward-thinking approach to resiliency by making necessary infrastructure improvements to mitigate future disasters. Additional consideration should be given to applications from eligible entities that have adopted a Climate Action Plan, are advancing “smart freeway” technologies to manage traffic or utilize express lanes to expand express bus service.

Considerations

When scoring grant applications, additional consideration and weight should be given to those applications with projects that:

- Are located in states, regions, or localities that have a history of projected increase of impacts from, or demonstrated vulnerability to wildfires, extreme heat, droughts, earthquakes, or floods;
- Are located in states, regions, or localities that have adopted a climate action plan or climate adaptation and resiliency strategy;
- Propose to utilize innovative technologies to better manage traffic; or
- Increase or improve mobility options using existing or planned facilities, such as express lanes that create or expand express bus service.

Bridge Investment

Specific reference

Section 11118 – Section 124 of title 23, United States Code

Detailed description

Structural deficiencies are a common denominator of bridge investment needs across the country. Riverside County and San Bernardino County, collectively known as the Inland Empire in California, continue to experience dramatic population growth due to migration from the coastal urban areas of Los Angeles and Orange Counties. Access to affordable housing and lower costs of living will only increase the use of already-deficient bridges in the region. To generate the most public benefit through the Bridge Investment Program, priority should be given to regions experiencing faster rates of population growth, which increases the use of structurally deficient bridges and accelerates the need for their replacement.

In order to meet the stated priorities of the U.S. Department of Transportation (USDOT), consideration should also be given to projects that promote public safety and benefits to disadvantaged communities, as well as those projects that help facilitate goods movement.

Specifically, the replacement or upgrading of low water crossings would offer immense benefit to disadvantaged communities. For example, the Coachella Valley has a large number of low water crossings that experienced mass flooding on February 14, 2019, and remain vulnerable to mass flooding. Replacing or upgrading these bridges would limit the disproportionate impacts of this type of flooding on disadvantaged communities and limit disruptions to the local economy.

Considerations

When scoring grant applications, additional consideration and weight should be given to projects that:

- Are located in regions that are experiencing high rates of population growth;
- Maximize public safety and benefit to disadvantaged communities and goods movement; or
- Prioritize investments on low water crossings.

Wildlife Crossing Pilot Program

Specific reference

Section 11123 – Section 171 of title 23, United States Code

Detailed description

Riverside County is home to the Western Riverside Multiple Species Habitat Conservation Plan (Western Riverside MSHCP) and the Coachella Valley Multiple Species Habitat Conservation Plan (Coachella Valley MSHCP), which are authorized by the Endangered Species Act to streamline housing, infrastructure, and other developments while mitigating for impacts to protected species and their habitats. Rather than taking a project-by-project approach to mitigation, Habitat Conservation Plans (HCP) plan at the scale of whole landscapes and ecosystems. HCPs map out habitats and wildlife corridors that would need to be preserved to protect specific species and broader biodiversity. RCTC believes the public and ecological benefit of the pilot program would be maximized if projects located in HCPs, which have already done the necessary planning to identify wildlife corridors of protected species, were given greater consideration.

Considerations

When scoring grant applications, additional consideration and weight should be given to projects that:

- Are located in Habitat Conservation Plans, as defined in Section 10(a)(1)(B) of the Endangered Species Act; or
- Are in the immediate proximity to and enhance linkages of habitat of protected species.

National Infrastructure Project Assistance Program

Specific reference

Section 21201 – Chapter 67, section 6701 of title 49, United States Code

Detailed description

Riverside County and San Bernardino County, collectively known as the Inland Empire in California, continue to experience dramatic population growth due to migration from the coastal urban areas of Los Angeles and Orange Counties in order to access affordable housing and lower costs of living. To generate the most public benefit through the National Infrastructure Project Assistance Program, priority should be given to regions experiencing faster rates of population growth, which increases the use of already impacted corridors and accelerates the need for operational improvements and new or increased multimodal options.

Considerations

When scoring grant applications, additional consideration and weight should be given to projects that:

- Are located in regions experiencing high rates of population growth;
- Include operational improvements;
- Create or increase multimodal options;
- Reduce traffic delays and barriers between communities;
- Improve safety;
- Benefit goods movement;
- Utilize technology to enhance mobility; or
- Utilize pricing to manage congestion.

Local and Regional Project Assistance Program

Specific reference

Section 21202 – Chapter 67, section 6702 of title 49, United States Code

Detailed description

Riverside County and San Bernardino County, collectively known as the Inland Empire in California, continue to experience dramatic population growth due to migration from the coastal urban areas of Los Angeles and Orange Counties in order to access affordable housing and lower costs of living. To generate the most public benefit through the Local and Regional Project Assistance Program, priority should be given to regions experiencing faster rates of population growth, which increases the use of already impacted corridors and accelerates the need for operational improvements and new or increased multimodal options.

Considerations

When scoring grant applications, additional consideration and weight should be given to projects that:

- Are located in regions experiencing high rates of population growth;
- Include operational improvements;
- Create or increase multimodal options;
- Reduce traffic delays and barriers between communities;
- Improve safety; or
- Benefit goods movement.

Advanced Transportation Technologies and Innovative Mobility Deployment Program

Specific reference

Section 13006(b) – Section 503(c)(4) of title 23, United States Code

Detailed description

Favorable consideration should be given to applications from eligible entities that advance the use of “smart freeway” technologies to manage traffic on existing facilities.

Considerations

When scoring grant applications, additional consideration and weight should be given projects that:

- Propose the implementation of new technology for operational improvements or safety improvements on existing facilities.

(ii) Potential opportunities and challenges for implementing existing programs modified by BIL

Highway Safety Improvement Program

Specific reference

Section 11111 – Section 148 of title 23, United States Code

Detailed description

Riverside County and San Bernardino County, collectively known as the Inland Empire in California, continue to experience dramatic population growth due to migration from the coastal urban areas of Los Angeles and Orange Counties in order to access affordable housing and lower costs of living. This migration exacerbates the negative impacts that rail crossings have on communities—many of them disadvantaged—by serving as a barrier to community connectivity and increasing travel times, as well as air polluting emissions from idling vehicles.

Considerations

Additional consideration and weight should be given to projects that:

- Reduce traffic delays and barriers between communities, including rail crossings.

Congestion Mitigation and Air Quality Program (CMAQ)

Specific reference

Section 11115 – Section 149 of title 23, United States Code

Detailed description

As a program, CMAQ is critical to addressing poor air quality that disproportionately affects disadvantaged communities. In large states like California, disadvantaged communities outside of coastal urban centers risk benefiting the least from CMAQ funding if awarded by the state. If regional agencies are allowed to direct CMAQ funding, in partnership with Metropolitan Planning Organizations, then non-urban disadvantaged communities will receive more equitable benefits

from projects that improve air quality. Additionally, local agencies will save substantial resources that would otherwise be directed toward the pursuit of a statewide program. Projects that would benefit these communities include rail crossing grade separations, express lanes, transit improvements, and commuter and intercity rail improvements.

Considerations

RCTC proposes that in large and populous states, that USDOT and FHWA allow regional agencies, in partnership with Metropolitan Planning Organizations, to have a greater and more substantive role in funding decisions.

National Significant Freight and Highway Projects Program

Specific reference

Section 11110 – Section 107 of title 23, United States Code

Detailed description

The Inland Empire continues to experience dramatic population growth as a result of migration from the coastal urban areas of Los Angeles and Orange Counties due to more affordable housing and costs of living, which will only increase use of corridors already impacted by freight and goods movement in the region. To generate the most public benefit through the National Significant Freight and Highway Projects Program, priority should be given to regions experiencing faster rates of population growth in order to facilitate much-needed operational improvements and new or increased multimodal options.

Considerations

Additional consideration and weight should be given to projects that:

- Are located in regions experiencing high rates of population growth;
- Include operational improvements;
- Create or increase multimodal options;
- Reduce traffic delays and barriers between communities;
- Improve safety; or
- Benefit freight and goods movement.

Preliminary Engineering

Specific reference

Section 11310 – Section 102 of title 23, United States Code

Detailed description

RCTC applauds the repeal of the repayment requirement for projects not ultimately delivered. An example of the importance of this provision is the approximately 15 years that were needed to clear the environmental phase on the Mid County Parkway and State Route 79 Realignment projects in Riverside County. Since that time, RCTC has been trying to advance each of these projects in fiscally manageable packages, which also takes considerable time. A shift away from investing in new transportation facilities has increased across the country in general and in states like California in particular. RCTC and other agencies should not be punished for the policy changes undertaken by state and federal governments that can prevent agencies like RCTC from being able to fully deliver these projects. While these projects remain a priority for RCTC, completion will not be possible without a change in state policy, along with additional state

and federal investment. RCTC remains vulnerable to the requirement of repaying funds for undelivered projects prior to the enactment of the IIJA and Section 11310. These repayments will be a financial blow for agencies and communities that had previously advanced these projects.

Considerations

RCTC requests that the repeal of the repayment requirement for projects be applied retroactively.

Transportation Alternatives

Specific reference

Section 11109(b)(1) – Section 133(h) of title 23, United States Code

Detailed description

As a program, Transportation Alternatives is critical to improving transportation mobility in disadvantaged communities. In large states like California, disadvantaged communities outside of coastal urban centers risk benefiting the least from Transportation Alternatives funding when awarded competitively by the state. If regional agencies were allowed to direct Transportation Alternatives funding in partnership with Metropolitan Planning Organizations, then non-urban disadvantaged communities would receive their fair share. The non-urban communities would not have to compete against large cities that have substantial budgets and staff to review grants. Additionally, local agencies will save substantial resources that are currently directed toward the pursuit of a statewide program.

Considerations

RCTC requests that program funding be distributed by Metropolitan Planning Organizations, rather than the state.

AGENDA ITEM 9

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	March 28, 2022
TO:	Budget and Implementation Committee
FROM:	Eric DeHate, Transit Manager
THROUGH:	Lorelle Moe-Luna, Multimodal Services Director
SUBJECT:	Agreement for Riverside County Zero-Emission Bus Rollout and Implementation Plans

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Award Agreement No. 22-62-008-00 to Center for Transportation and the Environment (CTE) to develop the Riverside County Zero-Emission Bus Rollout and Implementation Plans, for a two-year term in the amount of \$412,676, plus a contingency amount of \$41,267, for a total amount not to exceed \$453,943;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement including the option term, 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) Forward to the Commission for final action.

BACKGROUND INFORMATION:

In November 2020, Commission staff was approached by agency staff from the smaller transit agencies in Riverside County (County), which include the cities of Banning, Beaumont, Corona, and Riverside and the Palo Verde Valley Transit Agency, to conduct a zero-emission bus (ZEB) rollout plan on their behalf.

Staff applied for the California Department of Transportation (Caltrans) FY 2021-2022 Sustainable Transportation Planning Grant (STPG) program under the Sustainable Communities Competitive-Technical category and requested a total of \$271,380 to match \$202,420 in State Transportation Improvement Program (STIP) Planning, Programming, and Monitoring (PPM) funds. The STPG program was established through Senate Bill 1 in April 2017 and is intended to maintain and integrate the state's multi-modal transportation system by supporting and implementing Regional Transportation Plan /Sustainable Communities Strategies that help the state achieve its greenhouse gas reduction targets.

In June 2021, the Commission was awarded \$271,380 from Caltrans under the FY 2021-2022 STPG program for its *Riverside County Zero-Emission Bus Rollout and Implementation Plans*

("Project") application. As part of the grant acceptance, the Commission adopted Resolution No. 21-014 in September 2021, which included all of the necessary elements that Caltrans required. Staff received the notice to proceed from Caltrans on December 22, 2021.

The overall goal of the Project is to provide the Commission and the five transit operators with a board-approved ZEB rollout plan for submission to the California Air Resources Board (CARB) by the July 2023 deadline. The Project will also include an Implementation Plan, which will function as a broader ZEB master plan for the County identifying the needs of the five smaller transit operators and the two larger operators, Riverside Transit Agency and SunLine Transit Agency, to allow for the Commission to plan for the operational and capital needs through 2040.

DISCUSSION:

Key activities to be completed during the Project include:

- Review the existing conditions including any relevant demographics, service area characteristics, existing fleet sizes and conditions, location and status of charging and maintenance infrastructure in the project area.
- Stakeholder engagement with the agencies involved in the rollout plans and implementation plans. In addition, there will need to be stakeholder engagement with public utilities, municipalities, and identify any private properties owners who will be directly impacted by the implementation of ZEB infrastructure such as charging facilities and utility work related to charging infrastructure.
- Develop a detailed capital and operating financial analysis comparing the purchase of ZEB's to the purchase of existing CNG or gasoline buses and prepare a longer-term implementation strategy report.
- Develop a long-term implementation plan for complete transition to zero-emission including procurement and purchasing of zero-emission vehicles to meet regulation deadlines.
- Prepare the ZEB rollout reports based on the findings and conclusions of earlier work and a preferred mode or modes to transition to.
- Seek the Commission's and stakeholder agencies' board approvals based on the findings of the bus rollout and implementation plans for submission to the CARB.

Procurement Process

Staff determined the weighted factor method of source selection to be the most appropriate for this procurement, as it allows the Commission to identify the most advantageous proposal with price and other factors considered. Non-price factors include elements such as qualifications of firm and personnel and understanding and approach for a Riverside County Zero-Emission Bus Rollout and Implementation Plans as set forth under the terms of Request for Proposals (RFP) No. 22-62-008-00.

RFP No. 22-62-008-00 for the Project was released by staff on January 7, 2022. The RFP was posted on the Commission’s PlanetBids website, which is accessible through the Commission’s website. Utilizing PlanetBids, emails were sent to 556 firms, 87 of which are located in Riverside County. Through the PlanetBids site, 41 firms downloaded the RFP and 2 of these firms are located in Riverside County. Staff responded to all questions submitted by potential proposers by January 31, 2022. Four firms – CTE (Atlanta, GA), HDR Engineering, Inc. (Riverside), Hill International (Irvine), and WSP USA, Inc. (San Bernardino) - submitted responsive proposals prior to the 2:00 p.m. submittal deadline on February 10, 2022. Utilizing the evaluation criteria set forth in the RFP, all firms were evaluated and scored by an evaluation committee comprised of Commission, cities of Banning and Beaumont, and Palo Verde Valley Transit Agency staff.

Based on the evaluation committee’s assessment of the written proposals and pursuant to the terms of the RFP, the evaluation committee shortlisted and invited three firms to the interview phase of the evaluation and selection process. Interviews of the shortlisted firms – HDR Engineering, Inc., CTE, and WSP USA, Inc. – were conducted on March 3, 2022.

As a result of the completion of the evaluation process, the evaluation committee recommends contract award to CTE to develop the Project for a two-year term, as this firm earned the highest total evaluation score. A summary of the proposed costs submitted with the written proposals and the total evaluation score rankings following the final evaluation are summarized below:

Firm	Price	Overall Ranking
Center for Transportation and the Environment	\$412,676	1
WSP USA, Inc	\$442,621	2
HDR Engineering, Inc.	\$470,514	3
Hill International	\$447,225	4

Accordingly, staff recommends the award of an agreement to CTE to develop the Project, for a two-year term in the amount of \$412,676, plus a contingency amount of \$41,267, for a total amount not to exceed \$453,943. A 10 percent contingency is assumed for this Project. The Commission’s professional service agreement will be entered into with CTE subject to any changes approved by the Executive Director or designee, pursuant to legal counsel review. Staff also recommends authorization for the Chair or Executive Director to finalize and execute the agreement for the Project, and authorization of the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for these services.

Next Steps


Upon completion of the key activities previously listed, Commission staff will return to the Commission with a presentation of the completed Project. The bus rollout plan component will also need to be approved by each respective transit operator board before submitting to CARB for approval by June 30, 2023.

FISCAL IMPACT:

As noted, this project has identified funding sources in the amount of \$473,800 for up to a two-year period comprising of the following:

- \$271,380 STPG grant from Caltrans
- \$202,420 STIP PPM funds (local match)

Staff is recommending approval of this item in the amount of \$453,943 including contingency.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$81,784 \$372,159
Source of Funds:	Sustainable Transportation Planning Grant (STBG) State Transportation Improvement Funds (STIP)			Budget Adjustment:	No N/A
GL/Project Accounting No.:	002226 65520 00000 0000 242 62 65520				
Fiscal Procedures Approved:				Date:	03/17/2022

Attachment: Draft Agreement No. 22-62-008-00 with Center for Transportation and the Environment.

**PROFESSIONAL SERVICES AGREEMENT
WITH STATE FUNDING/ASSISTANCE**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AGREEMENT WITH
CENTER FOR TRANSPORTATION AND THE ENVIRONMENT
FOR
IMPLEMENTATION PLAN SERVICES
FOR THE
RIVERSIDE COUNTY ZERO-EMISSION BUS ROLLOUT
AND IMPLEMENTATION PLANS]**

Parties and Date.

This Agreement is made and entered into this 13 day of April, 2022, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and **CENTER FOR TRANSPORTATION AND THE ENVIRONMENT (CTE)** ("Consultant"), a **NONPROFIT ORGANIZATION**. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

Recitals.

- A. On November 8, 1988 the Voters of Riverside County approved Measure A authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax (the "tax") to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").
- B. Pursuant to Public Utility Code Sections 240000 et seq., the Commission is authorized to allocate the proceeds of the Tax in furtherance of the Plan.
- C. On November 5, 2002, the voters of Riverside County approved an extension of the Measure A tax for an additional thirty (30) years for the continued funding of transportation and improvements within the County of Riverside.
- D. A source of funding for payment for professional services provided under this Agreement is state funds administered by the California Department of Transportation ("Caltrans") pursuant to the following project/program: Sustainable Communities Grants - Restricted Grant Agreement ("State Grant").

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

F. The Commission desires to engage Consultant to render such services for the Riverside County Zero-Emission Bus Rollout and Implementation Plans ("Project"), as set forth in 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 professional implementation plan services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

2. Commencement of Services. The Consultant shall commence work upon receipt of a written "Notice to Proceed" from Commission.

3. Pre-Award Audit. As a result of the state funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" 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 state aid provided under this Agreement is contingent on meeting all state 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 facilitates State process reviews.

4. Caltrans Audit Procedures. This Agreement may be subject to audit to ensure that Consultant has an adequate financial management system in place to accumulate and segregate reasonable, allowable, and allocable costs.

5. Term.

5.1 This Agreement shall go into effect on the date first set forth above, contingent upon approval by Commission, and Consultant shall commence work after notification to proceed by Commission's Contract Administrator. This Agreement shall end on **[INSERT END DATE]**, unless extended by contract amendment.

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

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

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are as follows: **[INSERT NAMES OF KEY PERSONNEL]**.

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. Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, the Commission shall respond to Consultant's submittals in a timely manner. Upon request of Commission's Contract Administrator, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

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, epidemics, pandemics, 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 state funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

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

15. Opportunity to Cure; Inspection of Work. Commission may provide Consultant an opportunity to cure, at Consultant's expense, all errors and omissions which may be disclosed during Project implementation. Should Consultant fail to make such correction in a timely manner, such correction may be made by the Commission, and the cost thereof charged to Consultant. Consultant shall allow the Commission's Contract Administrator and Caltrans to inspect or review Consultant's work in progress at any reasonable time.

16. Reserved.

17. Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term herein, the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement.

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. 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 Consultant shall be reimbursed for hours worked at the hourly rates specified in the Consultant's approved cost proposal ("Cost Proposal"). The specified hourly rates shall be fully burdened rates, and shall include direct salary costs, employee benefits, employer payments, overhead, and fee. These rates are not adjustable for the term of this Agreement.

19.2 In addition, Consultant shall be reimbursed for incurred (actual) direct costs other than salary costs that are in the Cost Proposal. Approved travel and per diem reimbursements and third-party contract reimbursements are allowable as Project costs only after those costs are incurred and paid for by Consultant or subconsultant.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Human Resources for similar employees (i.e. non-represented employees) unless approved by Commission, and provided that written verification is supplied that government hotel rates were not then commercially available at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process at the following link: <https://travelpocketguide.dot.ca.gov/>. Except as set forth in the foregoing sentence, Consultant will be responsible for transportation and subsistence costs in excess of State rates. Consultant shall not be reimbursed for any expenses unless expressly authorized in the Cost Proposal or authorized in writing by the Commission's Contract Administrator.

19.4 If milestone cost estimates are included in the approved Cost Proposal, written approval of a revised milestone cost estimate from the Contract Administrator is required before exceeding such estimate.

19.5 Progress payments shall be made monthly in arrears based on Services provided and allowable incurred costs. If Consultant fails to submit the required deliverable items according to the schedule 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. No payment shall be made prior to approval of any Services, nor for any Services performed prior to approval of this Agreement.

19.6 Consultant shall submit itemized invoices to the Commission 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, or as otherwise directed by the Commission, and shall reference this Agreement number and project title. The 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 the Commission at the following address:

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

Commission shall, within 45 days of receiving the invoice, review the statement and pay all approved charges thereon.

19.7 The total amount payable by Commission under this Agreement shall not exceed four hundred twelve thousand six hundred seventy six (\$412,676).

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

20. Disputes.

20.1 Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by mutual agreement of the Parties shall be decided by a committee consisting of RCTC's Contract Administrator and the Director of Capital Projects, who may consider written or verbal information submitted by Consultant.

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

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

21. Termination.

21.1 Commission reserves the right to terminate this Agreement for any or no reason upon thirty (30) calendar days written notice to Consultant with the reasons for termination stated in the notice.

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 work in any manner deemed proper by Commission. If Commission terminates this Agreement with Consultant, Commission shall pay Consultant the sum due to Consultant under this Agreement for Services completed and accepted prior to termination, unless the cost of completion to Commission exceeds the funds remaining in this Agreement. In such case, the overage shall be deducted from any sum due Consultant under this Agreement and the balance, if any, shall be paid to Consultant upon demand.

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

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

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

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

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

22.1 The method of payment for this Agreement will be based on the actual allowable costs that are incurred in accordance with the provisions of this Agreement and the State Grant, and in the performance of Services for the Project.

22.2 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.

22.3 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.

22.4 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.

22.5 All subcontracts shall contain the above provisions.

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

Consultant and its subconsultants will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by Caltrans for the purpose of any investigation to ascertain compliance with the State Grant.

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

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

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 Consultant 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 Consultant's Cost Proposal and exceeding \$5,000 prior authorization by Commission's Contract Administrator is required. Three competitive quotations must be submitted with the request for such purchase, or the absence of bidding must be adequately justified.

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

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 (with counsel of Commission's choosing), indemnify and hold Commission, its directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, its directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission and its 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, its 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: \$2,000,000 per accident for bodily injury and property damage. Limits may be achieved by any combination of primary and excess or umbrella liability insurance; and (3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

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

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

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

(a) General Liability.

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

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

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

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

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

(c) Workers’ Compensation and Employers Liability Coverage.

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

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

(d) All Coverages.

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

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

requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

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

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

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

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

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

(viii) Neither the Commission nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

30.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or, (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

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

30.8 Verification of Coverage. Consultant shall furnish Commission with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the Commission. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the Commission before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, at any time.

30.9 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

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

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and

regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

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. 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.

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 may be required in connection with funding provided hereunder, 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 contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

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

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.

39.1 **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:

[INSERT]

COMMISSION:

Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor

Riverside, CA 92501
Attn: Executive Director

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

40. 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.

Notwithstanding the foregoing, in the case of any conflict between this Agreement, the State Grant requirements set forth in Exhibit "D", or any other attachment to this Agreement, the State Grant requirements shall control, unless otherwise specified in writing by the Commission.

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

42. 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.

43. 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.

44. Provisions Applicable When State Department of Transportation Funds Are Involved. When funding for the Services provided by this Agreement are provided, in whole or in part, from the Caltrans, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Caltrans requirements) attached hereto and incorporated herein by reference.

45. 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.

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

47. 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.

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

49. 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.

50. 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.

51. 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.

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

53. 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 FUNDING/ASSISTANCE**

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

RIVERSIDE COUNTY TRANSPORTATION COMMISSION By: _____ Anne Mayer Executive Director <i>Approved as to Form:</i> By: _____ Best, Best & Krieger LLP General Counsel	CENTER FOR TRANSPORTATION AND THE ENVIRONMENT By: _____ Signature _____ Name _____ Title ATTEST: By: _____ Its: _____
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* A corporation requires the signatures of two corporate officers.

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

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

EXHIBIT “A”

SCOPE OF SERVICES

[attached behind this page]

DRAFT

4A. Scope of Work Checklist

The Scope of Work (SOW) is the official description of the work that is to be completed during the contract. Tasks 1-6 outlined in the SOW are for illustrative purposes only. Task **Applications with missing components will be at a competitive disadvantage.** Please use this checklist to make sure your Scope of Work is complete.

Scope of Work	
(x)	Ensure these items are completed prior to submitting to Caltrans
X	Use the Fiscal Year 2021-22 template provided and in Microsoft Word format.
X	Include the activities discussed in the grant application.
X	List all tasks using the same title as stated in the Project Cost and Schedule.
X	Include task numbers in accurate and proper sequencing, consistent with the Project Cost and Schedule.
X	Ensure that sub-task numbers are not included.
X	Include a thorough Introduction to describe relevant background, related planning efforts, the project and project area demographics, including a description of the disadvantaged community involved with the project, if applicable.
X	Include a thorough and accurate narrative description of each task.
X	Task 01 is a required task. It must be titled "Project Administration", it cannot exceed 5% of the grant award amount, and only the grantee can charge against this Task. This Task must only include the following activities and deliverables: <ul style="list-style-type: none"> • Project kick-off meeting between the grantee and Caltrans at the start of the grant • Invoicing and quarterly reporting to Caltrans • DBE Reporting (federal grants only)
X	Include Task 02 for the procurement of a consultant (if needed). This task for the <u>grantee only</u> .
X	Public outreach task must include detailed public participation and services to diverse communities.
X	Identify public outreach strategies in a manner that provides flexibility and allows for a diverse range of outreach methods (both in-person and on-line), considering the current COVID-19 environment.
X	Must include a Task(s) for a Draft and Final product. The draft plan must include an opportunity for the public to provide feedback. (Excludes technical projects)
X	The final product must include a summary of next steps your agency will take towards implementing the project.
X	Achievable project deliverables must be listed for each Task.
X	EXCLUDE environmental, complex design, engineering work, and other ineligible activities outlined in the Grant Application Guide.

SCOPE OF WORK

Project Information	
Grant Category	Sustainable Communities
Grant Fiscal Year	'21-22
Project Title	Riverside County Zero-Emission Bus Rollout and Implementation Plans
Organization (legal name)	Riverside County Transportation Commission

Introduction

The Riverside County Transportation Commission (hereinafter referred to as “Commission” or “RCTC”) was created pursuant to California state law in 1976 to oversee the funding and coordinating of all public transportation services within Riverside County (County) and is designated as the Regional Transportation Planning Agency (RTPA). The Commission's governing body consists of all five members of the County Board of Supervisors; one elected official from each of the 28 cities in the County; and one non-voting member appointed by the Governor of California.

The Commission is responsible for setting policies, establishing priorities, and coordinating activities among the County's various transit operators and other agencies. The Commission also programs and/or reviews the allocation of federal, state, and local funds for highway, transit, rail, non-motorized travel (bicycle and pedestrian), and other transportation activities. The Commission is legally responsible for allocating Transportation Development Act (TDA) funds, the major source of funds for the transit in the County. The TDA provides two sources of funding: Local Transportation Fund (LTF), derived from a one quarter of one-cent sales tax, and State Transit Assistance (STA), derived from the statewide sales tax on diesel fuel. In addition to the TDA sources of funding, transit operators are also able to receive Low Carbon Transit Operations Program (LCTOP) funding from the Cap-and-Trade Program, and State of Good Repair (SGR) Program funding from Senate Bill 1. Both programs are allocated according to the PUC codes governing the State Transit Assistance funds.

The Commission's Multimodal Services Department is responsible for providing funding to the transit operators through the Short-Range Transit Plan (SRTP) process and financial oversight as the RTPA through implementation of policies and procedures regarding performance monitoring, financial auditing and reporting of the transit operators as required by TDA.

TDA and Commission's Policy require transit operators to submit a SRTP annually to be eligible for TDA funds. The SRTP is a budgeting and planning document that is approved annually and includes a three-year planning horizon. The SRTP is a narrative describing each current transit operators current transit network, how that network is performing, future changes to that network, and a financial constraint plan on how to pay for that future network.

Project Stakeholders

The Commission will lead the development of a Zero-Emission Bus Rollout Plan and Implementation Plan (ZEB Plans) on behalf of five of the seven transit operators in the County: cities of Riverside (Riverside Connect), Corona (Corona Cruiser), Banning, Beaumont; and the Palo Verde Valley Transit Agency (collectively referred to as "Operators").

RCTC will also engage other stakeholders as needed, including but not limited to: public utilities, municipalities, and private property owners who will be directly impacted by the implementation of ZEB infrastructure such as charging facilities and related utility work.

Project Area Demographics and Disadvantaged Communities

Within the project area (the service area of the five Operators), 49 census tracts out of 163 (30%) qualify as disadvantaged communities (DACs) per SB 535, scoring within the top 25th percentile of CalEnviroScreen 3.0. Nearly 40% of census tracts in the study area scored within the lowest quartile on the Healthy Places Index, meaning these areas have less healthy conditions than 75% of all census tracts statewide. The County is disproportionately burdened by extremely poor air quality. Nearly 70% of the study area's census tracts experience average ozone levels of 0.062 ppm or higher, placing them within the top 90th percentile of ozone levels statewide. Riverside DACs throughout Riverside County, including Tribal and rural communities, will see a reduction in ozone and particulate matter in the air from project implementation. ZEB rollout will provide DACs with job opportunities related to bus manufacturing, infrastructure installations and operations.

The Commission is responsible for serving all Riverside County residents, including the 28% of residents living in poverty and the 11% of residents living with a disability that may impact their ability to operate a motor vehicle. The Commission also provides options for county residents who cannot afford or physically operate an automobile to access employment centers, critical services including shopping, medical facilities, etc. Older adults account for approximately 14% of the County's population, indicating a pressing need for viable alternatives to using an automobile.

Overall Project Objectives

RCTC seeks to conduct a coordinated zero emission analysis of the transit systems for the cities of Banning, Beaumont, Corona, and Riverside; and Palo Verde Valley Transit Agency comparing each of the operator's current fleet of buses (operating fixed-route buses, paratransit and demand response fleet, and support vehicles) in each operator's service area to zero-emission buses (ZEBs) in response to the California Air Resources Board (CARB) Innovative Clean Transit (ICT) Regulation, which mandates the full conversion of bus fleets to zero-emission by 2040.

The project will include development of a joint Zero Emission Bus Rollout Plan for fleet conversion by 2040, as mandated by CARB, as well as an Implementation Plan (ZEB Plans). The ZEB Plans will consider the existing and proposed resources of SunLine Transit Agency and Riverside Transit

Agency (RTA) who have both completed ZEB plans independently of the other Riverside County transit operators. Each of the small transit operators included in this project are required to submit a rollout plan to CARB by July 2023.

The Implementation Plan will function as a broader ZEB Master Plan, supporting the Rollout Plan by identifying a comprehensive and sustainable path forward for the Operators. The Implementation Plan will consider the operational and financial impacts of a full fleet conversion; examine the difference in the capital and operating costs of new battery-electric or hydrogen fuel cell bus technology versus a compressed natural gas (CNG) or gasoline bus, the capital cost of associated ZEB infrastructure, the capital cost of rehabilitation or purchase of interim non-ZEB vehicles and infrastructure, coordination with utilities and other relevant infrastructure providers, and the overall operating cost impacts.

Operating cost impacts should consider an exhaustive list of affected items including labor, fuel and maintenance costs and the impacts on revenue streams and farebox recovery ratio. Of special significance is the need for a rigorous analysis of fleet scheduling/operations with the various range limitations of ZEB buses. Additionally, the financial analysis will consider lifetime/lifecycle costs, payback periods, net present values (NPV), and time sensitivity.

The overall goal of the project is to provide RCTC and the Operators with a board-approved Zero Emission Bus Rollout Plan and Implementation Plan by April, 2023 (ahead of CARB's July, 2023 deadline). Goals of the analysis include:

- (1) determine the most capital cost-effective approach to a 100% bus fleet with zero emission propulsion;
- (2) determine capital improvements and facility modifications required to achieve the 100% ZEB fleet and operation;
- (3) provide a financial analysis for the five transit Operators including operating and capital costs until 2040;
- (4) provide a phasing schedule and purchasing strategy that allows each agency to sustainably meet ZEB deadlines;
- (5) develop a comprehensive understanding – positives and negatives – of how compliance with this regulation will impact each agency in the future, and how federal legislation may impact the ZEB Plans; and
- (6) develop an emissions report detailing the emission savings by year and by agency regarding ICT implementation.

The objectives of this study are:

- 1) Evaluate the existing fleet of each agency by determining the existing quantity and age of buses as well as the vehicles' work and route requirements (duty cycles), including dwell time and location.
- 2) Evaluate existing infrastructure for each agency by determining whether the existing infrastructure can support Battery Electric Buses (BEBs) or Hydrogen Fuel Cell Buses (HFCBs) and identify infrastructure improvements (joint agency uses or individual agency uses) needed to retain existing operating parameters, such as additional charging infrastructure and associated costs, schedules and range during the transition to a full ZEB fleet;
- 3) Assist the coordination with utilities serving the respective service areas to ensure proper capacity requirements are met for ZEB implementation;

- 4) Examine whether additional right-of-way may be required to support ZEB infrastructure for each agency;
- 5) Identify and evaluate the battery charging or hydrogen fuel infrastructure that will be required for a future fleet of BEBs, HFCBs or a combination for each agency;
- 6) Evaluate current or planned infrastructure projects that can be modified in order to support each of the agency's compliance with the CARB ZEB regulation;
- 7) Identify feasible infrastructure improvements, develop a realistic implementation plan, estimate the costs of the improvements, and develop an infrastructure phasing plan that allows for existing operations while reaching compliance by 2040 for each agency;
- 8) Develop a phasing plan for procurement of ZEB vehicles with consideration of replacement and available technology to reach compliance by 2040 as well as the timing of completion of required infrastructure by each agency;
- 9) Prepare an operational and financial comparison for all agencies of the administration, operations and maintenance (O&M) needs between ZEBs and current agency vehicles;
- 10) Estimate the O&M costs of the overall ZEB operations for the transition scenario for all agencies;
- 11) Prepare an emissions report detailing the emission savings by year and by agency regarding ICT implementation; and
- 12) Serve and improve communities unduly burdened by the impacts of Riverside County's nonattainment status and other hazardous environmental conditions.

Summary of Project Tasks

Project Management activities must be identified within the task they occur.

Task 01: Project Administration

Discuss specifics of grant and process of starting the project. Submit required reporting to Caltrans as required by this funding program.

Task Deliverables
<ul style="list-style-type: none"> Kick-off meeting with Caltrans Meeting Notes Quarterly invoices and progress reports

Task 02: Consultant Procurement

RCTC will issue an RFP for the completion of the ZEB Rollout Plan and Implementation Plan (ZEB Plans).

A reviewing committee will review and score the proposals received for completion of the ZEB Plans. The committee will weigh different components of the proposal to assist in choosing the top choices. RCTC will then notify the selected consultant of project award and move forward with the next steps.

Task Deliverables

- Issue RFP
- Review and score proposals for completion of the ZEB Plans
- Notify consultant and negotiate contract
- Contract award

Task 1: Existing Conditions

The selected Consultant shall survey the existing conditions including any relevant demographics, service area characteristics, existing fleet sizes and conditions, location and status of charging and maintenance infrastructure in the project area.

Task Deliverables

- Data in appropriate format to inform zero-emission analysis (e.g. GIS shapefiles, .XLSX, .CSVs, etc.)
- Existing Conditions report

Task 2: Stakeholder Engagement

The Plans will require regular coordination between several agencies as RCTC plans for the implementation and rollout of a zero-emission fleet. Regular coordination between the five Operators included in the Plans (city of Riverside, city of Banning, city of Beaumont, city of Corona, and the Palo Verde Valley Transit Agency) will ensure that ICT joint submittal requirements and milestones are being met throughout project development.

RCTC will also engage other stakeholders as needed, including but not limited to: public utilities, municipalities, and private property owners who will be directly impacted by the implementation of ZEB infrastructure such as charging facilities and utility work related to charging infrastructure.

Task Deliverables

- Stakeholder Engagement Plan
- Regularly scheduled stakeholder meetings throughout project development
- Agenda and Minutes

Task 3: Financial Analysis

Consultant shall develop a detailed capital and operating financial analysis comparing the purchase of zero-emission buses to the purchase of existing CNG or gasoline buses from the following perspectives, including a sensitivity analysis (see below). From a capital perspective, the primary categories of costs are the initial purchase price, lifetime (through 2040) and operational costs, and replacement of the electric fleet vehicle. The initial purchase price of the zero-emission vehicle shall be all inclusive, including recharging infrastructure, manuals, vehicle logic units, security cameras, automatic passenger counters, fare collection equipment, and any training that is required.

The lifetime cost shall include vehicle replacement parts and battery lifecycle and replacement needs. The operational costs include the cost of fuel (electricity versus hydrogen vs. CNG or gasoline) and vehicle maintenance.

Tasks will include the following:

- **Fuel:** Determine fuel costs of the existing fleet of buses based on a projection of the cost of CNG or gasoline fuel (\$/gallon), considering historical trends of CNG and gasoline fuel over the past five (5) and ten (10) years and the best available projections at the time in order to determine an average to serve as a baseline for cost comparison and projection purposes of this analysis.
- **Electricity & Hydrogen Fuel:** Perform an analysis of the existing cost of electricity and upcoming or projected rate structures, such as time-of-use (TOU) specifically designed for Transportation Electrification (TE), as well as projected costs and availability of hydrogen supply. This analysis will consider pricing and costs associated with charging projected to be done during high-demand, on-peak periods and charging done during off-peak periods.

Additionally, the analysis shall include a projection of cost stability over the next twenty (20) years for long-term consideration. Relevant local utilities should be consulted as part of this process.

Consultant shall include in the analysis consideration of technologies and funding programs that can help offset the costs of the electrical use; for example, solar technology, photovoltaic reformation of hydrogen, battery storage, and peak shaving.

- **Maintenance:** Develop a three-fold maintenance cost analysis: (1) costs associated with maintenance of the internal combustion engine (ICE) and the associated powertrain, including oil and filter changes, changing tires and brake pads, and other wear and tear items plus the occasional large repairs; (2) determine required maintenance components of electric buses and their associated costs; and (3) staffing level differences.
- **Operations:** Perform an operational cost analysis that compares the current operating costs of the existing service offering against the projected operating costs for the BEBs or HFCBs of the same service offering. A list of overall costs with details showing changes in revenue miles and hours, peak vehicle count, and operator count shall be considered from the use of zero-emission vehicles. Sources of information are to be listed and back-up documents available if requested.

It is RCTC's understanding that the range of battery electric buses may be a significant constraint on their operation relative to hydrogen electric buses (and relative to the each agencies current CNG vehicles). RCTC requires all consultants/consultant teams to demonstrate a methodology in their proposal for a rigorous analysis of the impact of the reduced range of battery electric buses (and any impacts from a hydrogen electric fleet) on the scheduling of vehicles and operators. Please note that each agency utilizes most of its local bus fleet all day, with a very limited difference between peak and midday fleet deployment.

- **Start-up & Lifetime Costs:** Determine the total cost for full conversion to a zero-emission fleet. This includes a detailed break-down of start-up costs, including property acquisition (if applicable), new capital and initial purchase price of zero-emission buses (inclusive of battery or fuel cell systems).

In addition to initial start-up costs, lifetime costs include maintenance, operations, and rehabilitation of EV capital infrastructure, such as charging equipment and maintenance

facilities, anticipated battery degradation and replacement frequency, as well as cost of electricity. The analysis should consider all fleet active between 2019 and 2040.

- **Payback Period & Net Present Value:** From an investor perspective, evaluate the investment in zero-emission technology and provide a comparison of up-front cash investments for both zero-emission and CNG or gasoline buses. This comparison shall consider the payback period and net present value of series of cash flows involved in purchasing zero-emission buses and provides a payback period estimate.
- **Sensitivity Analysis:** Using identified current and historic price trends for electricity and zero-emission bus costs, provide a transition scenario that adopts varying approaches in cost assumptions associated with estimated projections. The scenario shall include three levels of cost projections/differentials: (1) current cost; (2) conservative inflation; and (3) aggressive.
- **Long-term Implementation Strategy Report:** The consultant shall use the aforementioned financial analyses to develop an informed strategic vision for the county to achieve its zero-emission goals. This report shall consider the submitted Rollout Plans executed by SunLine Transit and RTA to assist in the overall countywide initiative toward ZEB adoption from a financial planning perspective. The forecasted cost estimates will be used to allocate funding and inform future decision-making efforts based on the phasing strategy, available technologies, and capital infrastructure requirements. By developing a comprehensive, system-wide pathway forward, RCTC will assist its member agencies to achieve long-term planning goals while adhering to fiscal prudence.

Task Deliverables
<ul style="list-style-type: none"> • Financial analysis of purchase price, installation, maintenance, and cost savings on electricity associated with deployment of such technology • Total Cost of Ownership Analysis for each operator fleet • Capital Infrastructure and Facilities Modifications Analysis • O&M cost calculations and comparisons between zero-emission and CNG or gasoline fleet vehicles • Detailed findings of each financial analysis subtask included in Implementation and Rollout Plans • Long-term Implementation Strategy Report

Task 4: Implementation Plan Development

With consideration of CARB incentive schedule, Consultant shall provide an analysis on implementation requirements for complete fleet conversion to zero-emission, including identification of infrastructure improvement needs, identification of property acquisition needs to accommodate infrastructure (if applicable), confirmation of feasibility of infrastructure improvements and placement, and development of a phasing plan for infrastructure improvements, vehicle procurement and purchasing of ZEBs to meet ZEB regulation deadlines. Phasing plans shall include costs associated with capital and operations. Tasks will include the following:

- **Operations & Maintenance Scenario:** Consultant shall collect operating service data such as schedules and miles from each agency. The data collected will serve as a baseline for operations and maintenance to determine which existing routes can accommodate zero-emission operations, as well as what operational modifications, if any, are needed to maintain existing operational parameters along existing routes that cannot support zero-emission vehicles. Consultant shall conduct an analysis of the various factors that impact the lifecycle of ZEBs, including, but not limited to, vehicle weight, battery density, degradation, fuel cell system lifecycle and normal operation charging times, operating environment, lifts, air conditioning and heating. Consultant shall develop a financial analysis of the costs associated with operating and maintaining existing operating service parameters and schedules using zero-emission vehicles.

Consultant shall provide a rough order of magnitude estimate of the operations and maintenance (O&M) cost for the service scenario, using typical hourly O&M unit cost factors for bus operations. This transition scenario will be based on a twenty-year time frame (to achieve the CARB ZEB regulation by 2040) and will be all inclusive, encompassing the cost of electricity or hydrogen for fuel cells, and maintenance. Additionally, include a comparable scenario using existing CNG vehicles, operation parameters and schedules.

- **Capital Infrastructure Investments Needs, Cost & Scenario:** Consultant will identify new ZEB capital infrastructure, as well as improvements to existing or planned infrastructure, where applicable, to be incorporated in each of the short-term and long-term operations and maintenance scenarios. Capital infrastructure and improvements shall coincide with and meet identified operations and maintenance scenarios required to fully convert operations to zero-emission and maintain existing level of service, as well as vehicle storage. Additionally, Consultant shall identify CARB applicable funding incentives and other competitive funding sources to mitigate the costs associated with capital investment needs. Consultant shall provide a multi-year schedule in accordance with the CARB ICT purchase schedule showing critical timelines to achieve the CARB ZEB regulation by 2040.
- **Energy Storage & Solar:** Consultant shall conduct an analysis on available energy storage and solar technology and infrastructure to supplement electricity usage, as relating to the ZEB modes i.e. BEB charging or hydrogen production. Such analysis shall include technology that can be charged during off-peak periods when energy costs are lower and utilized during high-demand, on-peak periods to help serve ZEB loads by lessening the demand and costs associated with electricity drawn from the grid. Additionally, analysis shall include estimated costs of initial purchase price of such technology, installation and maintenance, as well as estimated cost savings on electricity if deployed.
- **Emissions Considerations:** Consultant shall examine environmental costs, which are considered non-cash expenses and include monetized values for tailpipe emissions and upstream emissions of CO₂, criteria pollutants, and noise. The analysis shall include estimates of tailpipe emissions for CNG and diesel vehicles, for comparative purposes. GHG Tailpipe emissions include estimates of CO₂, NO_x, CO, PM₁₀, PM_{2.5}. Upstream emissions consist of emissions resulting from petroleum refining for the production of unleaded gasoline and diesel, and production of electricity for battery electric vehicles are based on the mix of utility power sources. In addition, emissions generated by hydrogen fuel production and delivery shall be factored into the report. The consultant

shall weave these considerations to formulate a geospatial analysis of the countywide effects of zero-emission bus technology on overall GHG emissions.

Task Deliverables

- | |
|---|
| <ul style="list-style-type: none"> • Zero-emission bus requirements to meet existing operating parameters and schedules, passenger load and respective lifecycles • Operational modifications, in general or route specific, that would need to be made to maintain the existing level of operations • General estimated timeframe for construction of capital infrastructure and related improvements that align with ZEB regulation deadlines for zero-emission bus fleet vehicle acquisition and operations • Proposed project phasing plan of projects identified • Identification of energy storage and solar technology that is compatible with zero-emission infrastructure and operations • Emissions Considerations Report |
|---|

Task 5: Zero-Emission Bus Reports

Consultant will prepare draft technical reports to document the assumptions, methodologies, modeling results, analyses, designs, cost estimates, findings and conclusions of Tasks 3 and 4 for each agency. Critical to this report is showing a clear rationale for selecting a recommended ZEB mode, a summary of associated operating and capital costs for transitioning to this ZEB mode, and a timeline of key activities to be completed to meet the CARB ZEB regulation by 2040.

Consultant will prepare a final technical report that incorporates revisions to the draft in response to RCTC and agencies comments.

Task Deliverables

- | |
|--|
| <ul style="list-style-type: none"> • Draft Joint Implementation & Rollout Reports • Final Joint Implementation & Rollout Reports |
|--|

Task 6: Board Review / Approval

Consultant will provide each Operator's respective Board with an initial project briefing, an update once a recommended ZEB mode has been identified, and a final presentation of the ZEB Plans to each Board for approval in time to meet the CARB deadline for submission of July, 2023.

Consultant will also provide RCTC and each Operator with a MS PowerPoint summary of the ZEB Plans and present this to RCTC and each Operator's Board for their approval.

Task Deliverables

- | |
|--|
| <ul style="list-style-type: none"> • PowerPoint Presentation for Board Report |
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EXHIBIT “B”
SCHEDULE OF SERVICES

[attached behind this page]

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EXHIBIT "B"

SCHEDULE OF SERVICES

Consultant Name Center for Transportation and the Environment

Project Title Riverside County Zero-Emission Bus Rollout and Implementation Plans

Organization Riverside County Transportation Commission (RCTC)

FY 21-22				FY 2022/23												FY 2023/24											
M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J

EXHIBIT “C”
COMPENSATION PROVISIONS

[attached behind this page]

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EXHIBIT "C"

COMPENSATION SUMMARY

Consultant Name Center for Transportation and the Environment
Project Title Riverside County Zero-Emission Bus Rollout and Implementation Plans
Organization Riverside County Transportation Commission (RCTC)

Task #	Task Title	FY 21-22	FY 22-23	FY 23-24	Estimated Project Cost
01	Project Administration (no more than 5% of total Grant Award)	\$4,972	\$7,459	\$2,486	\$14,917
1	Existing Conditions	\$13,228	\$4,409	\$0	\$17,637
2	Stakeholder Engagement	\$2,281	\$9,126	\$0	\$11,407
3	Financial Analysis	\$27,438	\$91,460	\$0	\$118,898
4	Implementation Plan Development	\$33,865	\$135,461	\$22,578	\$191,904
5	Zero Emission Bus Reports	\$0	\$57,036	\$0	\$57,036
6	Board Review/Approval	\$0	\$877	\$0	\$877
Totals		\$81,784	\$305,828	\$25,064	\$412,676

EXHIBIT “D”

CALTRANS REQUIREMENTS

[attached behind this page]

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EXHIBIT "D"
CALTRANS REQUIREMENTS

1. GRANT AGREEMENT

The Sustainable Communities Grants (State) Restricted Grant Agreement, Agreement Number 74A1276, between Caltrans and the Commission is on file at the offices of Commission, and has been made available to Consultant. The Grant Agreement is incorporated into this Agreement by reference as if fully set forth herein. Consultant shall comply with all applicable terms of the Grant Agreement whether or not expressly set forth in this Agreement.

2. NONDISCRIMINATION (2 CCR 11105 Clause b)

a. During the performance of this Agreement, Consultant and its subconsultants shall not deny the contract's benefits to any person on the basis 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, nor shall they discriminate unlawfully against any employee or applicant for employment because 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.

b. Consultant shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Sections 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., Tit. 2, Sections 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code Sections 11135-11139.5), and the regulations or standards adopted to implement such article.

c. Consultant shall permit access by representatives of the Department of Fair Employment and Housing and Caltrans upon reasonable notice at any time during normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Caltrans shall require to ascertain compliance with this clause.

d. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

3. 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.

4. 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.

5. ASSUMPTION OF RISK AND INDEMNIFICATION REGARDING EXPOSURE TO ENVIRONMENTAL HEALTH HAZARDS

In addition to, and not a limitation of, Consultant's indemnification obligations contained elsewhere in this Agreement, Consultant hereby assumes all risks of the consequences of exposure of Consultant's employees, agents, and subcontractors, subcontractors' employees, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, to any and all environmental health hazards, local and otherwise, in connection with the performance of this Agreement. Such hazards include, but are not limited to, bodily injury and/or death resulting in whole or in part from exposure to infectious agents and/or pathogens of any type, kind or origin. Consultant also agrees to take all appropriate safety precautions to prevent any such exposure to Consultant's employees, agents, and subcontractors, subcontractors' employees, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement. Consultant also agrees to indemnify and hold harmless Caltrans, the State of California, and each and all of their officers, agents and employees, from any and all claims and/or losses accruing or resulting from such exposure. Except as provided by law, Consultant also agrees that the provisions of this paragraph shall apply regardless of the existence or degree of negligence or fault on the part of Caltrans, the State of California, and/or any of their officers, agents and/or employees.

6. Mandatory Organic Waste Recycling

It is understood and agreed that pursuant to Public Resources Code Sections 42649.8 et seq., if Consultant generates two (2) cubic yards or more of organic waste

or commercial solid waste per week, Consultant shall arrange for organic waste or commercial waste recycling services that separate/source organic waste for organic waste recycling. Consultant shall provide proof of compliance, i.e. organic waste recycling services or commercial waste recycling services that separate/source organic waste recycling, upon request from Caltrans Contract Manager.

7. **ADA Compliance**

All entities that provide electronic or information technology or related services that will be posted online by Caltrans must be in compliance with Government Code Sections 7405 and 11135 and the Web Content Accessibility Guidelines (WCAG) 2.0 or subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success. All entities will respond to and resolve any complaints/deficiencies regarding accessibility brought to their attention.

8. **Ownership of Proprietary Property**

a. **Definitions**

1) **Work:** The work to be directly or indirectly produced by Consultant under this Agreement.

2) **Work Product:** All deliverables created or produced from **Work** under this Agreement including, but not limited to, all **Work**, Services and Deliverables conceived or made, or made hereafter conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six (6) months after the termination hereof, which relates to the **Work** commissioned or performed under this Agreement. "**Work Product**" includes all deliverables, inventions, innovations, improvements, or other works of authorship Consultant, or its subconsultants may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret, or other legal protection.

3) **Inventions:** Any idea, methodologies, design, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by Consultant or jointly with its subconsultant and/or with Commission and/or with one or more employees of Caltrans during the term of this Agreement and in performance of any Work under this Agreement, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in performance of **Work** issued under this Agreement.

b. **Ownership of Work Product and Rights**

1) **Copyright Ownership of Work Product:** Except in regard to Pre-existing Works (defined below), all **Work Product** derived by the **Work** performed by Consultant and/or subconsultants employees under this Agreement, shall be owned by Caltrans and Commission and shall be considered to be works made for hire by Consultant and/or its

subconsultants for Caltrans and the Commission. Caltrans and Commission shall own all United States and international copyrights in the **Work Product**.

2) As such, all **Work Product** shall contain, in a conspicuous place, a copyright designation consisting of a “c” in a circle followed by the four-digit year in which the Work Product was produced, followed by the words “California Department of Transportation and Commission. All Rights Reserved.” For example, a Work Product created in the year 2022 would contain the copyright designation © 2022 California Department of Transportation and Commission. All Rights Reserved.

3) **Vesting of Copyright Ownership:** Consultant’s and subconsultants’ employees agree to perpetually assign, and upon creation of each Work Product automatically assigns, to Caltrans and Commission, their successors and assigns, ownership of all United States and international copyrights in each and every **Work Product**, insofar as any such **Work Product**, by operation of law, may not be considered work made for hire by Consultant and/or its subconsultants, from Caltrans. From time to time, Caltrans and Commission shall require its Consultant and/or its subconsultants and their respective employees, to confirm such assignments by execution and delivery of such assignments, confirmations, or assignment, or other written instruments as Caltrans and Commission may request. Caltrans and Commission, and their successors, and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for **Work Product**. Consultant and its subconsultants shall waive all moral rights relating to identification of authorship restriction or limitation on use, or subsequent modifications of the **Work**.

c. Inventions

1) **Vesting of Patent Ownership:** Consultant, its subconsultants, and their respective employees, assign to Caltrans and Commission, their successors, and assigns, all Inventions, together with the right to seek protection by obtaining patent ownership rights and the right to claim all rights or priority thereunder, and the same shall become and remain Caltrans’ property regardless of whether such protection is sought. Consultant and its subconsultants shall promptly make a complete written disclosure to Caltrans of each Invention not otherwise clearly disclosed to Caltrans in the pertinent **Work Product**, specifically pointing out features or concepts that Consultant and/or subconsultant believes to be new or different. Consultant and its subconsultants shall, upon Caltrans’ and Commission’s request and at Caltrans and Commission’s expense, cause patent applications to be filed thereon, through solicitors designated by Caltrans and Commission, and shall sign all such applications over to Caltrans and Commission, their successors, and assigns. Consultant and its subconsultants, shall give Caltrans and Commission and their solicitors all reasonable assistance in connection with the preparation and prosecution of any such patent applications and shall cause to be executed all such assignments or other instruments or documents as Caltrans and Commission may consider necessary or appropriate to carry out the intent of this Agreement.

2) **Agency:** In the event that Commission and Caltrans are unable for any reason whatsoever to secure Consultant's and/or its subconsultants' signature to any lawful or necessary document required or desirable to apply for or prosecute any United States application (including renewals or divisions thereof), Consultant and its subconsultants, each hereby irrevocably designates and appoints Caltrans and Commission and their duly authorized officers and agents, as its agent and attorney-in-fact, to act for and on Consultant's and its subconsultants' behalf and stead, to execute and file such applications and to do all other lawfully permitted acts to further the prosecution and issuance of any copyrights, trademarks, or patents, thereon with the same legal force and effect as if executed by Consultant and its subconsultants. Caltrans and Commission have no obligations to file any copyright, trademark, or patent applications.

d. Additional Provisions

1) **Avoidance of infringement:** In performing services under this Agreement, Consultant and its employees agree to avoid designing or developing any items that infringe one (1) or more patents or other intellectual property rights of any third party. If Consultant or its employees becomes aware of any such possible infringement in the course of performing any Work under this Agreement, Consultant or its employees shall immediately notify Commission in writing.

2) **Pre-existing Works and License:** Consultant agrees and shall require its subconsultants to acknowledge that all **Work Product** shall be the sole and exclusive property of Caltrans and Commission, except that any **Pre-existing Works** created by Consultant and third parties outside of the Agreement but utilized in connection with the Agreement (the "**Pre-existing Works**") shall continue to be owned by Consultant or such parties. Consultant agrees to notify Commission in writing of any **Pre-existing Works** used in connection with any **Work Product** produced under this Agreement and hereby grants to Caltrans and Commission a non-exclusive, irrevocable, worldwide, perpetual, royalty-free license to utilize the **Pre-existing Works** in connection with the **Work Product**.

3) In performing services under this Agreement, Consultant and its subconsultants agree to avoid designing or developing any items that infringe one (1) or more patents or other intellectual property rights of any third party. If Consultant or its subconsultant becomes aware of any such possible infringement in the course of performing any Work under this Agreement, Consultant/subconsultant shall immediately notify the Commission in writing, and Commission will then immediately notify Caltrans in writing.

e. Ownership of Data

1) Upon completion of all **Work** under this Agreement, all intellectual property rights, ownership, and title to all reports, documents, plans, specifications, and estimates, produced as part of this Agreement will automatically be vested in Caltrans

and the Commission and no further agreement will be necessary to transfer ownership to Caltrans and the Commission. Consultant and its subconsultants shall furnish Caltrans and Commission all necessary copies of data needed to complete the review and approval process.

2) It is understood and agreed that all calculations, drawings, and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the Project for which this Agreement has been entered into.

3) Consultant and its subconsultants are not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by Caltrans or Commission of the machine readable information and data provided by Consultant and its subconsultants under this Agreement; further, Consultant and its subconsultants are not liable for claims, liabilities or losses arising out of, or connected with, any use by Caltrans or Commission of the Project documentation on other projects, for additions to this Project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by Consultant or its subconsultants.

4) Any sub-agreement in excess of \$25,000.00 entered into as a result of this Agreement shall contain all of the provisions of this clause.