RIVERSIDE COUNTY TRANSPORTATION COMMISSION

MEETING AGENDA

TIME/DATE: **9:30 a.m. / Tuesday, November 10, 2026**

LOCATION: **BOARD ROOM**
County of Riverside Administrative Center
4080 Lemon Street, First Floor, Riverside, CA 92501

:

COMMISSIONERS

Chair – Raymond Gregory
Vice Chair – Jeremy Smith
Second Vice Chair – Chuck Washington

Jose Medina, County of Riverside, District 1
Karen Spiegel, County of Riverside, District 2
Chuck Washington, County of Riverside, District 3
V. Manuel Perez, County of Riverside, District 4
Yxstian Gutierrez, County of Riverside, District 5
Sheri Flynn / Cynthia Barrington, City of Banning
Lloyd White / David Fenn, City of Beaumont
Joseph DeConinck / Johnny Rodriguez, City of Blythe
Linda Molina / Eric Cundieff, City of Calimesa
Jeremy Smith / Kasey Castillo, City of Canyon Lake
Raymond Gregory / Ernesto Gutierrez, City of Cathedral City
Denise Delgado / To Be Appointed, City of Coachella
Jim Steiner / Tony Daddario, City of Corona
Dirk Voss / To Be Appointed, City of Desert Hot Springs
Clint Lorimore / Todd Rigby, City of Eastvale
Linda Krupa / Joe Males, City of Hemet
Toper Taylor / Dana Reed, City of Indian Wells
Waymond Fermon / Oscar Ortiz, City of Indio
Brian Berkson / Armando Carmona, City of Jurupa Valley
Kathleen Fitzpatrick / Deborah McGarrey, City of La Quinta
Bob Magee / Timothy Sheridan, City of Lake Elsinore
Ricky Estrada / Bob Karwin, City of Menifee
Ulises Cabrera / Edward Delgado, City of Moreno Valley
Cindy Warren / Lisa DeForest, City of Murrieta
Fia Sullivan / Kevin Bash, City of Norco
Jan Harnik / Joe Pradetto, City of Palm Desert
David Ready / Grace Garner, City of Palm Springs
Michael M. Vargas / Elizabeth Vallejo, City of Perris
Steve Downs / Ted Weill, City of Rancho Mirage
Chuck Conder / Patricia Lock Dawson, City of Riverside
Valerie Vandever / Alonso Ledezma, City of San Jacinto
James Stewart / Brenden Kalfus, City of Temecula
Joseph Morabito / Dustin Nigg, City of Wildomar
Catalino Pining, Governor's Appointee Caltrans District 8

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

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

www.rctc.org

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

9:30 a.m.
Tuesday, November 10, 2026

Board Room
County of Riverside Administrative Center
4080 Lemon Street, First Floor, Riverside, CA 92501

This meeting is being conducted in person via teleconference. Please visit https://rivco.org/constituent-speaking-request to complete a speaker slip and receive further instructions to participate via teleconference. For members of the public wishing to submit written comments, please email comments to the Clerk of the Board at lmobley@rctc.org prior to November 9, 2026, and your comments will be made part of the official record of proceedings.

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

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

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

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

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

5. ADDITIONS / REVISIONS – *The Commission may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Commission subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Commission. If there are less than 2/3 of the Commission members present, adding an item to the agenda requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.*

6. 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 – OCTOBER 14, 2026

Page 1

6B. QUARTERLY SALES TAX ANALYSIS

Page 21

Overview

This item is for the Commission to:

1) Receive and file the sales tax analysis for Quarter 2, 2026 (Q2 2026).

6C. SINGLE SIGNATURE AUTHORITY REPORT

Page 30

Overview

This item is for the Commission to:

1) Receive and file the Single Signature Authority report for the first quarter ended September 30, 2026.

6D. MONTHLY INVESTMENT REPORT

Page 32

Overview

This item is for the Commission to:

1) Receive and file the Monthly Investment Report for the month ended September 30, 2026.

6E. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, JULY – SEPTEMBER 2026

Page 34

Overview

This item is for the Commission to:

1) Receive and file the Quarterly Public Engagement Metrics Report for July through September 2026.

6F. RESOLUTION TO AMEND THE APPENDIX OF THE CONFLICT OF INTEREST CODE

Page 42

Overview

This item is for the Commission to:

1) Adopt Resolution No. 26-012, *"Resolution of the Riverside County Transportation Commission Amending the Appendix of the Conflict of Interest Code Pursuant to the Political Reform Act of 1974".*

6G. PROPOSED 2027 COMMISSION/COMMITTEE MEETING SCHEDULE

Page 52

Overview

This item is for the Commission to:

1) Adopt its 2027 Commission/Committee Meeting Schedule.

6H. STATE AND FEDERAL LEGISLATIVE UPDATE

Page 55

Overview

This item is for the Commission to:

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

7. STATE ROUTE 91 EASTBOUND CORRIDOR OPERATIONS PROJECT PROGRESSIVE DESIGN-BUILD PHASE 1 AGREEMENTS

Page 60

Overview

This item is for the Commission to:

1) Award Agreement No. 26-31-019-00 to Myers & Sons Construction, LLC to initiate Progressive Design-Build Phase 1 of the State Route 91 Eastbound Corridor Operations Project (91 ECOP) (Project), in the amount of $19,069,353 with a Design Option amount not to exceed $7,274,182 plus a contingency amount of $2,634,354 for a total amount not to exceed $28,977,889;
2) Award Change Order No. 52 for the 91 ECOP to Kapsch TrafficCom USA, Inc. (Kapsch) under the Amended and Restated Toll Services Contract (RCTC Contract No. 16-31-043-05) to provide design support services in support of the Project in the amount of $295,000 plus a contingency amount of $29,500 for a total amount not to exceed $324,500;
3) Approve Agreement No. 09-31-081-19, Amendment No. 18 to Agreement No. 09-31-081-00 with Parsons Transportation Group, Inc. (Parsons) to provide additional project and construction management (PCM) services for the 91 ECOP in the amount of $2,792,077, with a Design Option amount not to exceed $3,437,195 plus a contingency amount of $622,927, for a total amount not to exceed $6,852,199;
4) Approve Cooperative Agreement No. 26-31-095-00 with Orange County Transportation Authority (OCTA) for its fair share contribution toward the project, estimated at $102,280,943;
5) Authorize the Chair or Executive Director, pursuant to legal counsel review and receipt of funding authorization, to execute the agreements on behalf of the Commission; and
6) Authorize the Executive Director or designee to approve Design Option and contingency work up to the total amount not to exceed as required for the Project.

8. AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES AT THE COMMUTER RAIL STATIONS AND TOLL FACILITIES

Page 544

Overview

This item is for the Commission to:

1) Award Agreement No. 26-26-074-00 to Tropical Plaza Nursery, Inc., to provide landscape maintenance services at the commuter rail stations and toll facility, for a three-year term and two, one-year options to extend the agreement, in the amount of $5,724,961 plus a contingency amount of $572,496 for a total amount not to exceed $6,297,457;
2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement on behalf of the Commission;
3) Authorize the Executive Director, or designee, to approve the use of the contingency amount as may be required for these services; and

4) Authorize the Executive Director, or designee, to execute task orders issued to the contractor under the terms of the agreement.

9. ITEM(S) PULLED FROM CONSENT CALENDAR AGENDA

10. EXECUTIVE DIRECTOR REPORT

11. COMMISSIONER COMMENTS

Overview

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

12. ADJOURNMENT

The next Commission meeting is scheduled to be held on **Wednesday, December 9, 2026.**

AGENDA ITEM 6A

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

MEETING MINUTES

Wednesday, October 14, 2026

1. CALL TO ORDER

The Riverside County Transportation Commission was called to order by Chair Raymond Gregory at 9:30 a.m. at the DoubleTree by Hilton, in the Oleander Ballroom, 67967 Vista Chino, Cathedral City, California 92234.

2. ROLL CALL

Commissioners/Alternates Present		**Commissioners Absent**
Brian Berkson	Jeremy Smith	Ulises Cabrera
Chuck Conder	Karen Spiegel	Denise Delgado
Joseph DeConinck	Fia Sullivan	Waymond Fermon
Steve Downs	Toper Taylor*	Yxstian Gutierrez
Kathleen Fitzpatrick	Valerie Vandever	Linda Molina
Sheri Flynn	Michael M. Vargas	Catalino Pining
Raymond Gregory	Dirk Voss	Jim Steiner
Jan Harnik	Cindy Warren	James Stewart
Linda Krupa	Chuck Washington	
Clint Lorimore*	Lloyd White	
Bob Karwin		
Bob Magee		
Jose Medina		
Joseph Morabito		
V. Manuel Perez		
David Ready		

*Joined after the meeting was called to order.

3. PLEDGE OF ALLEGIANCE

Commissioner Perez led the Commission in a flag salute.

At this time, Commissioner Clint Lorimore joined the meeting.

4. PUBLIC COMMENTS

There were no requests to speak from the public.

5. ADDITIONS / REVISIONS

There were no additions or revisions to the agenda.

6. CONSENT CALENDAR

M/S/C (Berkson/Warren) to approve the following Consent Calendar items.

6A. APPROVAL OF MINUTES – SEPTEMBER 9, 2026

6B. MONTHLY INVESTMENT REPORT

1) Receive and file the Monthly Investment Report for the month ended August 31, 2026.

6C. STATE AND FEDERAL LEGISLATIVE UPDATE

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

7. CITIZENS AND SPECIALIZED TRANSIT ADVISORY COMMITTEE TRANSIT NEEDS PUBLIC HEARING UPDATE

Eric DeHate, Transit Manager, presented the Citizens and Specialized Transit Advisory Committee Transit Needs Public Hearing update, highlighting the following:

- Background
  - ✓ Transportation Development Act (TDA) Public Utilities Code (PUC) 99238.5
    - Establish a Citizen Participation Process
    - Hold one public hearing represented by Social Services Transportation Advisory Council
  - ✓ RCTC created Citizens and Specialized Transit Advisory Committee (CSTAC)
    - 13 members of the public and two Consolidated Transportation Service Agency members (CTSAs)
    - Assists the Commission in fulfilling its TDA regulations

At this time, Commissioner Toper Taylor joined the meeting.

Eric DeHate continued to present the following:

- Public Hearing
  - ✓ Public Hearing was held on August 10, 2026
    - Advertised by transit operators, specialized transit operators, and other stakeholders

- 30-day notice in *The Press Enterprise*, *The Desert Sun*, and *The Palo Verde Times*
- Comments were made by email or verbally at the hearing

✓ Comments and feedback
- 18 public comments received

- A table of the summary of comments received

M/S/C to:

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

8. FISCAL YEAR 2025/26 LOW CARBON TRANSIT OPERATIONS PROGRAM CYCLE B ALLOCATIONS

Eric DeHate presented an update for the Fiscal Year 2025/26 Low Carbon Transit Operations Program (LCTOP) Cycle B allocations, highlighting the following:

- Background information
  - ✓ LCTOP was established in 2014 under the Cap-and-Trade Program and extended in 2025 under the Cap-and-Invest Program
  - ✓ Eligible projects:
    - Discounted fare programs
    - Increased frequency, hours and services
    - Expansion vehicles
    - Zero-emission buses and related equipment and infrastructure
- RCTC responsibilities
  - ✓ Apportionments directed to regional transportation planning agencies based on State Transit Assistance (STA) formulas: PUC 99313 (population) and 99314 (transit operators' local revenues)
  - ✓ Determined by the State Controller's Office (SCO) – Estimate provided in February (Cycle A was $4,872,489) and August (Cycle B) this year
  - ✓ Total Cycle B available for Riverside County is $3,121,773
    - PUC 99313 – $2,688,694 (to be suballocated by the Commission)
    - PUC 99314 – $433,079 (directed to transit operators)
  - ✓ Submit list of projects to Caltrans by October 30, 2026
- A table of the recommended LCTOP Cycle B Allocations

Chair Gregory thanked Eric DeHate for the presentation. Although this is an annual allocation done twice this year in stages there may be questions or comments.

Commissioner Conder stated this is more of just a comment, and he and Commissioner White have had this conversation in the past. He is so tired of looking at these large Riverside Transit Agency (RTA) buses with one person on board. We need to

go to smaller vehicles or more fuel efficient ones as we are counting every dollar and every penny. Being out in the city all day if he sees more than two people on a bus there is something wrong, it is just not right, so now we are giving $1.6 million to help with free fares. We have been doing that, and it is still not getting a reaction, but we have to look at more fuel-efficient, smaller vehicles to help save money.

M/S/C (Warren/Voss) to:

1) **Approve the allocation of $3,121,773 from Fiscal Year (FY) 2025/26 Low Carbon Transit Operations Program (LCTOP) Cycle B funds to eligible Riverside County transit operators; and**
2) **Authorize the Executive Director, or designee, to review the transit operators' projects to ensure consistency with the LCTOP guidelines and to execute and submit required documents to the California Department of Transportation (Caltrans) for LCTOP.**

9. INTERSTATE 10 CORRIDOR PROJECT DEVELOPMENT

David Thomas, presented an update for the Interstate 10 Corridor Projects, highlighting the following:

- A map of the I-10 Corridor Projects:
  1. I-10 Managed Lanes Corridor – Phase 3 (San Bernardino County Transportation Authority (SBCTA), Environmental, 2035)
  2. I-10 County Line Road Interchange Project (Calimesa, Design, 2030)
  3. I-10 Singleton Road Interchange Project (Calimesa, Design, 2035)
  4. I-10 Cherry Valley Boulevard Interchange Project (Calimesa, Design, 2030)
  5. I-10 Pavement Rehab, Broadband and Safety Project from County Line Road to Pennsylvania Avenue (Caltrans, Construction, 2029)
  6. I-10 Eastbound Truck Climbing Lane (RCTC, Planning, 2030)
  7. I-10 Oak Valley Parkway Interchange Project (Beaumont, Environmental, 2029)
  8. I-10/State Route 60 Interchange (RCTC, Planning, 2030)
  9. Potrero Boulevard Extension (Beaumont, Planning, 2030)
  10. California Avenue Grade Separation (Beaumont, Planning, 2040)
  11. I-10/SR-79 Interchange Project (RCTC, Planning, 2030)
  12. Pennsylvania Avenue Grade Separation (Beaumont, Design, 2030)
  13. Pennsylvania Avenue Interchange Project (Beaumont, Environmental, 2033)
  14. I-10 Highland Springs Avenue Interchange Project (Beaumont, Environmental, 2035)
  15. Highland Home Road Overcrossing (Banning, Planning, 2040)
  16. Sun Lakes Boulevard Extension (Banning, Planning, 2027)
  17. I-10 Pass Express Lanes Project (RCTC, Planning, 2040)

18. 22nd St. Grade Separation (Banning, Planning, 2030)
19. I-10 Cottonwood Road Interchange Project (Banning, Planning, 2035)
20. San Gorgonio Avenue Grade Separation (Banning, Planning, 2030)
21. I-10 Tune-up Project (Caltrans, Completed, 2026)
22. Hargrave Street Grade Separation (Banning, Environmental, 2028)
23. I-10 Morongo Parkway Overcrossing Project (County, Planning, 2035)
24. Main Street Interchange Project (Morongo, Planning, 2035)
25. Cabazon Connector (County, Design, 2030)
26. I-10 Da Vall Drive New Interchange Project (Cathedral City, Planning, 2030)
27. I-10 Portola Avenue New Interchange Project (Palm Desert, Design, 2030)
28. I-10 Desert Pavement Rehab Project from Dillon Road to Cactus City Rest Area (Caltrans, Completed, 2025)
29. I-10 Monroe Street Interchange Project (Indio, Design, 2030)
30. I-10 Jackson Street Interchange Project (Indio, Design, 2030)
31. I-10 Golf Center Parkway Interchange Project (Indio, Environmental, 2040)
32. I-10 Dillion Road Interchange Project (Coachella, Environmental, 2035)
33. I-10 Avenue 50 New Interchange Project (Coachella, Environmental, 2030)
34. I-10 Blythe Pavement Rehabilitation Project (Caltrans, Construction, 2026)

- I-10 Pass Area Ramp Metering Project (including a map)
  - ✓ 2023 Commission Workshop – Feasibility
  - ✓ 2025 Commission Workshop – Design Engineering Evaluation Report (DEER)
  - ✓ Lack of funding – Rescoping
  - ✓ Queuing assessment
  - ✓ City support to cancel project
- I-10 Bi-County Express Lanes Toll Feasibility Study (including a map of the proposed projects)
  - ✓ Joint study with SBCTA
  - ✓ Implement one express lane in both directions from Ford Street in the city of Redlands to SR-60 in the city of Beaumont
  - ✓ Eastbound Truck Climbing Lane in Riverside County
  - ✓ Resolve bottleneck on I-10 west of SR-60
- I-10 / SR-60 Value Engineering Study
  - ✓ VE Team assessed operational deficiencies and challenging transportation constraints within the SR-60/SR-79 confluence area
  - ✓ Team consisted of engineers from Caltrans and the consultant teams currently leading projects on I-10 and SR-79
  - ✓ A range of concepts were developed to improve mainline operations as well as improve access to local and regional destinations
  - ✓ The VE Study was a collaborative five-day in person workshop

Chair Gregory thanked David Thomas in particular at the beginning for going over the whole corridor, which is long, but it does advise well of the future planned and projects underway and for focusing on these needed actions.

Commissioner Spiegel stated that this has been a point of contention with her for many years and maybe if we understood how does Caltrans choose which projects they are going to be involved in. There was only three projects out of all those projects that she counted that Caltrans is a partner with. She knows they end up being in control because they have to sign off on things, but this is a federal highway and yet it falls back on us.

Aaron Hake stated that Catalino Pining, Governor's Appointee Caltrans District 8, texted him before the meeting that he had car trouble on the way here and he did ask me to forward any questions that were asked by a Commissioner, so he is taking notes. Aaron Hake noted he cannot speak for Caltrans, but he can speak on how the funding system works and how Caltrans operates. Caltrans does not have funding to expand the capacity of the highway system. The funding that Caltrans receives is mainly gas tax funds, state and federal, that is geared towards the State Highway Operation and Protection Program (SHOPP) it is for safety and operational projects, things that maintain the existing system. That is what Caltrans can spend money on. That is why you saw in David Thomas' presentation when Caltrans is lead on a project, it is for rehabilitating pavement and safety improvements, that is where their budget goes. Caltrans has to program those funds several years out with the California Transportation Commission (CTC) and each district gets an allocation of funds for the SHOPP. If Caltrans are to participate and partner with RCTC in funding for an interchange, express lanes, or a truck lane, they would also do that through the CTC, but the issue is they do not apply. It is agencies like RCTC that develop the projects, nominate them to the CTC and we ask for Caltrans to put their stamp of approval on the project, sometimes they do and sometimes they do not. For all of the projects on the state highway system we need Caltrans' permission. Caltrans has to grant us the approvals to develop the project on their system whether or not they are financially participating in it. He will leave for Catalino Pining the questions of how they decide which SHOPP projects they fund, which ones they do not, which projects they partner for SB 1 CTC Grants, and which ones they do not. It is a much bigger policy discussion for the State Legislature and whoever the next Governor is about adding capacity to the system and what Caltrans' future role in that is. Since the self-help agencies were created by the Legislature in the 70s it has been agencies like RCTC because we have been empowered to raise sales taxes to pay for these projects and that is where the funding has primarily gone.

Commissioner Harnik stated that when we look at item no. 3 and we are looking at the I-10/SR-60 we know that has to be addressed because of all the obvious reasons. Those of you who drove in on SR-60 and saw the overwhelming and abundant growth in Banning and Beaumont we know that there is lots coming up. We know what it took to get those truck climbing lanes on the west side of SR-60, it is only a matter of time before we have to put them on the other side. She asked that we have taking into account that I-10/SR-60 interchange what is going to happen to SR-60 in the very near future. She just wants to make sure that we are being mindful of that because SR-60 is going to expand from where we left off, coming into the Coachella Valley so she just hopes that interchange is accommodating that future growth.

David Thomas replied he expects the SR-60 capacity will need to be increased in the future. The project to the Badlands actually was designed to accommodate an additional lane, the current shoulder out there now is a future lane that a shoulder can be added. We should expect more capacity on SR-60 one of the items of scope that he is including in the feasibility study for the bi-county is to look at direct connector fly overs from I-10 express lane connectors to SR-60. Just to make sure that we can still build those in the future if needed.

Commissioner Harnik stated her concern is that if we are building that interchange for today's SR-60 it will be quickly antiquated so she just wants to make sure that we are thinking in a big broad long term time frame.

Commissioner Perez stated he wanted to take it a step further and asked what does the I-10 look like moving forward after 10 or 20 years. Right now, it is not as bad as potentially it could become like you see on SR-60 already it is to plan. We all know about the festivals, the snowbirds, and all the folks that like to come out to this area, especially on those weekends, the holidays, or even the festivals, it is back-to-back vehicles starting on Thursdays at times all the way until Sundays sometimes even until Monday. He would like to take it a step further and make sure we do not forget the importance of rail and other potentials that we can look into and just making sure we are up to speed because at the end of the day it is going to catch up to us.

Commissioner Conder stated with RCTC's Measure A Extension on the ballot coming up on November 3, as electeds or us trying to talk openly and transparently with our constituents can you estimate just roughly how much money RCTC right now is trying to handle in projects.

David Thomas clarified just the projects in our current measure.

Commissioner Conder replied even the ones that you are doing studies on.

Aaron Hake replied we do not have that figure immediately available we can develop that. What he can say is that our annual budget is $1 billion. The Traffic Relief Plan the Commission developed that looked at many of these projects and sort of the whole County's needs $30 billion over 30 years is the need. We can dive into the projects that we are working on today and give you the figures for the costs.

Commissioner Harnik asked if you can remind us how much Measure A generates a year.

Aaron Hake replied $280 million. It came a little bit higher and asked Sergio Vidal, Chief Financial Officer, to tell us what last fiscal year's good news was.

Sergio Vidal stated that approximately $289 million was generated through the County, which was the highest for FY 26, the previous highest was $287 million for FY 23.

Commissioner White stated that we supported the Ramp Metering Project but that was part of a bigger study he thinks it was in 2023 or 2025 where we were talking about the express lanes going from SR-60 all the way to SR-111. He saw that as one of David Thomas' items on there and asked if it is still moving forward at least in the design engineering stage.

David Thomas replied that the recommendation for the Ramp Metering Project is to cancel that. That was a project that came out of the Toll Feasibility Study.

Commissioner White stated he is asking about the express lanes.

David Thomas replied that the express lane study is still moving forward it is in the project study report – project development support (PSR-PDS) phase and they expect to complete that in April 2027.

Commissioner White stated that he knows the I-10 Bypass is not an RCTC project, but what is the status on that.

David Thomas replied that is in the design phase, and they are targeting completion by 2030 if funding is available.

Commissioner White stated as he mentioned we supported the ramp metering at that point the express lane was going to take 10 to 15 years and that the ramp metering was a temporary solution. Then Caltrans reduced the scope and they are not providing any funding for that.

David Thomas replied that is correct.

Commissioner White stated a lot of the discussion was about I-10/SR-60 but if you drive I-10 east from Redlands the work that San Bernardino has done on their truck climbing lanes has created a bottleneck at County Line Road. He thinks the project that David Thomas is suggesting we move to proposed here is much needed. He does not know how you would possibly improve either I-10/SR-79 or I-10/SR-60 without taking them both into account. He does not know how many of you drive on I-10/SR-60 get to Beaumont and want to go west, that is a nightmare. Going underneath the freeway and making that left hand turn onto the onramp of the I-10 is a mess. He would support this project, but he would like to add two things to the motion that gets made first. That staff revisit a ramp metering project like the one in Temecula once the pilot is complete using the data gathered from the effort that you are going to do on the I-10. Second, we ask Caltrans to prioritize funding for the ramps in the Pass which are antiquated. He is not talking about the ramp metering he is talking about the ramps themselves as that would do a lot of good for us without the metering.

Commissioner Spiegel stated if this were 2030 in the United States we will have more deaths than births. We know that some of your school districts are shutting schools down because there is not enough students and we are looking at expanding all over. She stated if we are looking at doing projects in 10-20 years where are we going to be as far as population. People are moving to California but is that families so is something we should be looking at.

David Thomas replied we do our modeling with the regional transportation models Southern California Association of Governments (SCAG) puts together it takes into consideration the projection of future population. It is a guess but that is how we do it and so we are looking at this case from the I-10 Express Lanes we looked at a 2055 future horizon year. Then how does that translate into traffic by year as well.

Commissioner Lorimore stated it was brought up about the interchanges the entrances and exits of the freeway being antiquated and he believes the term David Thomas used that Caltrans responded with was nonstandard. His question stems from that terminology been giving back to us as to a project being problematic. He asked is it the standards have changed or did they accept these on-ramps off-ramps as nonstandard initially when they were put in.

David Thomas replied it is mostly that the standards have changed. Just a couple of things to point out the current on-ramps merge at a faster rate than the new design, it is a flatter merge taper. Then in the new standards as well Caltrans has added an acceleration lane so once the ramp touches down to the main line there is a 300-foot lane that extends before the merge starts, so that is the new design standard. Those are the types of things that Caltrans was looking for us to upgrade on these ramps if we were going to meter.

Commissioner Flynn stated that she agrees with the metering cancelling that except possibly for in Beaumont at SR-79 because that could use metering there that is a mess. As was mentioned, a lot of the on- and off-ramps through Banning are very old and very short. It will be very expensive to fix, and she does not think that metering will help it will hinder it, so she agrees with that. The city of Banning just approved a 5 million square foot industrial warehouse project off Sunset Avenue, and it is subject to referendum on October 23, to overturn that. At build out there will be 1,700 trucks coming onto Sunset Avenue that is going up on a short ramp going east and west mainly going east because that is the direction they will be going. There will be trucks lined up, you can barely fit two on the on ramp alone and then you go a short distance and you are at 8th Street, which is the off ramp and you have people merging. She is wondering if you are aware of that because we are really going to need help. Nothing in the plan addressed that Caltrans, the city, the developer, no one is addressing that issue, and it is going to be a real nightmare. We also have other 3-4 million square feet warehouses going off Hargrave Street and she knows David Thomas had mentioned the Cottonwood Road plan there. The other concern she has there is the weak link between going through the Badlands and then going east and west there is only four lanes, two on each side. There is

going to be all this truck traffic it already does and it is very dangerous it merges down to two lanes in each direction. Is there any plans to expand that from SR-60/I-10 interchange past Jack Rabbit Trail going east and west.

David Thomas replied that he is not aware of any plans, it not only needs capacity added but it needs to be converted into a full freeway configuration.

Commissioner Flynn stated if you do all this on the SR-60/I-10 interchange it is not going to make a difference as far as SR-60 going east and west through that one section. There are warehouses and houses going in there, so there are no plans at all to make that at least six lanes add a lane each way.

David Thomas replied that he is not aware, there might be a route concept which basically just says how many future lanes are expected, but nothing that has advanced into a planning phase.

Commissioner Flynn stated if you do not fix that this is not really going to alleviate the problem.

David Thomas replied that he would be happy to do another study on that section as well if that is the desire of the Commission.

Commissioner Flynn stated since it is not inline, yet we are talking way down the line, so this is going to be a continuing problem that is only going to get worse. She asked who needs to put that into effect, who needs to request that, or put that on the radar. You are going to do all these interchanges and then you are not going to have any effect once you get past that it is going to be a mess.

Commissioner Voss stated that he was not a big fan of the metering. He was born and raised in Long Beach and remembers sitting in line at one of those and always hated those things. He really likes this stuff that we are seeing here, he likes seeing the vision that we have as the years go on and what he has heard. He believes it was Senator John Benoit, maybe when he was a Supervisor, when he brought this up and as Commissioner Perez brought up in reference to the events and festivals we have. On Monday for instance, he was on his way to the Rams game and from Desert Hot Springs to Cabazon it took him an hour and 45 minutes. He remembers it was Senator Benoit who brought the issue up similar to what they have in San Diego where based on the traffic volume going to or from, they have the lanes shifts and they can feed into the ongoing lane. As he was sitting there in the no. 1 lane he looked over at the eastbound and thought those two lanes over there would be really cool for us to drive. It was interesting as soon as it got pretty much into the Beaumont area then it lightened up because they went to SR-60 or I-10. He asked have we thought about perhaps implementing something like that basically from SR-60 to I-10 out to Cabazon or somewhere in that area to begin doing that. We have widened the lanes in that area so you could almost do it at that point to where we can do that kind

of shifting that would be really helpful. He does like the idea of the express lane and the other continuation of the items you have got. He sees growth, inevitably you look at the demographics now from things that he has read the greater Los Angeles and the greater central areas they are losing people, we are gaining people. It is just a natural progression of shifting of affordability and housing. He sees this mass group of people coming out their way just because the land is cheaper and it is just the normal way of how economics and growth has happened. School districts operate that same way when they have to manage what they are doing, that is why you see who is selling schools and who is building them. They are still building them out in the Coachella Valley they are being shut down in Orange County. He sees that the growth is still going to be there, but have we looked at that kind of thing maybe not even just on I-10 but maybe some other areas in the interim, because maybe the cost is not as much to do that to at least resolve some of that traffic. The San Diego route which he takes all the time it has been pretty amazing and very helpful with that.

David Thomas stated that the PSR/PDS that is underway right now from SR-60 to SR-111 has looked at alternatives with reversable lanes movable barrier. The challenge with those alternatives is they are very costly they can be done but you have a lot of issues with the two roadbeds that do not necessarily line up. There are drainage issues when there is curvature on the roadways that has to be addressed. We did study that in the feasibility phase and it will be documented all the alternatives that we have looked at with the PSR/PDS document. The current leading two alternatives right now in the I-10 Express Lane study are a single express lane and a single express lane with a widened shoulder that can convert that shoulder into a lane during high peak demand like weekend travel. There would be that ability to utilize the shoulder as a lane during peak demand.

At this time, Commissioner Berkson left the meeting.

Commissioner Warren stated this is a wonderful discussion, and we need to bring this discussion into all regions because every region is having problems, every region in RCTC's jurisdiction needs to start planning out further what we are fixing today is not going to take care of us five, ten, fifteen, or twenty years down the road. She would like this type of discussion be brought forward at our Workshop in January 2027. She thinks we need to put Caltrans on notice that we need some answers, and we need to know why they are not funding what they need to be funding and have an open discussion, and she would like to see this at their Workshop in January.

Commissioner Perez stated that we are still building, and we expect others to come help us and do the work for us he gets it to a degree but if we decide to build a warehouse, have we thought about what that means later. If we build housing or a commercial area, have we thought about what happens next. We are the policy makers at the end of the day we run this region so we cannot always be thinking what others should be doing for us. The developers they should be helping us out with infrastructure as well if we decide

to go there. He is just putting it out there because we also have to point the fingers at ourselves and we have to make tough decisions, are we going to build this project or why not. We are going to have to make sure that people are going to be able to move.

Chair Gregory replied that needed to be said, thank you so much Commissioner Perez.

Commissioner White stated that he would like to move for approval.

Chair Gregory asked to let him do public comments first and then he will come back to Commissioner White.

Commissioner White stated that he moves approval of the staff recommendation with direction to staff to revisit the Ramp Metering Project after the Temecula Pilot using our I-10 data and a formal request to Caltrans to prioritize funding for the Pass ramps.

M/S/C (White/Krupa) to:

1) **Receive a presentation on transportation project development along the Interstate 10 corridor within Riverside County;**
2) **Approve cancellation of the Design Engineering Evaluation Report (DEER) for I-10 Pass Area Ramp Metering Project;**
3) **Direct staff to initiate an amendment to Agreement No. 25-31-090-00 with WSP USA Inc. (WSP) to perform an I-10 Bi-County Express Lanes Toll Feasibility study from State Route 60 in the city of Beaumont to Ford Street interchange in the city of Redlands in San Bernardino County and authorize a cooperative agreement with San Bernardino County Transportation Authority (SBCTA) for the completion of this study;**
4) **Direct staff to initiate an amendment to Agreement No. 26-72-010-00 with Kimley-Horn and Associates Inc. (Kimley-Horn) to expand the scope for the project initiation document (PID) phase of the I-10/SR-79 Interchange Project to include the improvements to the I-10/SR-60 Interchange;**
5) **Revisit the Ramp Metering after the Temecula Pilot using our I-10 data; and**
6) **A formal request to Caltrans to prioritize funding for the Pass ramps.**

10. SMART FREEWAY PILOT PROJECT UPDATE

Erik Galloway, Project Delivery Director, stated that he will be joined by Darren Handerson, GHD, he will provide an update on the data metrics of the system. In addition, he is joined by John Tarascio, Senior Capital Projects Manager, for the project, he has been overseeing the construction and the ongoing operation of the project. Also, Shishi Chen, Bechtel, that has been supporting us throughout the project. He then presented

the I-15 Smart Freeway Pilot Project update including a video of the project, highlighting the following:

- Overview (including a map of the project area)
  - ✓ Project Area
    - 8 miles of northbound I-15
  - ✓ Key locations
    - Temecula Parkway on ramp
    - Rancho California Road on ramp
    - Winchester Road on ramp
- What's included
  - ✓ Real time traffic monitoring via sensors – loops and TIRTL (The Indra-Red Traffic Logger)
  - ✓ Coordinated ramp metering
  - ✓ Digital message signs
  - ✓ Ramp improvements to support traffic flow
- How was Smart Freeways implemented
  - ✓ The system went online in a phased approach, starting with a 90-day baseline data collection
  - ✓ Winchester Road for the I-215 northbound connector was the first ramp activated right before the celebratory launch event
  - ✓ The system's official go-live date was June 1, 2026
- Operations (Including a video of the project)
  - ✓ Monitor traffic: Real-time sensors track conditions continuously.
  - ✓ Optimize freeway entry: Coordinated ramp meters control the flow of vehicles entering northbound I-15.
  - ✓ Guide drivers: Digital message signs provide speed guidance and traffic alerts to support smoother traffic flow.
  - ✓ Respond in real time: The system adjusts as conditions change to help keep traffic moving safely and efficiently.
- ✓ Key changes
  - ✓ Temecula Parkway
    - Ramp meter was moved approximately 140 feet closer to the freeway merge point
    - The former high occupancy vehicle (HOV) priority lane was also converted to a general-purpose lane
  - ✓ Rancho California Road
    - Three-lane ramp meter configuration, one lane from the loop ramp and two lanes from the direct ramp (one part-time shoulder lane)
  - ✓ Winchester Road
    - Stripped to provide two lanes at each metered location
- ✓ Rancho California Road
  - ✓ Including a video that shows how the ramps are operating

Erik Galloway stated at this time, Darren Henderson, who has worked closely with us on this project and will present the initial performance indicator.

Darren Henderson stated that this is a pilot project and so we are looking to learn from the experience and to see how successful the project is by looking at a range of performance indicators. He highlighted the following areas:

- ✓ Performance Indicators
  - ✓ Travel Speed
  - ✓ Delay
  - ✓ Reliability
  - ✓ Crash Rate
  - ✓ Vehicle Throughput
  - ✓ Travel Time
  - ✓ Ramp Queue
  - ✓ Productivity
- ✓ Preliminary Data
  - ✓ Start date | June 2026
  - ✓ RCTC and Caltrans will evaluate project's effect on traffic operations for two years through 2028
  - ✓ Assess whether to continue and/or expand to other areas
  - ✓ Performance metrics will be shared with the community
- ✓ Initial Performance Observations
  - ✓ I-15 has showed a decrease in the severity and duration of congestion during the first months of operations
    - Travel time trends show up to 90 second average travel time savings at the PM peak
    - Duration of congested conditions is reduced by 30 minutes
      - April/May 2026 (baseline) chart
      - July 2026 (Soft Launch Operation) chart
    - Travel time trends show up to 90 second average travel time savings at the PM peak
    - Duration of congested conditions is reduced by 30 minutes
      - April/May 2026 (baseline) chart
      - August 2025 (Soft Launch Operation) chart
    - Travel time trends now show over 2 minutes average travel time savings at the PM peak
    - Duration of congested conditions is now reduced to 40 minutes
      - April/May 2026 (baseline) chart
      - August 2026 (Soft Launch Operation) chart

Erik Galloway thanked the city of Temecula, local commuters, and residents for their patience and feedback as the system has come online. He then presented the following:

- What's next
- Sign up for updates
  - ✓ www.smartfreeway.org
  - ✓ smartfreeway@rctc.org

Erik Galloway stated at Mobility 21 he did sit on a panel to talk about technology. He was approached by Ventura County Transportation Commission (VCTC) they are looking at doing a feasibility study for a similar system on the U.S. Route 101. Our sister agency Contra Costa Transportation Authority (CCTA) is also working on the system on I-680 Smart Freeways. Darren Henderson informed him that now Placer County in Northern California is looking at also a similar system. He has been asked in two weeks to present to San Diego Association of Governments (SANDAG) to talk about the project because they are very interested in what we are doing here. We are leading not just the state but a lot of the nation.

Chair Gregory thanked Erik Galloway and Darren Henderson for their presentation and update on this.

Commissioner Warren stated that was an excellent update. The backup on the streets before the ramps is significant, especially at Rancho California Road and Temecula Parkway it does become a problem when the meters are backed up their traffic lanes are also backed up. She stated with this new metering it has now put a new choke point up the road to Murrieta Hot Springs and I-15 north where you cannot even get on the freeway now, so that is a big problem. The greatest thing that has happened with all this besides the metering is the auxiliary lane from Winchester to Rancho California that has made movement on the freeway fabulous. That is something she thinks we need to continue to look into because we need that to continue south and north and without that she does not think it would be as successful.

Erik Galloway stated just to address one of the questions, the way the ramp system is set up we do have sensors at the back of the ramp, and it is intended not to back up onto the street, they will flush and push everything forward. He stated what will happen if there is an accident on the freeway the system is trying to compensate. He has actually sat there and watched it when there was an accident, and the system is going crazy trying to get the traffic flowing. It does have a way to make sure the ramps flush, so we do not impact the city streets. One of our metrics that we are looking at is that queue length we actually go out there on a bimonthly basis to go take videos of the queues.

M/S/C to:

1) Receive and file a presentation for the Smart Freeway Pilot Project.

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

There were no items pulled from the Consent Calendar.

12. EXECUTIVE DIRECTOR'S REPORT

Aaron Hake:

- Stated he wanted to punctuate that presentation by saying how proud he is of Erik Galloway and his team for delivering a first in California project that is already showing results and will continue to finetune with the feedback we are getting from the Commission.
- Announced we are constructing a new platform and layover facility at the Perris Valley Line Metrolink Station that will necessitate a closure of the entire Perris Valley Line this weekend. There will be no service basically from the Hunter Park Station south this weekend on October 17 and 18. We will be posting information publicly about that.
- Announced that Fitch Ratings has upgraded the 91 Express Lanes Toll Revenue Bonds from A to A+ on our senior liens and A- to A on our secondary lien with a stable outlook. This is huge, so congratulations to our finance team, our toll operations department, and the Commission for a big rating upgrade from Fitch Ratings.

  Commissioner Ready asked what possibly changed.

  Aaron Hake asked Sergio Vidal to respond.

  Sergio Vidal replied that positively the revenue on the 91 Express Lanes has continued to outpace performance. Back in about 2018 there was a Traffic and Revenue report and for some of the Commissioners that were here those estimates at that time have been exceeded continuously since opening in 2017, so that is one of the elements that went into about increasing the rating. Also, RCTC and again thanks to the toll department has been managing their expenses, so for a facility that size about eight miles the expenses are about $20 million. That does not include debt service so the combined efforts of higher than anticipated revenues and lower than anticipated expenses is what is really generally causing rating increase from the investment public prospective or the ratings specifically.

At this time, Commissioner Perez left the meeting.

Commissioner Taylor asked if there is an interest savings impact.

Sergio Vidal replied there is not an interest savings impact the debt was refinanced in 2021 so the rating just solidifies that RCTC will have the cash today and in the future to continue its obligations.

Aaron Hake continued:

- An invitation to all of you on October 27 @ 10:00 a.m. we will be providing a tour of the Mid County Parkway/Ramona Expressway construction project. If you would like to get up close to the bridge that is going up, the falsework, and some other interesting features, you are all invited to that tour. On that tour you would be joining Congress Member Mark Takano, Senator Sabrina Cervantes, and Assembly Member Corey Jackson who will be out there to take a look at RCTC's construction project. Lisa Mobley, Administrative Services Director/Clerk of the Board, will be sending out information if you would like to RSVP.
- Announced the Assembly Transportation Committee Chair Lori Wilson was in the Inland Empire last week and invited RCTC to testify, so he provided testimony to the Chair regarding transportation funding needs in the Inland Empire what makes this region unique and why we need state partnership. There is a livestream of that available online if you are interested in how it went. He was joined by San Bernardino County Transportation Authority leadership as well as the Legislative Analyst Office and the committee staff.
- Announced the CTC is coming to the Coachella Valley in December 2026 for the first time in probably a decade. The CTC will be meeting in Palm Desert from December 2 through December 3. They will be meeting at Palm Desert City Hall for all their formal meetings. We will send out details about that if you would like to attend the CTC proceedings. There will also be a Mobility 21 reception on December 3 in the evening, so more details will be coming out on that. We are always excited and want to host the CTC here in Riverside County.
- Wanted to provide a wrap up report on the work the Commission authorized a few months ago regarding Measure A public education as that work is complete. As it was mentioned earlier, the measure is on the ballot, and we are no longer doing that public education work. He wanted to report that during the activity that you authorized we reached more than 5.3 million people with all the different modes of communication. We generated more than 18 million impressions and received more than 44,000 clicks to the RCTC Website which was also mentioned earlier.

  Commissioner Harnik asked how free are we to talk about the fact that it generated $289 million and it is not a tax increase. How free are we to say something like that from the council's dais.

Steve DeBaun, legal counsel, replied if you as a council member or you as a private citizen.

Commissioner Harnik clarified that she is talking as a council person, how free are we to say something.

Steve DeBaun replied that you are not speaking as the Commission but nonetheless he would recommend that you do not spend time when you are sitting on your council meeting talking about the upcoming Measure A.

Commissioner Conder stated that we cannot advocate for it, we cannot advocate against it, but if somebody asks us a question how much money does Measure A bring in each year, we can say $289 million.

Steve DeBaun replied that you are talking about the existing measure so you could respond to that.

Commissioner Washington stated if someone asks a question after you give them that information, what is this proposition about. Are you telling me that we cannot say that this is an extension.

Steve DeBaun replied that he would refer them to the RCTC Website and leave it at that.

Vice Chair Smith stated that he would like to go on record as being in complete violation because when we give our reports as both council members and Commissioners in all of our jurisdictions we talk about the action items that take place at our board meetings. He thinks this entire body is obviously supporting this, and he would have to disagree with what we can and cannot say from our daises, especially when we are giving updates on what we are doing on this very Commission.

13. COMMISSIONER COMMENTS

13A. Commissioner Magee announced that on October 13 Caltrans released a Notice of Preparation for the expansion of I-15 Nichols Interchange Project they are the lead agency. In response to Commissioner Perez's admonishment about developer impacts he will make sure this body knows that my colleagues and him are all on the same page that development must pay their fair share as we go forward. Also, Commissioner Perez made a comment about holding ourselves accountable, this body approved a revision to the CETAP Corridor that CETAP Corridor then became the El Toro Ethanac Expressway which will dovetail into the Nichols Interchange, so we are killing two birds with one stone. We are not exactly

off to the races because there is no funding at this time to improve that, but the longest journey begins with the first step, and we took that first step.

13B. Commissioner Spiegel stated that many of you are up for re-election we will see you in November after that, but until then do your all like you are running in last place. She is hearing several of you that come up to her and talk to her, you just have got to bear it out and run like you are in last place. You got a place here on this board we need you to stay on this board and want to see all of you re-elected.

13C. Commissioner Conder announced on November 16, 8:00 a.m. – 4:00 p.m. in Riverside is the next iteration of the Inland Empire Homeless Forum. He has most of the cities he knows here have signed up for it. If you have not or have not heard about it to let him know so we can get the letters to you. Homelessness is a regional problem and we will work regionally. We have a great presentation coming from the Coachella Valley people who have been working together as well as others.

13D. Chair Gregory stated this is a personal thing, but he is less than 24 hours out of staying at Eisenhower Medical Center unexpectedly he has been there the last three weeks. He missed Mobility 21 and thanked Commissioner Spiegel for stepping up and our vice chairs, especially thanks to Aaron Hake, Executive Director, and staff.

Chair Gregory announced the next Commission meeting will be held on a Tuesday, November 10, 2026, due to a holiday on Wednesday.

At this time, Commissioners Lorimore and Smith left the meeting.

14. CLOSED SESSION

14A. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Name of case: Riverside County Transportation Commission v. La Moda (Ontario) EB-5 Investment LLC, et al., Riverside County Superior Court Case No. CVRI2405875

14B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8
Agency Negotiator: Executive Director or Designee

Item	Property Description	Buyer(s)	Property Owner(s)
1	118-260-019	RCTC	Circle City Investment Group, LLC

Steve DeBaun announced the Board considered and approved the following closed session item:
Item 1: Acquisition of the property was approved for $250,000

15. ADJOURNMENT

There being no further business for consideration by the Riverside County Transportation Commission, Chair Gregory adjourned the meeting at 11:33 a.m. The next Commission meeting is scheduled to be held on Tuesday, November 10, 2026.

Respectfully submitted,



Lisa Mobley
Administrative Services Director/
Clerk of the Board

AGENDA ITEM 6B

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Maria Garcia, Financial Budget Manager Jennifer Fuller, Deputy Director of Finance
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Quarterly Sales Tax Analysis

STAFF RECOMMENDATION:

This item is for the Commission to:

1) Receive and file the sales tax analysis for Quarter 2, 2026 (Q2 2026).

BACKGROUND INFORMATION:

At its May 2023 meeting, the Commission awarded an agreement to MuniServices, an Avenu Insights and Analytics Company (now referred to as Neumo), for quarterly sales tax reporting services plus additional fees contingent on additional sales tax revenues generated from the transactions and use tax (sales tax) audit services. The services performed under this agreement pertain only to the Measure A sales tax revenues.

Since the commencement of services, MuniServices submitted audits, which reported findings to the California Department of Tax and Fee Administration (CDTFA), for review and determination of errors in sales tax reporting related to 1,535 businesses. CDTFA has approved $19,923,690 of cumulative sales tax revenues recovered for the Commission. If CDTFA concurs with the remaining findings, the Commission will receive additional revenues. Although these recoveries provide additional revenue, they are not sufficient to change the overall sales tax trend.

MuniServices provided the Commission with the Quarterly Sales Tax Digest Summary report for Q2 2026. Q2 2026 Measure A sales tax revenues were distributed by CDTFA between June and August 2026, reflecting the timing between the reported sales period and the collection and allocation of sales tax receipts.

The summary section of the Q2 2026 report is attached (Attachment 1) and includes an overview of the following: California's economic outlook; local results, historical cash collections analysis by quarter, top 25 sales/use tax contributors, historical sales tax amounts, annual sales tax by business category, and five-year economic trend (general retail).

RCTC's Q2 2026 cash receipts, net of CDTFA administrative fees, totaled $76.6 million, an increase of 7.8 percent from $71.1 million in Q2 2025. On a separate economic basis, which reflects local collections adjusted for anticipated receipts and excludes the CDTFA administrative fee, Q2 2026 collections totaled $76.3 million, an increase of 8.0 percent from $70.6 million in Q2 2025. On that economic basis, gains in general retail, food products, and business to business were partially offset by a decline in transportation, while construction remained essentially unchanged.

The top 25 sales and use tax contributors, listed alphabetically in Attachment 1, generated 26.9 percent of RCTC's total sales and use tax revenue for the reporting period from May 2025 through June 2026. These businesses are concentrated primarily in the general retail, food products, and transportation categories.

The Economic Category Analysis in Attachment 2 presents sales tax performance on an economic basis, including estimates for anticipated receipts and excluding the CDTFA administrative fee. In Attachment 2, the quarterly comparison measures Q2 2026 against Q2 2025, while the year-over-year comparison measures the 12 months ended Q2 2026 against the 12 months ended Q2 2025. On the trailing 12-month basis, four of the six categories—general retail, food products, business to business, and miscellaneous—reported gains. Transportation declined, primarily due to decreases in used auto sales, auto parts and repair, service stations, and miscellaneous vehicle sales, partially offset by an increase in new auto sales. Construction was essentially unchanged.

ECONOMIC CATEGORY ANALYSIS									
% of Total / % Change	RCTC	State Wide	Orange County	Riverside County	S.F. Bay Area	Sacramento Valley	Central Valley	South Coast	North Coast
General Retail	29.5 / 3.8	52.4 / -1.1	28.5 / 4.4	37.5 / 5.1	25.7 / -4.3	34.3 / 2.7	38.7 / -24.1	28.7 / 4.9	28.1 / 1.9
Food Products	17.6 / 1.6	38.6 / -1.1	22.0 / 1.5	18.7 / 1.6	24.5 / 2.5	15.5 / -4.4	14.5 / -28.2	24.1 / 1.4	20.0 / 2.3
Transportation	20.8 / -2.2	36.8 / -6.7	21.6 / -4.6	21.6 / -1.8	17.7 / -4.8	26.9 / -9.4	20.5 / -27.0	21.7 / -3.5	26.3 / -6.4
Construction	10.1 / 0.0	16.1 / -5.3	8.1 / -1.7	11.3 / -6.1	10.0 / 1.4	9.8 / -13.6	8.9 / -28.3	8.7 / -1.2	14.1 / -0.6
Business to Business	16.3 / 5.3	27.7 / -2.6	18.7 / 4.6	10.4 / 2.2	20.5 / -5.1	12.7 / -10.3	16.7 / -13.2	15.8 / 0.7	10.5 / 1.1
Miscellaneous	5.8 / 18.8	1.8 / -2.5	1.0 / -2.9	0.6 / 6.1	1.5 / 5.7	0.9 / 2.6	0.7 / -28.0	1.1 / -3.4	1.0 / 2.2
Total	**100.0 / 2.7**	**173.4 / -3.0**	**100.0 / 1.2**	**100.0 / 1.3**	**100.0 / -2.3**	**100.0 / -5.3**	**100.0 / -24.2**	**100.0 / 0.8**	**100.0 / -0.8**

General Retail: Apparel Stores, Department Stores, Furniture/Appliances, Drug Stores, Recreation Products, Florist/Nursery, and Misc. Retail
Food Products: Restaurants, Food Markets, Liquor Stores, and Food Processing Equipment
Construction: Building Materials Retail and Building Materials Wholesale
Transportation: Auto Parts/Repair, Auto Sales - New, Auto Sales - Used, Service Stations, and Misc. Vehicle Sales
Business to Business: Office Equip., Electronic Equip., Business Services, Energy Sales, Chemical Products, Heavy Industry, Light Industry, Leasing, Biotechnology, I.T. Infrastructure, and Green Energy
Miscellaneous: Health & Government, Miscellaneous Other, and Closed Account Adjustments

The Economic Segment Analysis in Attachment 2 uses the same comparison periods. Miscellaneous retail, which includes online retailers, was the largest economic segment, followed by restaurants and new auto sales. Miscellaneous retail represented 12.9 percent of total sales tax by segment and increased 6.3 percent for the 12 months ended Q2 2026 compared with the prior 12-month period. Restaurants increased 1.9 percent, reflecting continued growth among fast-food and casual restaurants, and new auto sales increased 0.9 percent on the same basis.
Attachment 3 provides city and unincorporated-county sales tax activity for comparative purposes. Because it reflects a broader local sales tax base, its totals are not intended to reconcile directly to RCTC's Measure A receipts presented in Attachments 1 and 2.

ECONOMIC SEGMENT ANALYSIS									
	RCTC	State Wide	Orange County	Riverside County	S.F. Bay Area	Sacramento Valley	Central Valley	South Coast	North Coast
Largest Segment	Miscellaneous Retail	Restaurants	Restaurants	Miscellaneous Retail	Restaurants	Miscellaneous Retail	Miscellaneous Retail	Restaurants	Restaurants
% of Total / % Change	12.9 / 6.3	16.5 / -0.1	16.9 / 2.1	20.3 / 7.4	18.7 / 3.7	17.3 / 6.6	18.8 / -21.4	18.1 / 1.9	13.0 / 2.0
2nd Largest Segment	Restaurants	Miscellaneous Retail	Auto Sales - New	Restaurants	Miscellaneous Retail	Auto Sales - New	Department Stores	Auto Sales - New	Department Stores
% of Total / % Change	11.6 / 1.9	12.8 / 2.8	12.2 / -4.0	12.4 / 2.0	10.0 / -6.3	13.9 / -2.7	11.5 / -19.4	11.3 / -1.2	11.5 / 2.0
3rd Largest Segment	Auto Sales - New	Auto Sales - New	Miscellaneous Retail	Auto Sales - New	Auto Sales - New	Restaurants	Restaurants	Miscellaneous Retail	Auto Sales - New
% of Total / % Change	10.6 / 0.9	10.6 / -3.8	11.5 / 11.6	10.9 / 3.2	8.7 / -1.7	10.5 / -2.6	9.8 / -27.3	11.1 / 12.9	10.4 / -5.8

Staff will continue monitoring sales tax receipts and economic indicators and will recommend projection adjustments as warranted.

FISCAL IMPACT:

This is an informational item. There is no fiscal impact.

Attachments:

1) Sales Tax Summary Q2 2026
2) Sales Tax Performance Analysis by Quarter Q2 2026
3) Quarterly Sales Tax Comparison by City for Q2 2025 to Q2 2026

Riverside County Transportation Commission
Sales Tax Digest Summary

ATTACHMENT 1

Collections through August 2026
Sales through June 2026 (2026Q2)

CALIFORNIA'S ECONOMIC OUTLOOK

California sales tax receipts increased by 7.8% over the same quarter from the previous year for Q2 of 2026, with Northern California reporting a 7.9% increase compared to a 7.7% increase for Southern California. Receipts for the RCTC increased by 7.8% over the same period.

Real Gross Domestic Product (GDP) increased at an annual rate of 1.5% in the second quarter of 2026. U.S. inflation slowed down to 3.5% in June of 2026. In June of 2026 gasoline inflation accelerated to 26.7% year-over-year. California's headline inflation increased to 3.4% year-over-year as of June 2026 (DIR, BEA, BLS, July Finance Bulletin)

The U.S. unemployment rate decreased slightly to 4.2% in June of 2026. California's unemployment rate decreased by 0.1 percentage point to 5.2% in June of 2026. (BLS, July Finance Bulletin)

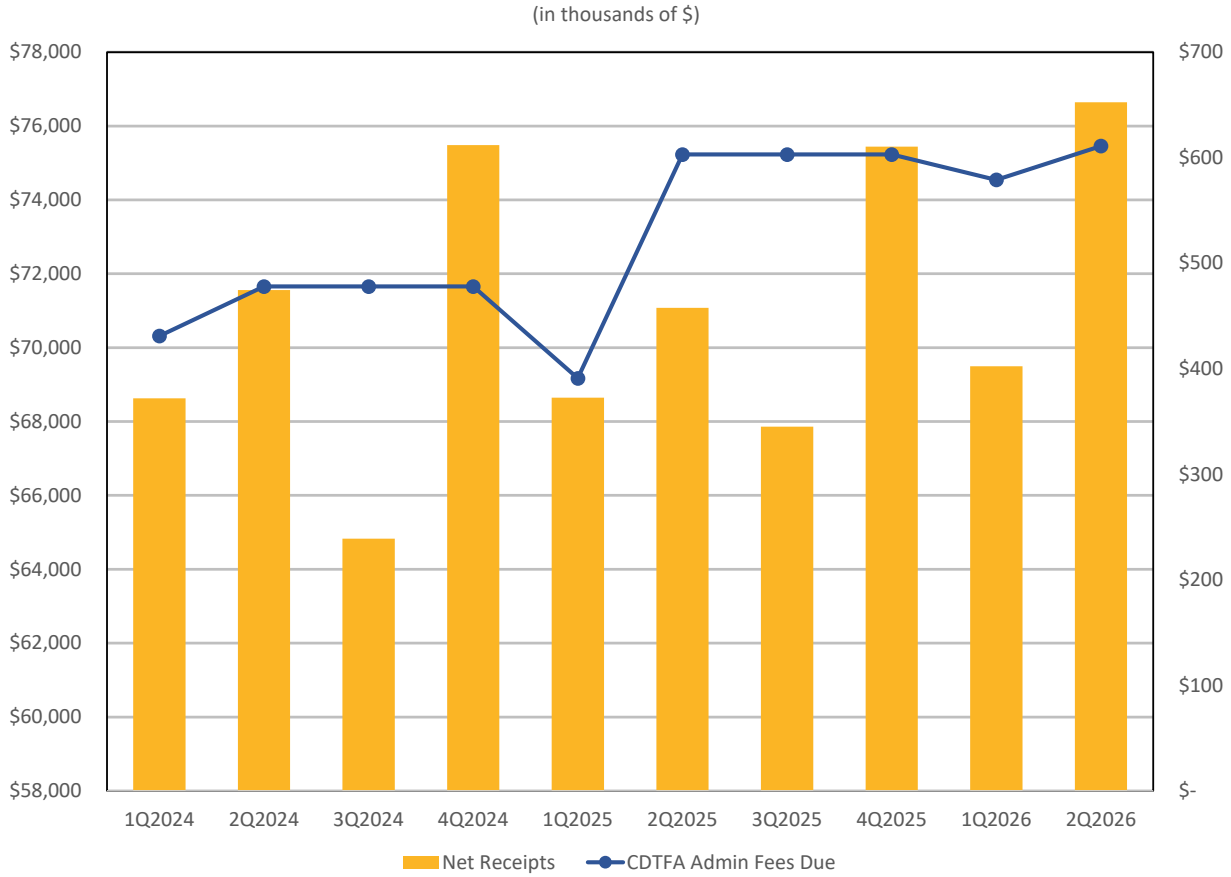
U.S. personal income increased by 3.5% in the second quarter of 2026, compared to the same quarter previous year. Compensation of employees increased by 4.0%, personal current taxes increased by 1.9% from the previous period, resulting in a net gain of 3.7% in disposable income. (BEA)

LOCAL RESULTS

Net Cash Receipts Analysis	
Local Collections	$77,253,116
Less: Cost of Administration	$(611,090)
Net 2Q2026 Receipts	$76,642,026
Net 2Q2025 Receipts	$71,078,712
Actual Percentage Change	7.8%

Business Activity Performance Analysis	
Local Collections – Economic Basis 2Q2026	$76,298,495
Local Collections – Economic Basis 2Q2025	$70,639,547
Quarter over Quarter Change	$5,658,948
Quarter over Quarter Percentage Change	8.0%
Avenu Insights & Analytics' On-Going Audit Results	
Total Recovered Since Inception	$19,923,690

HISTORICAL CASH COLLECTIONS ANALYSIS BY QUARTER



TOP 25 SALES/USE TAX CONTRIBUTORS

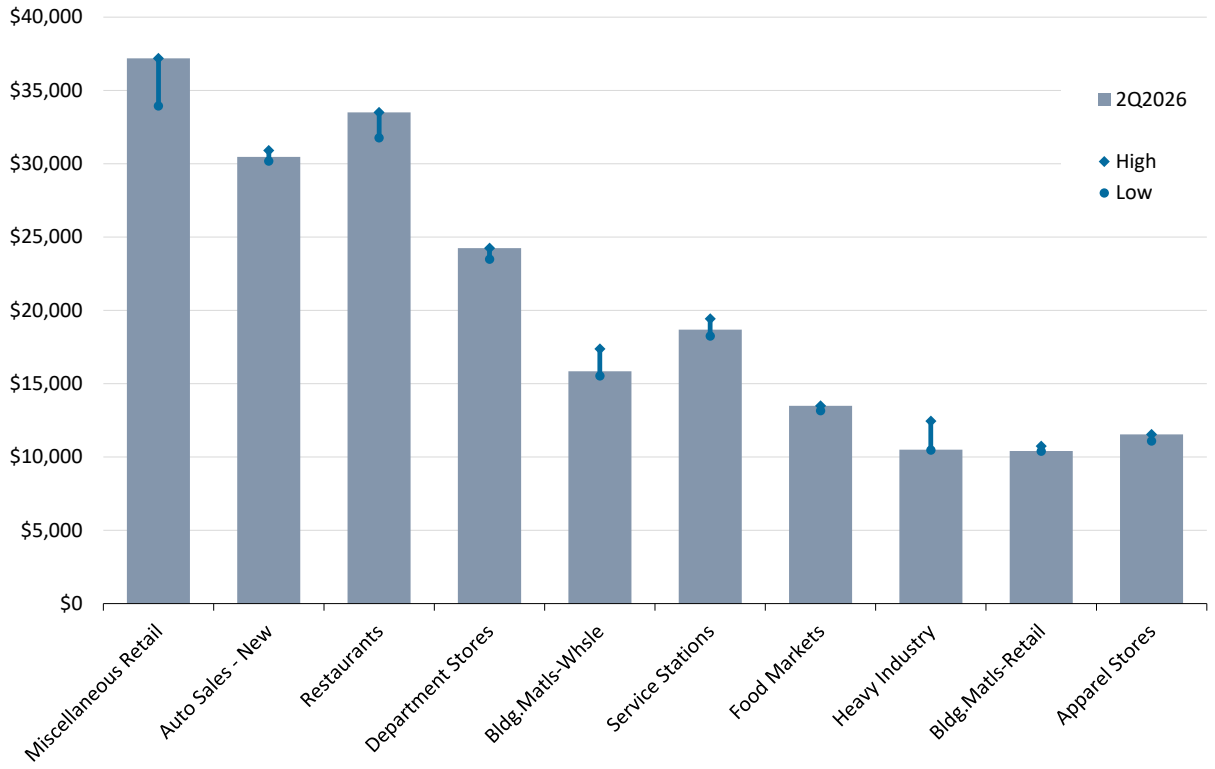
The following list identifies RCTC's Top 25 Sales/Use Tax contributors. The list is in alphabetical order and represents sales from May of 2025 through June 2026. The Top 25 Sales/Use Tax contributors generate 26.9% of RCTC's total sales and use tax revenue.

7-ELEVEN FOOD STORES
AMAZON.COM – EC
AMAZON.COM SERVICES – EC
ARCO AM/PM MINI MARTS
BEST BUY STORES
CARMAX AUTO SUPERSTORES
CHEVRON SERVICE STATIONS
CIRCLE K FOOD STORES
COSTCO WHOLESALE
DEPARTMENT OF MOTOR VEHICLES
EASLEY SOLAR
EBAY - EC
FLUENCE ENERGY
HOME DEPOT
IN-N-OUT BURGERS
LOWE'S HOME CENTERS
MCDONALD'S RESTAURANTS
RALPH'S GROCERY COMPANY
ROSS STORES
SAM'S CLUB
SHELL SERVICE STATIONS
STATER BROS MARKETS
TARGET STORES
TESLA
WAL MART STORES

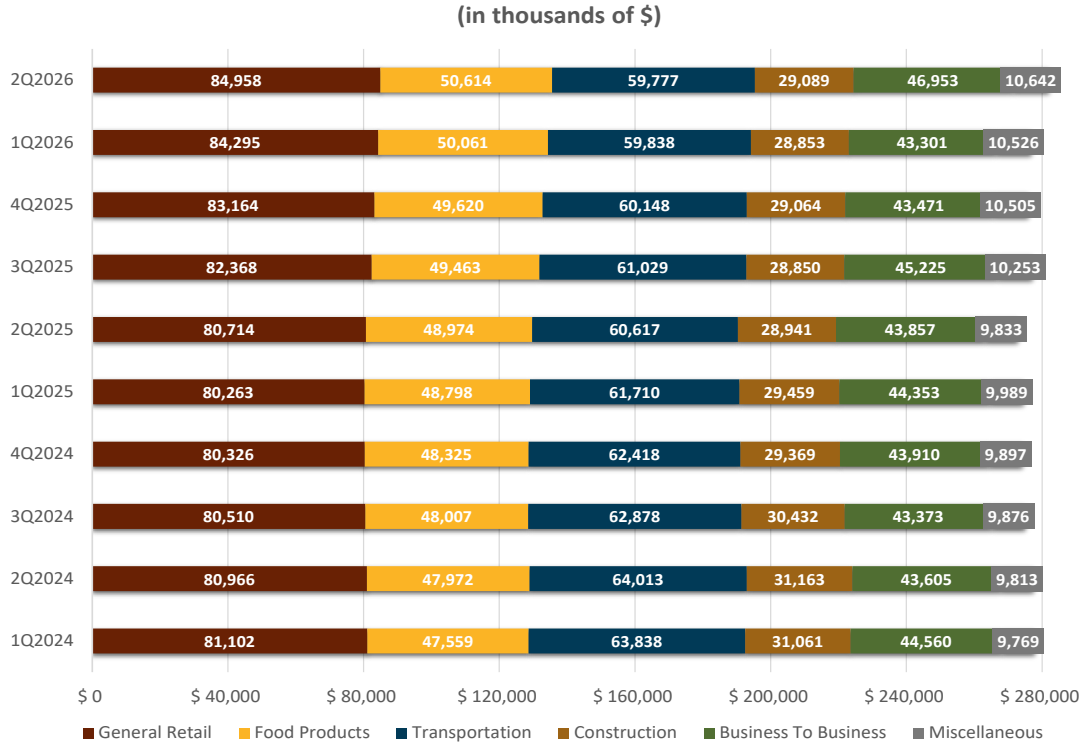
* "- EC" added to the end of business names represents electronic commerce.

HISTORICAL SALES TAX AMOUNTS

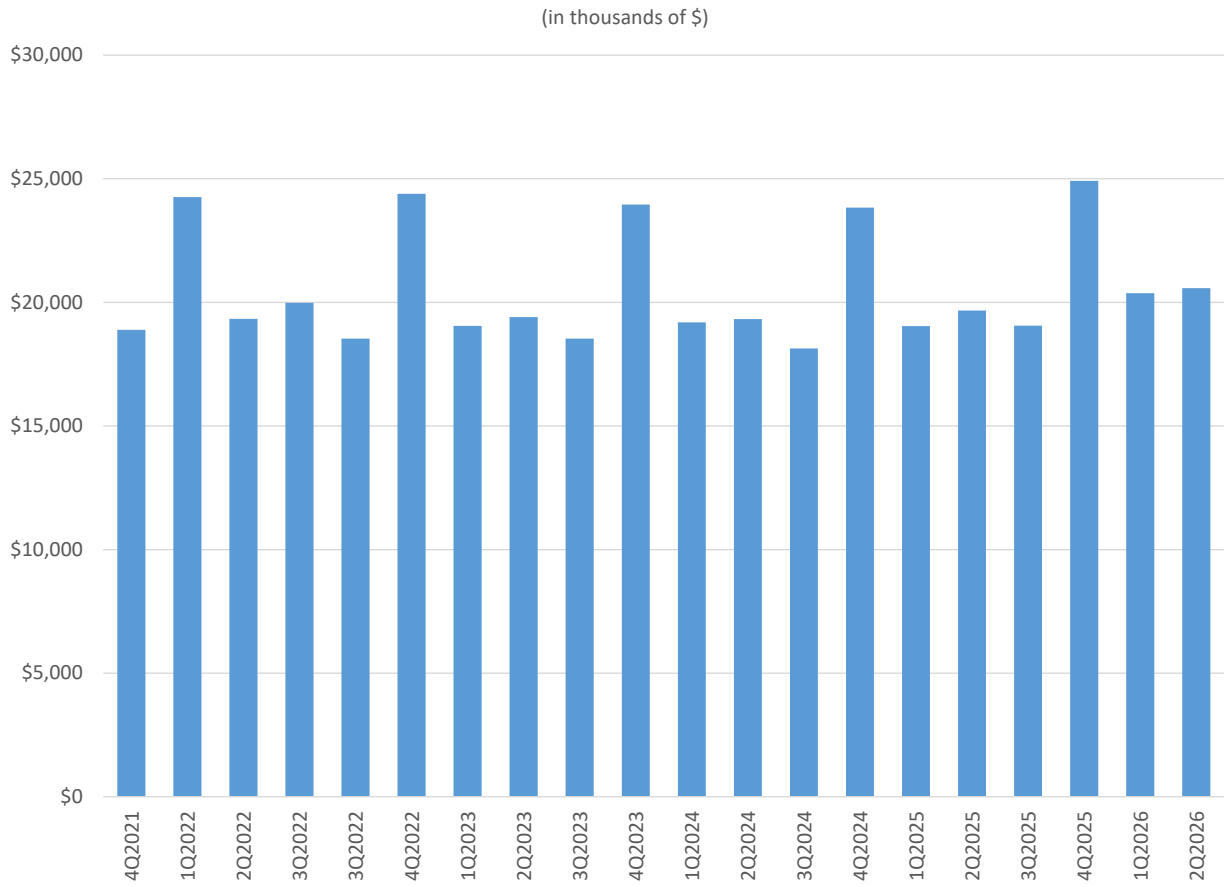
The following chart shows the sales tax level from annual sales through June of 2026, the highs, and the lows for the top ten segments over the last two years in thousands of $.



ANNUAL SALES TAX BY BUSINESS CATEGORY

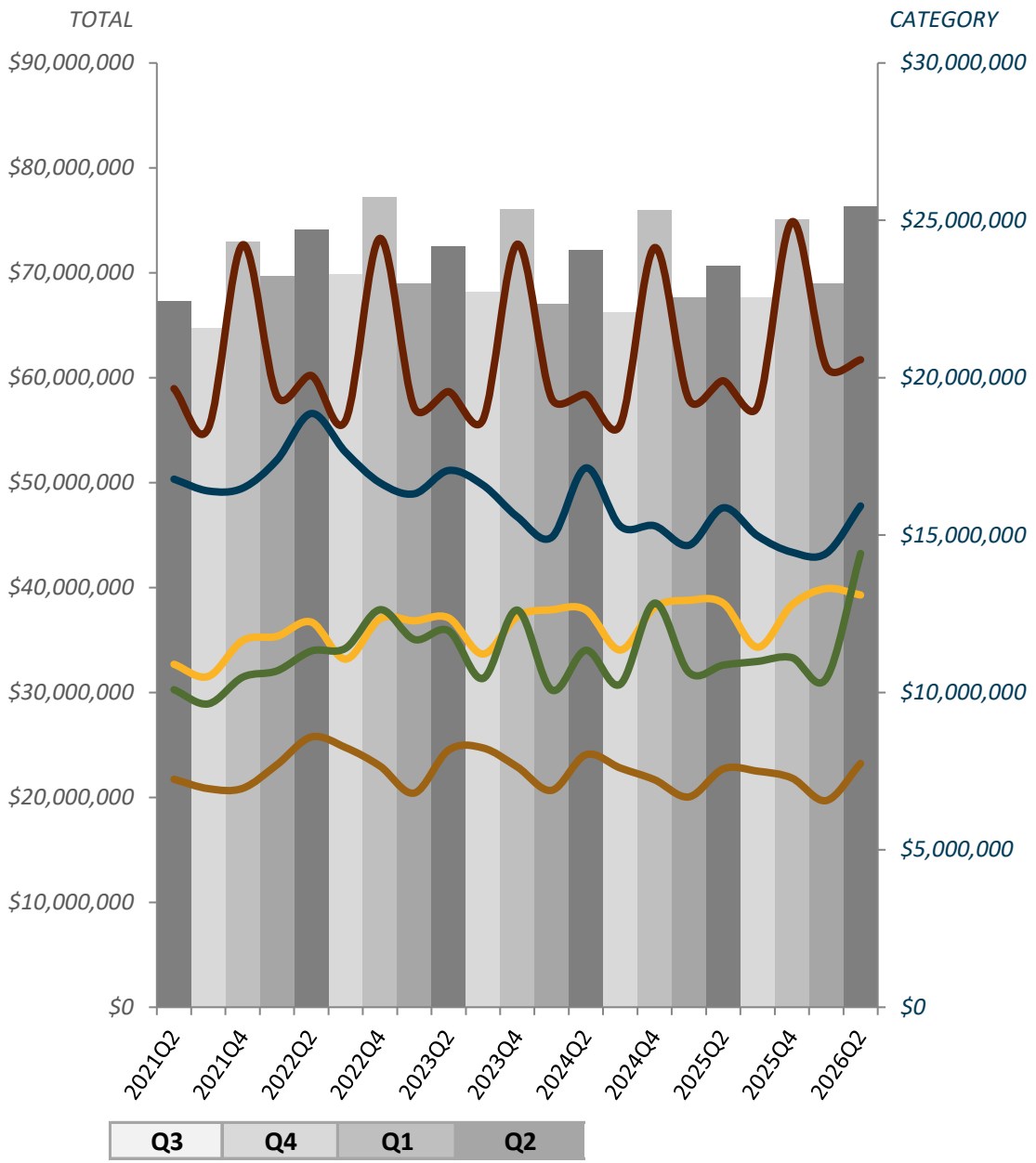


FIVE-YEAR ECONOMIC TREND: General Retail



TOTAL

Economic



TOTAL				
2026Q2	QoQ %Δ	QoQ $Δ	YoY %Δ	YoY $Δ
$76,298,495	8.0%	$5,658,948	2.7%	$7,567,107

GENERAL RETAIL				
2026Q2	QoQ %Δ	QoQ $Δ	YoY %Δ	YoY $Δ
$20,570,529	3.4%	$668,946	3.8%	$3,116,478
% of 2026Q2 Total:		27.0%		

FOOD PRODUCTS				
2026Q2	QoQ %Δ	QoQ $Δ	YoY %Δ	YoY $Δ
$13,095,640	2.0%	$260,799	1.6%	$802,857
% of Total:	17.2%			

TRANSPORTATION				
2026Q2	QoQ %Δ	QoQ $Δ	YoY %Δ	YoY $Δ
$15,925,006	0.4%	$57,954	-2.2%	-$1,347,492
% of Total:	20.9%			

CONSTRUCTION				
2026Q2	QoQ %Δ	QoQ $Δ	YoY %Δ	YoY $Δ
$7,742,835	2.3%	$170,433	0.0%	$7,921
% of Total:	10.1%			

BUSINESS TO BUSINESS				
2026Q2	QoQ %Δ	QoQ $Δ	YoY %Δ	YoY $Δ
$14,414,358	32.6%	$3,545,234	5.3%	$2,347,440
% of Total:	18.9%			

QoQ = 26Q2 / 25Q2

YoY = YE 26Q2 / YE 25Q2

RCTC: Quarterly Comparison of 2025Q2 and 2026Q2 (April through June Sales)

	General Retail	Food Products	Transportation	Construction	Business To Business	Miscellaneous	Apr - Jun 2026 (2026Q2)	Apr - Jun 2025 (2025Q2)	% Chg	Gain	Gain	Decline	Decline
RIVERSIDE COUNTY													
BANNING	4.9%	-2.4%	-6.7%	-38.7%	-38.2%	3.6%	**774,873**	849,991	**-8.8%**	Miscellaneous Retail	Service Stations	Electronic Equipment	Auto Sales - New
BEAUMONT	4.7%	1.1%	0.1%	-2.0%	-54.7%	-3.2%	**6,335,518**	6,178,710	**2.5%**	Miscellaneous Retail	Restaurants	Heavy Industry	Bldg.Matls-Whsle
BLYTHE	-14.9%	-4.7%	-2.1%	-6.1%	86.0%	-7.5%	**358,954**	351,914	**2.0%**	Light Industry	Energy Sales	Miscellaneous Retail	Restaurants
CALIMESA	4.1%	2.1%	8.9%	-47.8%	34.0%	1.8%	**369,095**	348,801	**5.8%**	Service Stations	Miscellaneous Retail	Food Markets	Florist/Nursery
CANYON LAKE	14.3%	-1.9%	-1.8%	-100.0%	-20.1%	22.0%	**95,205**	96,875	**-1.7%**	Miscellaneous Retail	Service Stations	Business Services	Restaurants
CATHEDRAL CITY	10.9%	2.1%	0.4%	5.8%	-0.1%	-5.7%	**2,822,816**	2,779,657	**1.6%**	Food Markets	Miscellaneous Retail	Restaurants	Heavy Industry
COACHELLA	-11.8%	12.5%	5.5%	4.0%	6.3%	-11.6%	**1,091,075**	1,038,825	**5.0%**	Food Markets	Service Stations	Florist/Nursery	Auto Sales - Used
CORONA	1.6%	4.0%	-6.1%	-3.4%	3.3%	43.7%	**12,938,763**	12,998,267	**-0.5%**	Auto Sales - New	Heavy Industry	Service Stations	Bldg.Matls-Whsle
COUNTY OF RIVERSIDE	136.2%	3.9%	7.7%	-3.9%	27.4%	-5.8%	**16,382,606**	10,331,628	**58.6%**	Miscellaneous Retail	Service Stations	Department Stores	Bldg.Matls-Whsle
DESERT HOT SPRINGS	-26.8%	0.7%	13.6%	-32.5%	161.8%	-31.6%	**559,522**	547,461	**2.2%**	Service Stations	Heavy Industry	Miscellaneous Retail	Drug Stores
EASTVALE	-6.2%	2.4%	15.0%	-0.5%	-3.0%	-13.5%	**9,938,010**	10,393,075	**-4.4%**	Department Stores	Restaurants	Miscellaneous Retail	Food Markets
HEMET	4.7%	1.9%	1.1%	-2.7%	15.9%	3.9%	**3,561,864**	3,478,828	**2.4%**	Miscellaneous Retail	Service Stations	Department Stores	Auto Sales - New
INDIAN WELLS	-6.1%	2.8%	0.0%	377.3%	-65.1%	12.1%	**389,355**	399,474	**-2.5%**	Restaurants	Bldg.Matls-Whsle	Light Industry	Miscellaneous Retail
INDIO	5.8%	4.1%	-1.1%	-11.0%	11.0%	35.9%	**4,571,902**	4,488,383	**1.9%**	Miscellaneous Retail	Auto Sales - New	Bldg.Matls-Whsle	Auto Sales - Used
JURUPA VALLEY	18.6%	6.6%	9.8%	-7.2%	-4.2%	-80.6%	**4,974,803**	4,759,482	**4.5%**	Department Stores	Service Stations	Light Industry	Bldg.Matls-Whsle
LA QUINTA	8.7%	-0.7%	-2.1%	1.5%	2.5%	55.8%	**2,667,887**	2,564,840	**4.0%**	Department Stores	Miscellaneous Retail	Auto Sales - New	Restaurants
LAKE ELSINORE	9.4%	4.4%	-0.1%	5.6%	-3.3%	-23.8%	**3,371,595**	3,253,308	**3.6%**	Miscellaneous Retail	Department Stores	Misc. Vehicle Sales	Auto Sales - Used
MENIFEE	10.0%	4.5%	13.3%	24.7%	-6.5%	2.8%	**3,059,589**	2,794,435	**9.5%**	Bldg.Matls-Whsle	Miscellaneous Retail	Bldg.Matls-Retail	Heavy Industry
MORENO VALLEY	4.8%	2.9%	10.7%	-6.3%	13.3%	927.4%	**7,186,840**	6,724,857	**6.9%**	Auto Sales - New	Miscellaneous Other	Bldg.Matls-Whsle	Furniture/Appliance
MURRIETA	5.1%	-0.9%	6.8%	-5.2%	-1.6%	105.1%	**5,949,424**	5,770,984	**3.1%**	Department Stores	Auto Sales - Used	Auto Parts/Repair	Bldg.Matls-Whsle
NORCO	30.9%	-5.0%	-1.5%	-16.7%	42.4%	-5.6%	**2,507,223**	2,395,999	**4.6%**	Miscellaneous Retail	Auto Sales - New	Auto Sales - Used	Bldg.Matls-Whsle
PALM DESERT	3.4%	-0.6%	-1.9%	-9.2%	2.5%	8.6%	**5,243,376**	5,221,869	**0.4%**	Miscellaneous Retail	Apparel Stores	Bldg.Matls-Whsle	Bldg.Matls-Retail
PALM SPRINGS	-0.2%	-2.1%	4.1%	3.4%	20.9%	58.4%	**4,068,083**	3,935,052	**3.4%**	Energy Sales	Leasing	Business Services	Restaurants
PERRIS	-31.4%	6.6%	2.2%	1.5%	-6.1%	21.1%	**5,517,310**	6,156,574	**-10.4%**	Light Industry	Bldg.Matls-Whsle	Miscellaneous Retail	Apparel Stores
RANCHO MIRAGE	-1.1%	0.4%	9.3%	5.9%	11.1%	4.9%	**1,554,650**	1,495,281	**4.0%**	Auto Sales - New	Leasing	Department Stores	Furniture/Appliance
RIVERSIDE	13.8%	0.2%	2.2%	-2.1%	-1.4%	34.7%	**20,331,458**	19,626,884	**3.6%**	Department Stores	Auto Sales - New	Auto Sales - Used	Light Industry
SAN JACINTO	-5.9%	3.2%	13.2%	-10.6%	-20.7%	10.0%	**1,068,070**	1,065,720	**0.2%**	Service Stations	Department Stores	Miscellaneous Retail	Florist/Nursery
TEMECULA	7.9%	3.7%	3.8%	-2.2%	-1.6%	4.6%	**10,828,439**	10,477,807	**3.3%**	Auto Sales - New	Department Stores	Green Energy	Auto Sales - Used
WILDOMAR	10.3%	17.6%	10.7%	25.6%	19.0%	34.1%	**773,240**	673,104	**14.9%**	Restaurants	Service Stations	Bldg.Matls-Retail	Leasing

AGENDA ITEM 6C

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Linda Fakhouri, Senior Procurement Analyst Jose Mendoza, Procurement Manager
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Single Signature Authority Report

STAFF RECOMMENDATION:

This item is for the Commission to:

1) Receive and file the Single Signature Authority report for the first quarter ended September 30, 2026.

BACKGROUND INFORMATION:

Certain contracts are executed under single signature authority as permitted in the Commission's Procurement Policy Manual adopted in December 2025. The Executive Director is authorized to sign services contracts that are less than $250,000 individually and in an aggregate amount not to exceed $2 million in any given fiscal year. Additionally, in accordance with Public Utilities Code Section 130323(c), the Executive Director is authorized to sign contracts for supplies, equipment, materials, and construction of all facilities and works under $50,000 individually.

The attached report details all contracts that have been executed for the first quarter ended September 30, 2026, under the single signature authority granted to the Executive Director. The unused capacity of single signature authority for services and goods as of September 30, 2026, is $1,646,897.

Attachment: Single Signature Authority Report as of September 30, 2026

SINGLE SIGNATURE AUTHORITY
AS OF SEPTEMBER 30, 2026

CONTRACT #	CONSULTANT	DESCRIPTION OF SERVICES	SINGLE SIGNATURE AUTHORIZED AMOUNT	PAID AMOUNT	REMAINING AUTHORIZED AMOUNT
	AMOUNT AVAILABLE July 1, 2026		$2,000,000.00		
21-31-012-06	CHA	CM FOR 71/91 INTERCHANGE PROJECT- Additional funds	$ 35,000.00	$ -	$ 35,000.00
26-33-086-00	Seventh Sovereign	Tribal Relations Professional Development training	$ 48,479.00	$ 48,479.00	$ -
18-15-139-05	Metromotion	PVL Double Track Project- Reimbursement Agreement	$ 25,423.00	$ 25,423.00	$ -
26-11-078-01	OPR	Local Partnerships and Elected Official Outreach Services	$ 75,000.00	$ 75,000.00	$ -
25-18-068-03	Eagle Leadership Group Training Academy	Leadership development program services	$ 56,200.00	$ 56,200.00	$ -
27-19-007-00	Apple One	Temp Staffing Services for Finance Accounting Technician	$ 100,000.00	$ 8,049.34	$ 91,950.66
21-19-034-05	BCA Watson Rice	Fiscal year 2025/26 Specialized Transit AUPs	$ 13,001.00	$ 13,001.00	$ -
	AMOUNT USED		$ 353,103.00		
	AMOUNT REMAINING through June 30, 2027		$1,646,897.00		
		Agreements that fall under Public Utilities Code 130323 (C)			
None	N/A		$-	$-	$-

Linda Fakhouri
Prepared by

Jose Mendoza
Reviewed by

Note: Shaded area represents new contracts listed in the first quarter.

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AGENDA ITEM 6D

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Maria Garcia, Financial Budget Manager Jennifer Fuller, Deputy Director of Finance
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Monthly Investment Report

STAFF RECOMMENDATION:

This item is for the Commission to:

1) Receive and file the Monthly Investment Report for the month ended September 30, 2026.

BACKGROUND INFORMATION:

As of September 30, 2026, the Commission's cash and investments totaled approximately $2.1 billion. This balance consists of Operating Funds, Funds Held in Trust, and the Commission-Managed Portfolio. Funds are invested primarily in the Riverside County Pooled Investment Fund, with additional amounts held in mutual funds and trustee-held reserve accounts established under the applicable sales tax revenue and toll revenue bond indentures, as summarized below.

CASH AND INVESTMENTS PORTFOLIO	AMOUNT [1]
Operating Funds	$1,525,256,945
Funds Held in Trust	$384,932,110
Commission-Managed Portfolio	$231,647,468
Total	**$2,141,836,523**
Note [1]: Amounts are unreconciled and unaudited.	

As of September 30, 2026, the Commission's cash and investments complied with the Commission's investment policy, adopted December 10, 2025, and the permitted investment provisions of the applicable sales tax revenue and toll revenue bond indentures. Based on current projections, the Commission has sufficient liquidity to meet anticipated cash flow requirements for the next six months.

FISCAL IMPACT:

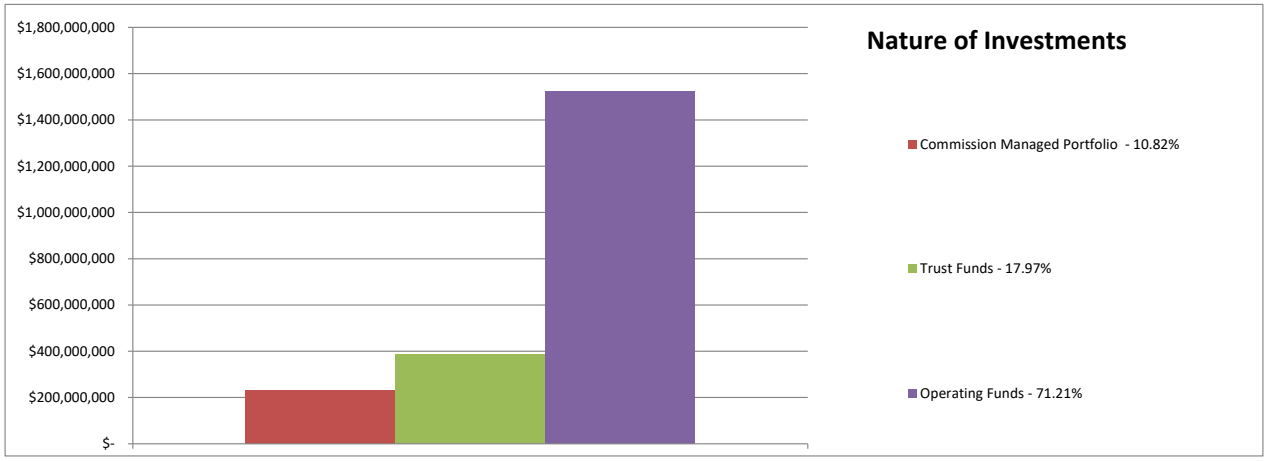
This item is informational and has no fiscal impact.

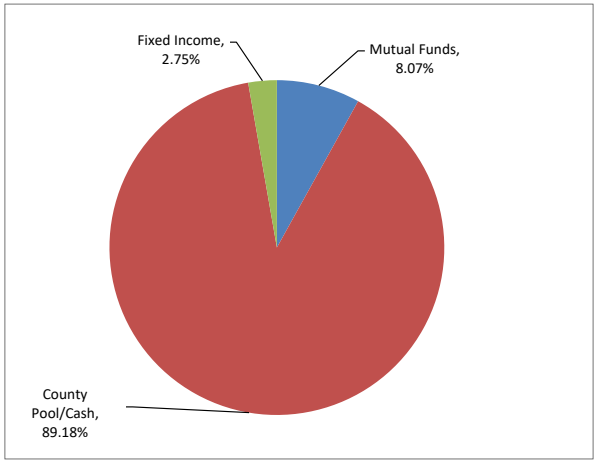
Attachment: Investment Portfolio Report for the Month Ended September 30, 2026

Riverside County Transportation Commission
Investment Portfolio Report
Period Ended: September 30, 2026

	STATEMENT BALANCE [1]	FINANCIAL INSTITUTION	STATEMENTS	RATING Fitch [2]	COUPON RATE	PAR VALUE	PURCHASE DATE	MATURITY DATE	YIELD TO MATURITY	PURCHASE COST	MARKET VALUE	UNREALIZED GAIN (LOSS)
OPERATING FUNDS												
City National Bank Deposits	66,779,878	City National Bank	Available upon request	AA-	N/A				N/A			
County Treasurer's Pooled Investment Fund	1,458,477,067	County Treasurer	Available upon request	AAAf/S1								
Subtotal Operating Funds	1,525,256,945											
FUNDS HELD IN TRUST												
County Treasurer's Pooled Investment Fund:												
Local Transportation Fund	384,932,110	County Treasurer	Available upon request	AAAf/S1								
Subtotal Funds Held in Trust	384,932,110											
COMMISSION MANAGED PORTFOLIO												
2013 Series A & Series B Reserve Fund	12,381,524	US Bank	Available upon request					Available upon request				
2021 Series B Reserve Fund	38,912,809	US Bank	Available upon request					Available upon request				
2021 Series C Reserve Fund	7,569,500	US Bank	Available upon request					Available upon request				
First American Government Obligation Fund	172,783,635	US Bank	Available upon request	N/A	N/A				N/A			
Subtotal Commission Managed Portfolio	231,647,468											
TOTAL All Cash and Investments	**2,141,836,523**											

Notes:
[1] Amounts are unreconciled and unaudited
[2] As of latest available information





AGENDA ITEM 6E

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Jonathan Marin, Senior Management Analyst Ariel Alcon Tapia, Public Affairs Manager
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Quarterly Public Engagement Metrics Report, July – September 2026

STAFF RECOMMENDATION:

This item is for the Commission to:

1) Receive and file the Quarterly Public Engagement Metrics Report for July through September 2026.

BACKGROUND INFORMATION:

The Quarterly Public Engagement Metrics Report offers a data-driven snapshot of how the Commission connects and engages with the public through its various digital communication channels including the website, social media platforms, e-newsletter, and other outreach tools. From social media engagement to public sentiment, this report provides transparency into how resources are used to engage the residents of Riverside County. These communication tools bridge the gap between Commission projects and programs and the communities they serve to keep people informed, engaged, and connected.

This report, along with the accompanying Public Engagement Metrics dashboard, summarizes digital engagement activities from July through September 2026. Comparative data from the third quarter of 2025 is included to provide a comparison, helping identify trends over time and inform future communication strategies. While year-over-year comparisons offer valuable insights, variations in project milestones and activity levels may influence overall results.

RCTC Quarterly Public Engagement

Social Media

Public sentiment across RCTC's digital social media channels during the third quarter of 2026 was generally positive. Public Affairs staff published content highlighting specialized transit services, a video overview of the new part-time shoulder lane on the northbound I-15 Rancho California Road on-ramp as part of the I-15 Smart Freeway Project, and construction activity information

for the Mid County Parkway Ramona Expressway, SR-60/Potrero Boulevard Interchange Phase II, and Perris-South Metrolink Station and Layover Facility projects.

Public Affairs staff continued to collaborate with partner agencies and stakeholders to elevate public awareness about transportation projects and programs in Riverside County. A collaboration with the city of Lake Elsinore solicited public feedback on the proposed bridge aesthetics of the future Franklin Street Bridge. The Commission also collaborated with the city of Beaumont's transit department to highlight a transit excursion focused on educating residents on how to travel around Riverside County using Metrolink and bus services.

The announcement of the $25 million U.S. Department of Transportation BUILD grant awarded to the Commission's 91 Eastbound Corridor Operations project was one of the most widely engaged posts during this quarter. The post highlighted the project's future benefits to one of the region's busiest corridors, reaching an estimated 239,328 users who viewed the post over 381,000 times.



Comparative metrics for the Commission's social media channels for the third quarter of 2026, versus the third quarter of 2025, are highlighted in the tables below. For context, *engagement* measures the total number of interactions such as likes, comments, shares, and clicks, representing how users react and respond to content. *Reach* is the number of unique users who see the content, indicating how many people had the chance to view the posts. *Impressions* count the number of times content is displayed, regardless of whether it was clicked or engaged with.

Due to the Commission-approved Measure A Renewal education program, there was an increase in engagement and reach this past quarter compared to the third quarter of 2025. The digital ad placements focused on neutral, fact-based education information regarding the renewal of Measure A.

Facebook	Q3 2025	Q3 2026	Difference
Followers	**14,634**	**15,398**	**+764** (+5.2%)
Engagement	**1,797**	**37,585**	**+35,788** (+1,992%)
Reach	**132,317**	**1,664,669**	**+1,532,352** (+1,158%)

Instagram	Q3 2025	Q3 2026	Difference
Followers	**5,351**	**6,120**	**+769** (+14%)
Engagement	**553**	**54,850**	**+54,297** (+9,819%)
Reach	**26,453**	**2,272,921**	**+2,246,468** (+8,492%)

LinkedIn	Q3 2025	Q3 2026	Difference
Followers	**2,332**	**2,820**	**+488** (+21%)
Engagement	**999**	**729**	**-270** (-27%)
Impressions	**115,419**	**23,331**	**-92,088** (-80%)

The Point E-Newsletter

Public Affairs staff continue to write and publish high-quality content for the Commission's blog, *The Point*, to further enhance public awareness about new programs, project progress, and establish transparency with the Commission's work. Staff publish several compelling stories each month that showcase the Commission's achievements, key project milestones, funding initiatives, and program updates. The blog serves as a vital communication tool that reflects the Commission's commitment to transparency and education.

Stories published on *The Point* during the third quarter of 2026 highlighted the relaunched Smart Room for the I-15 Smart Freeway Pilot Project featuring new online tools to help residents

understand how the system works and track the project's performance, the Transit Needs Public Hearing inviting transit users to provide feedback on transit services, and the $25 million federal BUILD grant awarded to the Commission's 91 Eastbound Corridor Operations Project. The story with the highest readership during this quarter was titled: *Help Choose the Name of the New County Expressway Between Winchester and San Jacinto*; covering the start of the baseline data collection period for the project. The story was read 734 times during this quarter.

Each month, stories are compiled for the Commission's digital newsletter and distributed to email and text subscribers. This year's third quarter newsletter metrics – versus third quarter of 2025 – are highlighted below:

The Point	Q3 2025	Q3 2026	Difference
Email Subscribers	**8,189**	**9,426**	**+1,237** (+15%)
Text Subscribers	**2,247**	**2,330**	**+83** (+3.7%)
Average Open Rate	**50.1%**	**26.8%**	**-47%**
Average Click Rate	**3.1%**	**4.2%**	**+35%**

Website

During the third quarter of 2026, the Commission's website hosted 170,928 sessions from 144,563 unique visitors. 49% of website traffic originated from paid digital ads, such as Google Ads and Meta Ads, while direct visits – typing in rctc.org into the web browser – made up 34% of all website sessions. Organic search traffic was responsible for 12% of visits, while social media links made up 3%, and referrals from external sources, such as The Patch, The Press-Enterprise, and Metrolink, made up the remaining 2% of web traffic.

The most visited webpages during the past quarter were the Measure A Renewal and SR-79 Realignment Project Renaming pages.

Website metrics for the third quarter of 2026 – versus third quarter of 2025 – are highlighted in the table below:

RCTC.org	Q3 2025	Q3 2026	Difference
Website Sessions	**61,024**	**170,928**	**+109,904** (+180%)
Unique Visitors	**38,872**	**144,563**	**+105,691** (+272%)

RCTC Projects Public Engagement

Beginning with this report, public engagement metrics for the Commission's two active projects – SR-60/Potrero Boulevard Interchange Phase II and Mid County Parkway Ramona Expressway – will be included to summarize how the public is engaging with and receiving information about project delivery. From construction activity notices to project milestones, Public Affairs leverages various communication channels to disseminate timely information.

Metrics include:

- Project subscribers (email and text combined)
- Visits to project webpage and related pages
- Construction alerts sent out to subscribers via email
- Inquiries – including questions, requests, and comments – to project team via project email and helpline
- Digital impressions showing the number of times project-related content was displayed across social media
- Project videos (in English and Spanish) highlighting construction progress and milestones

SR-60/Potrero Boulevard Interchange Phase II

The SR-60/Potrero Boulevard Interchange Phase II Project includes construction of a six-ramp partial cloverleaf interchange, realignment of Western Knolls Avenue, and widening Potrero Boulevard to six lanes in the city of Beaumont. Construction began in May 2026, and the new interchange is anticipated to open to drivers in 2028.

Metric	Q3 2026	Lifetime Total
Project Subscribers	**+81** (+5.8%)	**1,470**
Website Sessions	**2,906**	**5,955**
Construction Alerts Deployed	**6**	**6**
Project Inquiries	**2**	**2**
Digital Impressions	**119,725**	**185,242**
Project Videos	**2**	**2**

Mid County Parkway Ramona Expressway

The Mid County Parkway Ramona Expressway Project is constructing safety and roadway improvements along an 8.6-mile segment of Ramona Expressway in western Riverside County. This segment is within the Mid County Parkway, also known as the MCP, a planned 16-mile corridor between State Route 79 in the Hemet Valley and Interstate 215 in Perris. Construction began in April 2026 and is expected to be completed in 2028.

Metric	Q3 2026	Lifetime Total
Project Subscribers	**+24** (+1.8%)	**1,357**
Website Sessions	**4,659**	**11,845**
Construction Alerts Deployed	**2**	**8**
Project Inquiries	**3**	**3**
Digital Impressions	**198,992**	**384,286**
Project Videos	**4**	**4**

FISCAL IMPACT:

This is an informational item. There is no fiscal impact.

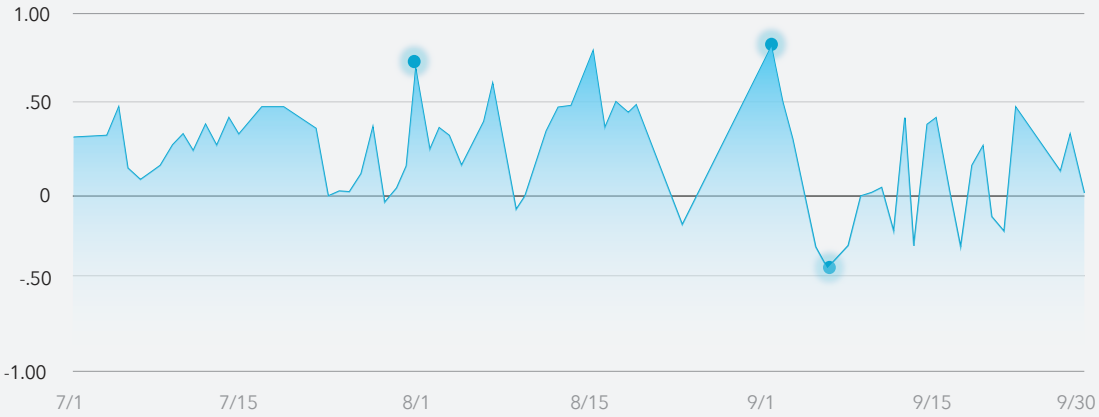
Attachments:
1) RCTC Quarterly Public Engagement Metrics Dashboard
2) Projects Quarterly Public Engagement Metrics Dashboard

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

Public Engagement Metrics: Q3 2026

July through September

Public Sentiment



8/1	High engagement and positive sentiment on video highlighting a major construction milestone for the Mid County Parkway Ramona Expressway Project
9/2	Positive sentiment on video featuring the ribbon cutting of Riverside Transit Agency's new hydrogen fueling station
9/7	Measure A Renewal content sparked discussion with mixed sentiment

Social Media

Facebook

15,398
Followers
+5.2% vs Q3 of 2025

37,585
Engagement
+1,992% vs Q3 of 2025

1,664,669
Reach
+1,158% vs Q3 of 2025

Instagram

6,120
Followers
+14% vs Q3 of 2025

54,850
Engagement
+9,819% vs Q3 of 2025

2,272,921
Reach
+8,492% vs Q3 of 2025

LinkedIn

2,820
Followers
+21% vs Q3 of 2025

729
Engagement
-27% vs Q3 of 2025

23,331
Impressions
-80% vs Q3 of 2025

Website

170,928
Total Sessions
+180% vs Q3 of 2025

144,563
Unique Visitors
+272% vs Q3 of 2025

Sessions by Device

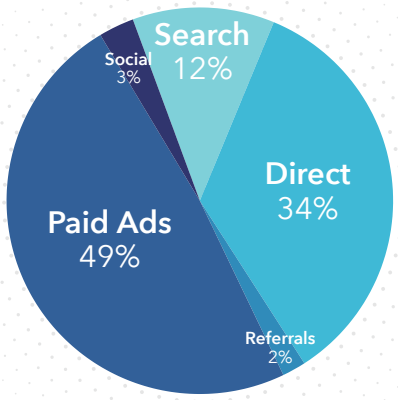
Desktop (41%)

Mobile (59%)
Includes phones and tablets

Top Pages Visited

1. Measure A Renewal
2. SR-79 Realignment Renaming
3. Measure A Renewal (Spanish)

Sessions by Channel

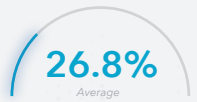


External referrals originated from sources such as The Patch, The Press-Enterprise, and Metrolink.

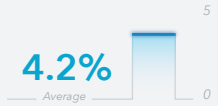
Newsletter

9,426
Email Subscribers
+15% vs Q3 of 2025

2,330
Text Subscribers
+3.7% vs Q3 of 2025



Open Rate



Click Rate

Most Read Story

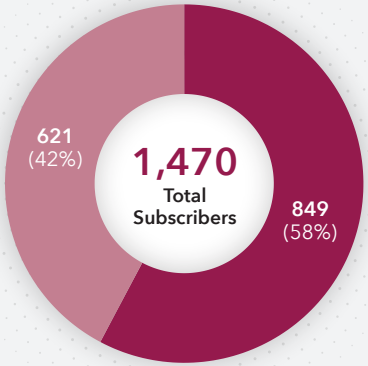
Help Choose the Name of the New County Expressway Between Winchester and San Jacinto
Residents are asked to select their choice for the name of new expressway project

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

Project Metrics: Q3 2026

July through September

SR-60/Potrero Boulevard Interchange Phase II



Subscribers

- *Email Database*
- *Text/SMS Database*

Construction Alerts

6

Total Alerts

Deployed to database

Website

2,906

Total Sessions

*Lifetime Total: **5,955***

Inquiries

2

Total Inquiries

To project email and helpline

Digital Impressions

119,725

Total Impressions

*Lifetime Total: **185,242***

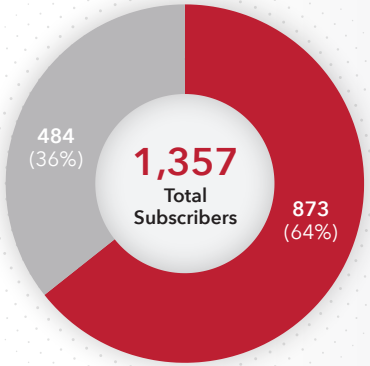
Project Videos

2

Published videos

Includes English and Spanish

Mid County Parkway Ramona Expressway



Subscribers

- *Email Database*
- *Text/SMS Database*

Construction Alerts

2

Total Alerts

*Lifetime Total: **8***

Website

4,659

Total Sessions

*Lifetime Total: **11,845***

Inquiries

3

Total Inquiries

To project email and helpline

Digital Impressions

198,992

Total Impressions

*Lifetime Total: **384,286***

Project Videos

4

Published videos

Includes English and Spanish

AGENDA ITEM 6F

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Lisa Mobley, Administrative Services Director/Clerk of the Board
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Resolution to Amend the Appendix of the Conflict of Interest Code

STAFF RECOMMENDATION:

This item is for the Commission to:

1) Adopt Resolution No. 26-012, *"Resolution of the Riverside County Transportation Commission Amending the Appendix of the Conflict of Interest Code Pursuant to the Political Reform Act of 1974".*

BACKGROUND INFORMATION:

As required, the Riverside County Transportation Commission regularly updates its Conflict of Interest Code (Code) to include new positions which must be designated, revises disclosure categories, revise the titles of existing positions, delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions and update the language to reflect newly passed SB 852 revising form 700 filing requirements for Public Officials who manage public investments.

After the Commission adopts the amended Conflict of Interest Code, it will be submitted to the Riverside County's Board of Supervisors for approval as it is the code-reviewing body for the Commission.

In order to meet the requirements of the Code pursuant to the Political Reform Act of 1974, staff recommends that the Commission adopt Resolution No. 26-012 to make the appropriate changes to the Code.

Attachments:
1) Resolution No. 26-012
2) Amended Appendix
3) Notice of Intention

RESOLUTION NO. 26-012

RESOLUTION OF THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION AMENDING THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the Riverside County Transportation Commission (the "Commission") and requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the Commission adopted a Conflict of Interest Code (the "Code") which was amended on November 13, 2024, in compliance with the Act; and

WHEREAS, subsequent changed circumstances within the Commission have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the Commission's Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the Commission being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Commission of, the proposed amended Code was provided each affected designated employee and publicly posted for review at the offices of the Commission; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the Members of the Board of the Commission on November 10, 2026, at which all present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the Members of the Board of the Commission of the Riverside County Transportation Commission that the Members of the Board of the Commission do hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Deputy Clerk of the Board and available to the public for inspection and copying during regular business hours;

BE IT FURTHER RESOLVED that the said amended Code shall be submitted to the Board of Supervisors of the County of Riverside for approval and said Code shall become effective upon approval by the Board of Supervisors, as submitted.

APPROVED AND ADOPTED this 10th day of November, 2026.

_____
Raymond Gregory, Chair
Riverside County Transportation Commission

ATTEST:

_____
Lisa Mobley, Clerk of the Board
Riverside County Transportation Commission

CONFLICT OF INTEREST CODE
FOR THE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
(Amended ~~November 13, 2024~~ November 10, 2026)

The Political Reform Act (Government~~.~~ Code ~~§~~ Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California~~.~~ Code of Regulations~~.~~ ~~§~~ Section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and positions and establishing disclosure categories, shall constitute the conflict of interest code of the Riverside County Transportation Commission (the "Commission").

~~All officials and designated employees required to submit a statement of economic interests shall file their statements with the Administrative Services Director/Clerk of the Board as the Commission's Filing Officer. Administrative Services Director/The Clerk of the Board shall make and retain a copy of all statements filed by Members of the Board of the Commission and the Executive Director, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of Riverside. The Commission's Administrative Services Director/Clerk of the Board shall retain the originals of the statements filed by all other officials and designated positions and make all statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)~~.

Officials Who Manage Public Investments shall electronically file their statements of economic interests directly with the Fair Political Practices Commission. Individuals holding designated positions shall file their statements of economic interests with the District, which will make the statements available for public inspection and reproduction. (Government Code Section 81008.)

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

(Amended ~~November 13, 2024~~ November 10, 2026)

PART "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Commission Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3(b), are NOT subject to the Commission's Code, but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments[1]:

Members of the Board of the Commission and their Alternates

Executive Director

Deputy Executive Director

Chief Financial Officer

Financial Consultants

[1] Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS
GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED POSITIONS' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Accountant (Toll)	5
~~Accounting Supervisor~~	~~5~~
Administrative Services Director/Clerk of the Board	4
Capital Projects Manager (ALL)	1, 2
Community Engagement Manager	5
Commuter and Motorist Assistance Manager	5
Deputy Director of Administrative Services	4
Deputy Director of Finance	1
Deputy Director of Regional Conservation	1, 2
Deputy Director of Toll Operations	5
External Affairs Director	1, 2
Facilities Administrator	1, 2
Financial Administration Manager	5
Financial Budget Manager	5
General Counsel	1, 2
~~Human Resources Administrator~~	~~4~~
Human Resources Manager	4
IT Administrator	5
Legislative Affairs Manager	1
MSHCP Compliance Manager	5
Management Analyst – Commuter & Motorist Assistant	5, 7
Management Analyst – Multimodal Services	2, 3, 5, 7
Management Analyst – Programming	5, 7
Management Analyst – Rail	1, 2
Management Analyst – Right of Way	1, 2
Management Analyst – Transit	5, 7

DESIGNATED POSITIONS' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Multimodal Services Director	2, 3, 5
Planning and Programming Director	2, 3, 5
Planning and Programming Manager (ALL)	2, 5, 6
Procurement Analyst	1, 2
Procurement Manager	1, 2
Project Delivery Director	1, 2
Public Affairs Manager	5
Rail Manager	1, 2
Regional Conservation Director	1, 2
Reserve Management/Monitoring Manager	2, 3, 5, 7
Right of Way Manager	1, 2
Roadway Facilities Operations Manager	5
Senior Accountant	5
Senior Administrative Assistant, Procurement	5
Senior Capitals Project Manager	3, 5
Senior Management Analyst – Commuter & Motorist Assistant	5, 7
Senior Management Analyst – External Affairs	1, 2
Senior Management Analyst – GIS	5
Senior Management Analyst – Legislative Affairs	1, 2
Senior Management Analyst – Multimodal Services	2, 3, 5, 7
Senior Management Analyst – Programming	5, 7
Senior Management Analyst – Public Affairs	5
Senior Management Analyst – Reserve Management Monitoring	1, 2
Senior Management Analyst – Public Affairs	5
Senior Management Analyst – Reserve Management Monitoring	1, 2

DESIGNATED POSITIONS' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Senior Management Analyst – ROW	1, 2
Senior Management Analyst – Toll Program	5
Toll Contracts and Budget Manager	5
Toll Customer Service Manager	5
Toll Finance Manager	5
Toll Operations Director	2, 3, 5
Toll Project Delivery Director	2, 3, 5
Toll Systems Engineer	3, 5
Toll Technology Manager	3, 5
Transit Manager	2, 3, 5

Consultant and New Positions[2]

[2] Individuals serving as a consultant as defined in FPPC Reg 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure category in this Code subject to the following limitation:

The Executive Director may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. described in this Section. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734). The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code (Gov. Code Sec. 81008).

Part "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of ~~investments, business entities, sources of income, including gifts, loans and travel payments, or real property which~~ economic interests that the Designated Position must disclose for each disclosure category to which the designated is assigned.[3] ~~"Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and~~ Such economic interests are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Commission.

Category 1: All investments, ~~and~~ business positions and sources of income, (including receipt of gifts, loans and travel payments), that are located in, do business in, or own real property within the jurisdiction of the Commission.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Commission, the jurisdiction of the Commission, including any leasehold, beneficial or ownership interest or option to acquire property.

Category 3: All investments, ~~and~~ business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Commission.

Category 4: All investments, ~~and~~ business positions and sources of income, (including receipt of gifts, loans and travel payments), that provide services (including training or consulting services), supplies, materials, machinery, vehicles or equipment of ~~a~~ the type purchased or leased by the Commission.

Category 5: All investments, ~~and~~ business positions and sources of income, (including receipt of gifts, loans and travel payments), that provide services (including training or consulting services), supplies, materials, machinery, vehicles or equipment of ~~a~~ the type purchased or leased by the Designated Position's department, unit or division.

Category 6: All investments, ~~and~~ business positions and sources of income, (including receipt of gifts, loans and travel payments), subject to the regulatory, permit, or licensing authority of the Designated Position's department, unit or division.

Category 7: All investments, ~~and~~ business positions in business entities and sources of income (including receipt of gifts, loans and travel payments), if the business entity or source is of the type to receive grants or other funding from or through the Commission.

[3] This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION

NOTICE IS HEREBY GIVEN that the Riverside County Transportation Commission (the "Commission") intends to amend its Conflict of Interest Code (the "Code") pursuant to Government Code Section 87306.

The Appendix of the Code designates those positions, members, officers, and consultants who make or participate in the making of decisions and are subject to the disclosure requirements of the Commission's Code. The Commission's proposed amendment includes a new positions that must be designated, revises disclosure categories, revise the titles of existing positions, delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions and update the language to reflect newly passed SB 852 revising form 700 filing requirements for Public Officials who manage public investments.

The proposed amended Code will be considered by the Board of Commissioners on November 10, 2026, at 9:30 a.m. at Riverside County Board Room, 4080 Lemon Street, Riverside, California. Any interested person may be present and comment at the public meeting or may submit written comments concerning the proposed amendment. Any comments or inquiries should be directed to the attention of Lisa Mobley, Clerk of the Board, Riverside County Transportation Commission, 4080 Lemon Street, 3rd Floor, Riverside, CA 92501; (951) 787-7141. Written comments must be submitted no later than November 10, 2026, at 9:30 a.m.

The proposed amended Code may be reviewed at, and copies obtained from, the office of the Clerk of the Board, during regular business hours.

AGENDA ITEM 6G

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Lisa Mobley, Administrative Services Director/Clerk of the Board
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Proposed 2027 Commission/Committee Meeting Schedule

STAFF RECOMMENDATION:

This item is for the Commission to:

1) Adopt its 2027 Commission/Committee Meeting Schedule.

BACKGROUND INFORMATION:

The Commission annually approves and adopts its meeting schedule for the following calendar year.

Commission and Committee Schedule

The Commission is scheduled to meet on the second Wednesday of each month at 9:30 a.m. The Commission approved having two Commission meetings held in Coachella Valley. The proposed dates for the Commission Meetings being held in the Coachella Valley are scheduled for April and October. The Commission's Executive Committee is held on the same day as the Commission meetings.

The Commission's Budget and Implementation and Western Riverside County Programs and Projects Committees meet on the fourth Monday of each month at 9:30 a.m. and 1:30 p.m., respectively, except when the fourth Monday falls on a holiday.

There are times when a committee meeting may be cancelled due to a lack of substantive agenda items. Commissioners and the public will be notified when this occurs, and routine items will be forwarded directly to the Commission for final action.

Attachment: Proposed 2027 Commission/Committee Meetings Schedule

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

2027 MEETING SCHEDULE

Meeting Date (Wednesday)	Commission	Location	Executive Committee	Location
January 13	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
January 28-29	1:30 p.m. (Thursday)* 8:30 a.m. (Friday)*	Soboba Springs Resort	8:45 a.m.	Soboba Springs Resort
February 10	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
March 10	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
April 14	9:30 a.m.	Coachella Valley	8:45 a.m.	Coachella Valley
May 12	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
June 9	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
August 11	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
September 8	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
October 13	9:30 a.m.	Coachella Valley	8:45 a.m.	Coachella Valley
November 10	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.
December 8	9:30 a.m.	County Board Room	8:45 a.m.	RCTC March Field Conf. Rm.

The Commission and the Executive Committee meetings are held on the second Wednesday of each month.

*Locations and times are tentative, subject to change.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

2027 MEETING SCHEDULE

Meeting Date (Monday)	Budget and Implementation Committee	Western Riverside County Programs and Projects Committee	Location
January 25	9:30 a.m.	1:30 p.m.	County Board Room*
February 22	9:30 a.m.	1:30 p.m.	County Board Room*
March 22	9:30 a.m.	1:30 p.m.	County Board Room*
April 26	9:30 a.m.	1:30 p.m.	County Board Room*
May 24	9:30 a.m.	1:30 p.m.	County Board Room*
July 26	9:30 a.m.	1:30 p.m.	County Board Room*
August 23	9:30 a.m.	1:30 p.m.	County Board Room*
September 27	9:30 a.m.	1:30 p.m.	County Board Room*
October 25	9:30 a.m.	1:30 p.m.	County Board Room*

The meetings of the Budget and Implementation Committee and the Western Riverside County Programs and Projects Committee are held on the fourth Monday of each month, except on holidays.

The Toll Policy and Operations Committee meets on an as-needed basis.

*When available, additional satellite locations will be listed on each agenda.

AGENDA ITEM 6H

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Andrew Sall, Senior Management Analyst, Legislative Affairs Tyler Madary, Legislative Affairs Manager
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	State and Federal Legislative Update

STAFF RECOMMENDATION:

This item is for the Commission to:

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

BACKGROUND INFORMATION:

State Update

The State Legislature is adjourned until December 7, but staff are developing advocacy strategies for the next legislative session.

On October 5, RCTC Executive Director Aaron Hake participated in a California Transportation Funding Regional Townhall hosted by Assembly Transportation Committee Chair Lori Wilson (Suisun City). The event is part of a series of townhalls across the state intended to bring together local elected officials, community members, and stakeholders to discuss regional transportation needs, and the long-term outlook for state funding for transportation projects and services.

Following a presentation from the San Bernardino County Transportation Authority, Executive Director Hake presented on Riverside County's leadership as a self-help county. Even with RCTC's innovative and proactive leadership, the region requires significant state investments to meet the rapid population and goods movement growth Riverside County is experiencing. Staff will engage legislative leaders as these important conversations continue.

Federal Update

Congress is in recess until November 9, however, staff continue to engage in various federal priorities. Staff are reviewing bipartisan permitting reform legislation to assess potential benefits for transportation projects. Jointly introduced on September 30, 2026 by leadership from the Senate Environment and Public Works Committee and Senate Energy and Natural Resources Committee, the Bipartisan American Affordability and Jobs Act of 2026 (S. 5653) seeks to

comprehensively reform permitting under the National Environmental Policy Act, the Clean Water Act, and the Endangered Species Act. Staff will keep the Commission apprised of its analysis and the bill's progress.

RCTC will continue to meet with staff from Riverside County's Congressional delegation in support of the Commission's legislative priorities, including efforts to amend surface transportation reauthorization legislation to restore the distribution of federal formula funds to county transportation commissions.

FISCAL IMPACT:

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

Attachment: Legislative Matrix – November 2026

RIVERSIDE COUNTY TRANSPORTATION COMMISSION - STATE AND FEDERAL LEGISLATIVE MATRIX– NOVEMBER 2026

RCTC Active Positions

Legislation/ Author	Description	Bill Status	Position	Date of Board Adoption
AB 334 (Petrie-Norris)	Current state law limits the sharing of toll customer data necessary for interoperability with other states, limiting toll operators' ability to collect toll revenue from out-of-state drivers in an efficient manner. The existing process is cumbersome, requires significant staff time, and may lead to penalties on customers that may otherwise be avoided. AB 334 enables toll operators in California, such as RCTC, to participate in a future national interoperability program, enhancing service to customers and streamlining the transaction process.	Ordered to Senate Inactive File on 9/13/2025. Failed deadline. 8/31/2026.	*Support*	4/9/2025
AB 1145 (Gonzalez)	Requires Caltrans, in reviewing a proposed ordinance or resolution submitted by a local authority to regulate traffic on a state highway, to consider the cost compared to an alternative solution. As a result, AB 1145 seeks to improve safety on highways, including on State Route 74 in Riverside County.	Signed into law by the Governor. 9/27/2026.	*Support*	7/11/2025
AB 2059 (Wilson)	Provides direct relief from vehicle miles traveled (VMT) mitigation requirements if at least 80 percent of a transportation project lies within one or more nonmetropolitan counties. Addition of one or more general lanes on the state highway system are excepted from this relief unless there is a demonstrated safety or evacuation need for the project.	Signed into law by the Governor. 9/27/2026.	*Support if Amended Based on Platform*	4/14/2026
SB 1087 (Cabaldon)	Modernizes the development and approval of Regional Transportation Plans (RTP)/Sustainable Communities Strategies (SCS) with intention to make the goals of SB 375 (Steinberg, 2008) achievable.	Signed into law by the Governor. 9/30/2026.	*Support if Amended Based on Platform*	4/15/2026

RCTC Prior Positions

Legislation/ Author	Description	Bill Status	Position	Date of Original Board Adoption
AB 1740 (Chavez Zbur)	Prior to amendments, granted priority to the City of Santa Monica's Active Transportation Program applications above all others in the state.	Signed into law by the Governor. 9/30/2026.	*Oppose Unless Amended Based on Platform Prior to Amendments on 7/2/2026*	6/24/2026
AB 1678 (Harabedian)	Reduced the San Bernardino County Transportation Authority's oversight and discretion on a project within its own jurisdiction, setting a concerning precedent for self-help counties such as Riverside County that have an obligation to deliver promised transportation improvements.	Failed deadline. 4/24/2026.	*Oppose Based on Platform*	4/10/2026
AB 1855 (Gonzalez)	Expanded California Environmental Quality Act (CEQA) exemptions for certain passenger rail projects, including the Coachella Valley Rail Project.	Failed deadline. 4/24/2026.	*Sponsor*	3/11/2026
AB 2168 (Wicks)	Prior to amendments, directed the California Transportation Commission on or after January 1, 2028, to develop Active Transportation Program (ATP) guidelines with recommendations to maximize commitments of State Transportation Improvement Program (STIP) formula funds to ATP projects. AB 2168 also requires point reductions for applicants who failed to use previously awarded funds in a timely manner.	Signed into law by the Governor. 9/14/2026.	*Oppose Unless Amended Based on Platform Prior to Amendments on 6/22/2026*	4/17/2026
AB 2560 (Schultz)	Codified the goals of the Climate Action Plan for Transportation Infrastructure into state law, reducing the flexibility of future state administrations to implement transportation policies and funding decisions.	Held in the Senate Appropriations Committee on 8/13/2026.	*Oppose Based on Platform*	4/10/2026
SB 512 (Pérez)	Provided statutory clarity confirming that transportation agencies with existing sales tax authority may administer a voter-approved transactions and use tax as determined by a citizens' initiative.	Vetoed by Governor on 10/13/2025.	*Support Based on Platform*	7/9/2025

Legislation/ Author	Description	Bill Status	Position	Date of Original Board Adoption
SB 1423 (Stern)	Prior to amendments, removed local control and discretion by changing how Interregional Transportation Improvement Program and Regional Transportation Improvement Program funds can be allocated, requiring 50 percent of funds to be programmed on safe streets projects.	Signed into law by the Governor. 9/30/2026.	*Opposed Based on Platform Prior to Amendments on 4/23/2026*	4/15/2026

AGENDA ITEM 7

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee Sri Srirajan, Senior Capital Projects Manager
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	State Route 91 Eastbound Corridor Operations Project Progressive Design-Build Phase 1 Agreements

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

1) Award Agreement No. 26-31-019-00 to Myers & Sons Construction, LLC to initiate Progressive Design-Build Phase 1 of the State Route 91 Eastbound Corridor Operations Project (91 ECOP) (Project), in the amount of $19,069,353 with a Design Option amount not to exceed $7,274,182 plus a contingency amount of $2,634,354 for a total amount not to exceed $28,977,889;
2) Award Change Order No. 52 for the 91 ECOP to Kapsch TrafficCom USA, Inc. (Kapsch) under the Amended and Restated Toll Services Contract (RCTC Contract No. 16-31-043-05) to provide design support services in support of the Project in the amount of $295,000 plus a contingency amount of $29,500 for a total amount not to exceed $324,500;
3) Approve Agreement No. 09-31-081-19, Amendment No. 18 to Agreement No. 09-31-081-00 with Parsons Transportation Group, Inc. (Parsons) to provide additional project and construction management (PCM) services for the 91 ECOP in the amount of $2,792,077, with a Design Option amount not to exceed $3,437,195 plus a contingency amount of $622,927, for a total amount not to exceed $6,852,199;
4) Approve Cooperative Agreement No. 26-31-095-00 with Orange County Transportation Authority (OCTA) for its fair share contribution toward the project, estimated at $102,280,943;
5) Authorize the Chair or Executive Director, pursuant to legal counsel review and receipt of funding authorization, to execute the agreements on behalf of the Commission; and
6) Authorize the Executive Director or designee to approve Design Option and contingency work up to the total amount not to exceed as required for the Project.

BACKGROUND INFORMATION:

Project Overview

The Riverside County Transportation Commission (RCTC), in cooperation with Caltrans and other agencies, is advancing the 91 ECOP into the design and construction phase to improve traffic flow, reduce congestion, and enhance safety in one of the region's most heavily traveled corridors. The 91 ECOP is part of the larger State Route 91 Corridor Improvement Project – Ultimate Project. The project will add an operational lane on eastbound SR-91 between the SR-241 and SR-71 connectors. The project fulfills a commitment under the Commission's Delivery Plan (2019–2029).



Figure 1 – Project Location

Progressive Design-Build Overview

In August 2025, the Commission approved contracts for PCM services and specialized legal services to support delivery using a Progressive Design-Build (PDB) approach. The PDB project delivery approach is a progressive process where the design-builder is selected based upon a qualifications-based procurement process, followed by RCTC and the design-build contractor collaboratively "progressing" the design and contract price towards mutual price and scope agreement.

The PDB approach develops the Project under two distinct phases through a single contract. The first phase, commonly referred to as the preconstruction phase, or simply Phase 1, advances preliminary engineering work collaboratively between RCTC and the contractor. During Phase 1 the parties use an open-book cost estimating approach to negotiate the scope and cost for the

Project and, if a cost agreement is reached, the Project progresses into Phase 2 to perform final design and construction. The contract will initially authorize work relating only to Phase 1 and may be amended in accordance with its terms to include the Phase 2 work.

In the event a price agreement cannot be reached between the parties for the Phase 2 work, an 'off-ramp' option can be taken by RCTC at any time during Phase 1 with one or more of the following actions as possibilities:

- Amend the Phase 1 contract for the PDB Contractor to perform the final design or issue a new contract to the designer to complete the design.
- Commence a new procurement for both final design and construction using the traditional design-bid-build methodology.
- Re-advertise and commence a best value Design-Build (DB) procurement for a new design-builder.

RCTC has statutory authority under SB 617 to implement PDB utilizing a qualification-based selection.

Phase 1 Design Option

As noted previously, Phase 1 consists of developing the Project preliminary design as the basis to quantify and price final design and construction, or Phase 2, of the Project. The Project schedule is currently estimated to take 14.5 months from Phase 1 Notice To Proceed to achieve the cost concurrence Guaranteed Maximum Price (GMP) milestone. The PDB Contractor design team supporting the development of the GMP will go 'pencils down' with their preliminary design effort approximately four months prior to GMP to allow final cost estimating by the PDB Contractor and verification of the costs by RCTC's Independent Cost Estimator. Assuming the parties reach a GMP agreement, administratively it will take approximately four additional months to finalize all the required documents for a Phase 2 contract amendment and receive all the required Commission and agency approvals, including obtaining formal Caltrans and FHWA funding authorizations. Cumulatively, this process would require the PDB Contractor design team to be idle approximately eight months before receiving authorization to begin Phase 2 work.

Staff believe it is in the Project's best interest to continue preliminary design development in parallel with reaching GMP agreement and preparing the Phase 2 amendment. With that goal in mind, staff recommends a "Design Option" to continue design efforts for the period from the 'pencils down' milestone through to award of a Phase 2 amendment by the Commission. This Design Option is broken into two time periods: the first being the time from 'pencils down' to GMP agreement, and the second from GMP agreement to award of the Phase 2 contract amendment. The first Design Option would be executed leading up to the 'pencils down' milestone and will be based on an assessment of the collaborative alignment with the DB Contractor that a GMP agreement can be reached. The second Design Option would be executed upon GMP agreement between the parties.

DISCUSSION:

PDB Procurement

Request for Expression of Interest (RFEI) No. 25-31-144-00 for the 91 ECOP was released on August 14, 2025. The purpose of this RFEI is to solicit input from the industry prior to initiating the formal procurement process to assist RCTC in refining its procurement and project delivery approach. A virtual industry forum was held with interested firms on September 11, 2025, followed by one-on-one meetings with 7 firms on September 15 and 16, 2025.

Pursuant to Government Code 22180 et seq, the selection of a DB entity shall be based on demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required. Therefore, staff used the qualification method of selection for the procurement of these services. Evaluation criteria included elements such as qualifications of firm, qualifications of personnel, project understanding and approach, and the ability to respond to the requirements set forth under the terms of the request for qualifications (RFQ).

RFQ No. 26-31-019-00 for the 91 ECOP was released by staff on November 13, 2025. The RFQ was posted on the Commission's Planet Bids website, which is accessible through the Commission's website. Through Planet Bids, 113 firms downloaded the RFQ. Staff responded to all questions submitted by potential proposers prior to the clarification deadline.

Seven (7) firms submitted responsive and responsible statements of qualifications prior to the 12:00 p.m. submittal deadline on January 21, 2026:

1. Ames Construction, Inc. with Mark Thomas & Company, Inc.
2. Flatiron Dragados Constructors, Inc. with T.Y. Lin International
3. Griffith Company with HDR Engineering, Inc.
4. Kiewit Infrastructure West Co. with Jacobs Engineering Group Inc.
5. Myers & Sons Construction, LLC with Michael Baker International, Inc.
6. SEMA Construction, Inc. with Moffatt & Nichol
7. Skanska USA Civil West California District Inc. with AECOM Technical Services, Inc.

Based on the evaluation criteria set forth in the RFQ, the submitting firms were evaluated and scored by an evaluation committee comprised of Commission, OCTA, and Caltrans staff. Three (3) of the seven firms were short-listed on March 9, 2026 (Flatiron Dragados Constructors, Inc. with T.Y. Lin International, Myers & Sons Construction, LLC with Michael Baker International, Inc. and Skanska USA Civil West California District Inc. with AECOM Technical Services, Inc.) and submitted final Statements of Qualifications (SOQs) on May 27, 2026.

The evaluation committee conducted a subsequent evaluation of each short-listed firm's submitted SOQ based on both written and submitted components presented to the evaluation committee by each proposer. Interviews with all three short-listed proposers were held on

July 22, 2026. Based on the evaluation criteria described in this RFQ, the evaluation committee selected Myers & Sons Construction, LLC as the preferred proposer.

Subsequently, staff along with our project and construction manager consultant and legal advisor began negotiations to finalize the scope and cost to deliver Phase 1. In October 2026, the project team completed scope and fee negotiations with the preferred PDB team, Myers & Sons Construction, LLC with Michael Baker International, Inc. Staff find the negotiated cost of $19,069,353 to be fair and reasonable.

The Phase 1 Design Option pricing will be negotiated in the future with Myers & Sons Construction, LLC prior to execution of each option, with the first Design Option estimated at $2,981,937 and the second Design Option estimated at $4,292,245, for a total combined Myers & Sons Construction Design Option price estimated at $7,274,182.

Staff are seeking Commission approval of the award of the PDB Phase 1 contract with Myers & Sons Construction, LLC in the amount of $19,069,353 with a Design Option amount not to exceed $7,274,182 plus a contingency amount of $2,634,354 for a total amount not to exceed $28,977,889;

The following are the key milestone dates:

Activity	**Expected Date**
Pre-award Contract Negotiation	August 2026 – October 2026
Final Caltrans Contract Award Approval	October 2026
Federal Funding Authorizations	November 2026
PDB Phase 1 Commission Approval	November 2026
NTP Phase 1	November 30, 2026
Project Cost Validation	March 1, 2027
Phase 2 Proposal Due	February 15, 2028
PDB Phase 2 Commission Approval	June 14, 2028
Final Design and Construction Phase	Approximately 2-2.5 years

Toll System Design and Upgrades

To support the 91 ECOP design and ensure seamless interoperability across RCTC's tolling network, staff recommends executing Change Order 52 to the toll services agreement with Kapsch (Agreement No. 16-31-043-05) in support of the Phase 1 design development. Kapsch is the Commission's current provider of on-road toll systems for both the 91 and 15 Express Lanes and their current contract expires in 2041.

The Project may affect existing tolling-related infrastructure along the 91 Express Lanes. The PDB Contractor will construct the civil elements of the electronic toll infrastructure that require modification or relocation as part of the Project. This Change Order 52 is for Kapsch to provide

technical input to the roadway design and ensure any necessary modification or relocation to the tolling infrastructure are designed to maintain interoperability across RCTC's tolling network.

The existing Kapsch contract provides a process for the issuance of change orders. Those change order provisions include pre-negotiated rates for Kapsch personnel by position. Staff have followed the change order process to determine the Kapsch level of effort related to the design of the 91 ECOP roadside toll system in support of PDB Phase 1. The labor hours provided by Kapsch appear to be fair and reasonable. The resulting change order cost has been calculated by applying the Kapsch labor hours to the pre-negotiated contract rates, arriving at a cost of $295,000, which is fair and reasonable for their scope of work. Kapsch design support will also be needed when the Design Options are implemented. The cost for Kapsch design support for the Design Options is included in their base Construction Change Order (CCO) cost.

Staff are seeking Commission approval of CCO No. 52 to Agreement No. 16-31-043-05 with Kapsch to provide design support services in support of the Project in the amount of $295,000 plus a contingency amount of $29,500 for a total amount not to exceed $324,500;

Project and Construction Management Services

In August 2025, the Commission approved Amendment No. 17 to Agreement No. 09-31-081-00 with Parsons to provide PCM services for the 91 ECOP in the amount of $9,748,255, plus a contingency amount of $974,825, for an additional amount of $10,723,080, and a total contract amount not to exceed $166,783,415.

As the Project progressed, additional time was required to review the high number of proposals received and negotiate scope during Phase 1 contract negotiations. The anticipated Phase 2 award has been extended by approximately twelve months, with award now expected on June 14, 2028. This schedule extension necessitates additional PCM resources to continue supporting project delivery. In addition, a co-located project office and project vehicle are required to support project execution. While these costs are typically provided by the Design-Builder and charged to the Project, securing the office space through the PCM contract is considered the most efficient and timely approach. Furthermore, PCM support services will be required for the implementation of the Design Options as they advance through development and execution.

Accordingly, an amendment to Parsons' agreement is required for continued PCM services. Staff has reviewed and negotiated the revised budget including the appropriate level of labor hours and cost to complete the delivery of the Project. The gross additional PCM need is $3,766,902, of which $974,825 will be funded from existing contingency, resulting in a new authorization request of $2,792,077.

PCM design support will also be needed when the Design Options are implemented. The Phase 1 Design Option pricing will be negotiated in the future with Parsons prior to execution of each option, with the first Design Option estimated at $1,220,955 and the second Design Option

estimated at $2,216,240, for a total combined Parsons Design Option price estimated at $3,437,195.

Staff are seeking Commission approval of Amendment No. 18 to Agreement No. 09-31-081-00 with Parsons to provide additional PCM services for the 91 ECOP in the amount of $2,792,077, with a Design Option amount not to exceed $3,437,195 plus a contingency amount of $622,927, for a total amount not to exceed $6,852,199;

Cooperative Agreement between RCTC and OCTA

In August 2026, the Commission approved a cooperative agreement with Caltrans for construction and construction inspection services, as well as a three-party cooperative agreement with Foothill/Eastern Transportation Corridor Agency and the city of Corona for the Commission's fair share contribution to the city of Corona for the Green River Road Improvement Project.

Staff is now seeking the Commission's approval of a cooperative agreement between RCTC and OCTA.

The cooperative agreement between RCTC and OCTA establishes the roles, responsibilities, and cost-sharing for the 91 ECOP. Under this agreement, RCTC will serve as the implementing agency responsible for delivering the project, including procurement and administration of the PDB contract.

Obligations of RCTC

- RCTC shall be responsible for one hundred percent (100%) of the Project Approval and Environmental Document (PA&ED) costs associated with the Project, estimated at this time to be approximately $4,573,158;RCTC's fair share contribution shall be sixty percent (60%) of the actual design, right of way, legal, PCM services, preconstruction costs, final design and construction costs, estimated at this time to be approximately $157,994,573 (including the PA&ED costs); RCTC's fair share contribution will be updated following GMP negotiations to be completed in Phase 1 of the PDB contract;
- RCTC shall compensate OCTA for toll facility closure impacts in Orange County in accordance with this agreement; and
- RCTC shall notify OCTA of any anticipated increase in Project costs that may cause OCTA's costs to exceed the OCTA Project Cost Estimate upon becoming aware of such anticipated increases. Following such notification, RCTC and OCTA shall meet and confer in good faith to review the causes and impacts of the anticipated increase and to determine an appropriate and agreed upon course of action. In the event of a significant change in the Project scope, the Parties shall review and reassess the cost share percentages currently identified in this cooperative agreement and negotiate, in good faith, potential changes to such percentages in order to fairly allocate Project costs between the Parties.

Obligations of OCTA

- OCTA's fair share contribution shall be forty percent (40%) of the actual design, right of way, legal, PCM services, preconstruction costs, final design and construction costs, estimated at this time to be approximately $102,280,943;
- OCTA's fair share contribution will be updated following GMP negotiations to be completed in Phase 1 of the PDB contract;
- OCTA shall make quarterly payments to RCTC based on OCTA's fair share estimate;
- Upon finalization of the GMP, this Agreement shall be amended to reflect updated OCTA Project costs and corresponding quarterly payments;
- OCTA shall participate in reviewing pricing packages and evaluating the costs necessary to reach agreement on the GMP; and
- OCTA shall permit night-time lane closures, currently estimated at 13 eastbound and 4 westbound, for project work.

OCTA is expected to approve this agreement at its board meeting on December 14, 2026.

RCTC has received $4 million in Federal Fiscal Year 2024 Consolidated Appropriations Act (CAA)/Community Project Funds (also known as Community Project Funded Congressional Directed Spending) for the Project. Staff have submitted a Request for Authorization (RFA) to Caltrans and anticipate receiving authorization in November 2026.

FISCAL IMPACT:

Funding Need

Project Phase	Dollar Amount
91 ECOP Progressive Design Build	$19,069,353
Phase 1 Design Option	$7,274,182
+ 10% Contingency	$2,634,354
TOTAL	**$28,977,889**
TSP Contract CCO	$295,000
+10% Contingency	$29,500
TOTAL	**$324,500**
PCM Amendment	$2,792,077
Phase 1 Design Option	$3,437,195
+ 10% Contingency	$622,927
TOTAL	**$6,852,199**

Funding Source

Fund Source	Fund Source Type	Dollar Amount
91 Surplus Toll Revenue	Local	$14,986,733
OCTA Contribution	Local	$9,991,156
2024 Consolidated Appropriations Act	Federal	$4,000,000
	TOTAL	**$28,977,889**
91 Surplus Toll Revenue	Local	$324,500
	TOTAL	**$324,500**
91 Surplus Toll Revenue	Local	$4,111,319
OCTA Contribution	Local	$2,740,880
	TOTAL	**$6,852,199**

Financial Information						
In Fiscal Year Budget:	Yes	Year:	FY2026/27 FY2027/28+	Amount:	FY 27: $16,105,950 FY28+: $20,048,638	
Source of Funds:	91 Surplus Toll Revenue, OCTA contribution, and Federal Funding: 2024 CAA			Budget Adjustment:	No	
GL/Project Accounting No.:	$28,977,889 PDB (91 Surplus Toll Revenue, OCTA Contribution, 2024CAA) - 913055-81603-00000-0000 5910-31-81601$324,500 Kapsch CCO (91 Surplus Toll revenue) - 913055-81041-00000-0000- 5910-31-81002 $6,852,199 PCM Amendment (91 Surplus Toll revenue, OCTA Contribution) - 913055-81601-00000-0000-5910-31-81601					
Fiscal Procedures Approved:				Date:	10/15/2026	

Attachments:

1) Draft Agreement No. 26-31-019-00 to Myers & Sons Construction, LLC
2) Draft Change Order No. 52 to Agreement No. 16-31-043-00 with Kapsch
3) Draft Amendment No. 18 to Agreement No. 09-31-081-00 with Parsons
4) Draft Cooperative Agreement with OCTA

Approved by the Western Riverside County Programs and Projects Committee on October 26, 2026

In Favor: 10 Abstain: 0 No: 0

ATTACHMENT 1

State Route 91
EASTBOUND CORRIDOR
OPERATIONS PROJECT

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

REQUEST FOR QUALIFICATIONS (RFQ No. 26-31-019-00)

SR-91 EASTBOUND CORRIDOR OPERATIONS PROJECT

PROGRESSIVE DESIGN-BUILD CONTRACT

VOLUME II: CONTRACT

RFQ: November 13, 2025

Draft Execution Version: October 5, 2026

DRAFT

4080 Lemon Street, 3rd Floor
Riverside, CA 92501
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PROGRESSIVE DESIGN-BUILD CONTRACT

SR-91 EASTBOUND CORRIDOR OPERATIONS PROJECT (ECOP)

RECITALS

This Progressive Design-Build Contract ("**Contract**") is entered into by and between the Riverside County Transportation Commission, a public entity of the State of California ("**RCTC**"), Myers & Sons Construction, LLC, a California limited liability company ("**DB Contractor**"). This Contract is effective as of the date of its execution by both Parties (the "**Effective Date**"), with reference to the definitions contained in Exhibit 1 (Abbreviations and Definitions) and the following facts:

A. RCTC, in partnership with Orange County Transportation Authority ("**OCTA**") and Department, wishes to construct a portion of the ultimate SR-91 Corridor Improvement Project (SR-91 CIP), which consists of adding an operational lane on eastbound SR-91 from the State Route 241 general purpose connector to the State Route 71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing). The Project is intended to help alleviate the traffic congestion in this area. This portion of the Ultimate SR-91 CIP is being referred to as the SR-91 ECOP. The SR-91 ECOP consists of the adding an operational lane approximately 3 miles in length in the eastbound direction on SR-91 from the SR-241 general purpose connector to the SR-71 Connector auxiliary lane; widening Coal Canyon Road UC (Bridge No. 55-0507R); widening County Line Creek Bridge (Bridge No. 56-0366); constructing new soil nail and type 1 retaining walls on the south side of SR-91; constructing a two-lane exit ramp at the Green River Road eastbound exit ramp and reconstructing a portion of the existing ramp; replacing overhead signs; and lowering Coal Canyon Access Road. (the "**Project**").

B. The Project is authorized in accordance with:

   a. RCTC's procurement policy and Public Contract Code section 22180 et seq., which authorizes local agencies to procure progressive design-build contracts and use the progressive design-build contracting process described in such sections; and

   b. RCTC's authority to use state-owned ROW granted by the State of California, acting by and through Department, under a Cooperative Agreement (District Agreement No. 08-182), dated September 10, 2026 (as amended, the "**Department Cooperative Agreement**").

C. On November 13, 2025, the Commission authorized RCTC staff to issue the Request for Qualifications (as subsequently amended by addenda, the "**RFQ**") to design and build the Project, select and negotiate this Contract with the preferred proposer, and make a recommendation to the Commission to award this Contract.

D. On January 20, 2026, RCTC received seven SOQ Step 1 Submittals in response to the RFQ.

E. On March 10, 2026, RCTC shortlisted three proposers. On May 27, 2026, RCTC received three SOQ Step 2 Submittals from shortlisted proposers in response to the RFQ.

F. An RFQ evaluation committee determined that DB Contractor was the proposer which best met the selection criteria contained in the RFQ.

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G. On [DATE], 2026, the Commission accepted the recommendation of the Executive Director of RCTC and the RFQ evaluation committee to award this Contract to DB Contractor.

H. DB Contractor has experience providing environmental, pre-construction, design, construction, testing and commissioning services of the type sought by RCTC on projects similar to the Project.

I. Following completion and acceptance of the Project by RCTC and Department, the Project will become part of the state highway system and Department will own all real property located within the ROW.

J. RCTC desires to engage DB Contractor to deliver the Project, and DB Contractor desires to be so engaged, on the terms and conditions specified in this Contract.

NOW, THEREFORE, in consideration of the sums to be paid to DB Contractor by RCTC, the foregoing premises and the covenants and agreements in this Contract, the Parties agree as follows:

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SECTION 1
CONTRACT COMPONENTS; INTERPRETATION OF CONTRACT; TERM

1.1. Certain Definitions

Unless the context otherwise requires, capitalized terms, terms used in the Department Standard Specifications, and abbreviations used in this Contract have the meanings given in Exhibit 1 (Abbreviations and Definitions).

1.2. Order of Precedence

1.2.1. Subject to Section 1.2.4, in the event of any irreconcilable conflict, ambiguity or inconsistency between or among any of the provisions of this Contract, the higher standard, quality or quantum will prevail; provided, however, that, if this does not resolve the ambiguity, discrepancy or inconsistency, the order of precedence in the Contract Particulars, from highest to lowest, applies.

1.2.2. Notwithstanding the order of precedence set out in the Contract Particulars, to the extent that any SOQ Step 2 Submittal Commitment supersedes specific provisions of this Contract, that SOQ Step 2 Submittal Commitment shall take precedence over the applicable Contract provisions.

1.2.3. Incorporation into this Contract of any part of the SOQ (including the SOQ Step 2 Submittal Commitments) shall not (a) limit, modify, or alter RCTC's right to review and approve any Submittal included in the SOQ, or submitted to RCTC after the SOQ (including any Project Schedule), or (b) be deemed as acceptance or approval of any part of the SOQ by RCTC.

1.2.4. DB Contractor shall not take advantage of or benefit from any apparent or actual Error, conflict or ambiguity in this Contract. If DB Contractor becomes aware that any matters with respect to the Work are not sufficiently detailed, described or explained in this Contract, or if DB Contractor becomes aware of any Error or any conflict or ambiguity between or among the documents forming this Contract, DB Contractor shall promptly provide Notice to RCTC, including the item DB Contractor considers should apply based on the applicable rules in this Section 1.2. If (a) the Error, conflict or ambiguity cannot be reconciled by applying the applicable rules in this Contract or (b) the Parties disagree about (i) which rule applies and/or (ii) the results of the application of such applicable rule(s), then RCTC will determine, in its good faith discretion, which of the conflicting items is to apply and provide Notice to DB Contractor before DB Contractor proceeds with the applicable aspect of the Work.

1.3. Reference Documents

1.3.1. Subject to Section 1.3.2 and DB Contractor's rights under Section 21, DB Contractor acknowledges and agrees that:

(a) DB Contractor may not rely on the Reference Documents;

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(b) RCTC does not represent, warrant or guarantee the accuracy or completeness of the Reference Documents or that such information is in conformity with the requirements of this Contract, Governmental Approvals or Governmental Rules;

(c) The Reference Documents may include interpretations, extrapolations, analyses and recommendations about data, design solutions, technical issues and solutions and construction means and methods which are (i) preliminary in nature and, in many cases, obsolete, (ii) not intended to express the views or preferences of RCTC or any other Governmental Entity, or represent any statement of approval or acceptance thereof by RCTC or any other Governmental Entity, and (iii) not intended to form the basis of DB Contractor's design solutions, technical solutions, or construction means and methods;

(d) DB Contractor shall conduct any and all studies, analyses, and investigations as it deems advisable to verify or supplement the Reference Documents; and

(e) Use of the Reference Documents is entirely at DB Contractor's own risk and at its own discretion and neither RCTC, OCTA, nor Department are liable for any Losses suffered by any DB-Related Entity in connection with the Reference Documents.

1.3.2. Except as otherwise expressly provided in this Contract, where this Contract cites any Reference Document to define requirements of this Contract, the cited portion of the applicable Reference Document shall (a) be deemed incorporated into this Contract to the extent it is so cited, and (b) have the same order of priority as the part of this Contract where the citation is made.

1.4. No Liability Arising From RCTC Actions

1.4.1. DB Contractor acknowledges and agrees that RCTC's and Department's rights under this Contract to review, comment on, approve, disapprove, monitor, inspect, test, accept, or carry out any other act of RCTC or Department in connection with any Submittal or the Project Assets exist solely for the benefit and protection of RCTC or Department (as applicable).

1.4.2. Except as expressly set out in this Contract, RCTC and Department owe no duty to DB Contractor to:

(a) Review, comment on, approve, disapprove, monitor, inspect, test, accept or carry out any other act or omission of RCTC in connection with any Submittal, the Project or the Work; or

(b) Inspect or review the Work for Nonconformances.

1.4.3. Failure of RCTC or Department to review, comment on, approve, disapprove, monitor, inspect, test, accept or carry out any other act or omission of RCTC or Department in connection with any Submittal or the Project, or to inspect or review the Work shall not:

(a) Relieve DB Contractor from, or alter or affect, its liabilities, obligations or responsibilities, whether under this Contract or otherwise at law, including obligations to perform the Work in accordance with the Contract, or any of its General Warranty or indemnity obligations;

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(b) Prejudice RCTC's or Department's rights against DB Contractor, whether under this Contract or Governmental Rules;

(c) Be deemed or construed as any kind of representation or warranty, express or implied, by RCTC or Department, or be relied upon by DB Contractor in determining whether DB Contractor has satisfied the requirements of this Contract;

(d) Be asserted against RCTC or Department by DB Contractor as a defense, legal or equitable, to DB Contractor's obligation to satisfy the requirements of this Contract; or

(e) Preclude or estop RCTC from asserting or showing that the Work or materials do not comply with this Contract or recovering from DB Contractor and its Guarantors or Surety(ies) such damages as RCTC may sustain in connection with DB Contractor's failure to comply or to have complied with this Contract.

1.4.4. Notwithstanding the provisions of Sections 1.4.1 through 1.4.3, DB Contractor may rely on Notices that RCTC gives under this Contract for purposes of confirming RCTC's approval or consent to an event or matter, but without prejudice to any of RCTC's other rights and remedies under the Contract.

1.4.5. RCTC shall use reasonable endeavors to provide Notice to DB Contractor if RCTC or Department intend not to review, comment on, approve, disapprove, monitor, inspect, test, accept or carry out any other act of RCTC or Department in connection with any Submittal, the Project or the Work.

1.5. Integration of Department Standard Specifications into Contract

1.5.1. The Parties acknowledge and agree that:

(a) the Department Standard Specifications dated 2025, published by Department, incorporated by reference into the Technical Provisions, with the exception of Sections 1 through 9 of the Department Standard Specifications which are replaced with Exhibit 5 (Modified Standard Specifications), subject to certain additional modifications as specified in TP Section 1.4 and otherwise in this Contract, are part of this Contract and apply to Phase 1; and

(b) the Department Standard Specifications version referenced in the Contract Particulars (Phase 2), published by Department, incorporated by reference into the Technical Provisions, with the exception of Sections 1 through 9 of the Department Standard Specifications which are replaced with Exhibit 5 (Modified Standard Specifications) to be included in the Phase 2 Amendment, subject to certain additional modifications as specified in TP Section 1.4 and otherwise in this Contract, are part of this Contract and apply to Phase 2.

1.5.2. The term "**Department Standard Specifications**" as used in this Contract shall refer to the Standard Specifications described in Section 1.5.1, as so modified, and include the Modified Standard Specifications contained in Exhibit 5. The Technical Provisions also require compliance with other Department Documents.

1.5.3. If any question arises regarding whether any provision of the Department Documents is applicable to this Contract or how to apply such provision,

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RCTC's interpretation regarding such matter shall control, subject to Department concurrence.

1.6. Interpretation of Contract

1.6.1. Unless the context otherwise requires, in this Contract, each of the following rules of interpretation shall apply:

(a) The meaning of provisions shall be construed simply, as a whole and in accordance with the fair meaning of the language used and not strictly for or against any Party;

(b) Any word (including any defined term) in the singular includes the plural and vice versa;

(c) A reference to a Paragraph, Article, Section, Subsection, or Clause is a reference to the Section in the body of the Contract, Exhibit, Schedule or Attachment in which the reference appears, unless otherwise stated;

(d) The captions of the Paragraphs, Articles, Sections, Subsections, and Clauses in this Contract are for convenience only and are not to be treated or construed as part of this Contract;

(e) Words denoting any gender include all genders;

(f) The terms "hereby," "hereof," "herein," "hereunder," "under this Contract" and any similar terms refer to this Contract;

(g) References to days are references to calendar days, provided that (i) if the date to perform falls on, or a Submittal is received on, a non-Business Day, such act or notice may be timely performed on the next Business Day; and (ii) if the date to perform falls on, or a Submittal is received on, a Friday after 12:00 pm or Holiday, such act or notice may be timely performed on the next Business Day. Notwithstanding the foregoing, requirements contained in this Contract relating to actions to be taken in the event of an emergency and other requirements for which it is clear that performance is intended to occur on a non-Business Day, shall be performed as specified, even though the date in question may fall on a non-Business Day;

(h) A reference to time is a reference to Pacific Time;

(i) The words "include," "includes" and "including," and any variants of those words, will be read as if followed by the words "without limitation;"

(j) The meaning of "or" will be that of the inclusive "or," that is meaning one, some, or all of a number of possibilities;

(k) Unless otherwise expressly stated in this Contract, words that have well-known technical or construction industry meanings are used in this Contract in accordance with such recognized meaning;

(l) A reference to any legislation (including any orders, regulations, by-laws, ordinances, orders, codes of practice or instruments made under the relevant legislation) or

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a provision within it includes any legislation or provision which amends, extends, consolidates or replaces such legislation or provision;

(m) References to Codes are to the codified laws of the State;

(n) A reference to any Governmental Entity includes a reference to any successor to such Governmental Entity or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of such Governmental Entity;

(o) A reference to any Person includes each of their legal representatives, trustees, executors, administrators, successors and permitted substitutes and assigns, including any Person taking part by way of novation;

(p) A reference to a right includes any benefit, remedy, discretion, authority or power associated with such right;

(q) A reference to an agreement (including this Contract), document, standard, principle or other instrument includes a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, novated or assigned;

(r) A reference to "$" is to United States Dollars, and all monetary amounts and obligations in this Contract are expressed and payable in United States Dollars;

(s) On plans, working drawings, and standard plans, calculated dimensions take precedence over scaled dimensions;

(t) The use of the word "remedy" or any form of it in this Contract means that the event to be remedied must be cured or its effects overcome;

(u) In the event of any irreconcilable conflict, ambiguity, inconsistency or dispute regarding the interpretation of this Contract, it shall not be interpreted or construed against the Person which prepared it and, instead, other rules of interpretation and construction shall apply;

(v) Subject to Section 1.8 or as otherwise expressly provided in this Contract, the term "may", when used in the context of a power or right exercisable by RCTC or the RCTC Representative, means that RCTC or the RCTC Representative can exercise that right or power in its sole and unfettered discretion and RCTC or the RCTC Representative has no obligation to DB Contractor to do so;

(w) If this Contract requires calculation of an amount payable to a Party, there must be no double counting in calculating that amount such that the Party would receive more than the amount owed or payable; and

(x) RCTC's interim or final answers to the questions posed during the SOQ process for this Contract do not form part of this Contract and are not relevant in interpreting this Contract, except to the extent RCTC believes the Contract is ambiguous, in which case such interim or final answers may be used to clarify such ambiguous provisions.

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1.7. Project Standards and Specifications

1.7.1. Except as otherwise specified in this Contract or directed by RCTC, material and workmanship specified by the number, symbol or title of any standard established by reference to a described manual or publication affecting any portion of the Work shall comply with the latest edition or revision thereof and amendments and supplements as at the Setting Date.

1.7.2. In interpreting Project Standards, the following apply:

(a) References to the project owner shall mean RCTC;

(b) References to an "engineer" or "Engineer" in which the engineer or Engineer determines compliance with the Project Standard(s) may mean DB Contractor's Quality Manager or similar representative or it may mean an RCTC or Department representative, depending on the context, as determined by RCTC, in its sole discretion;

(c) References to "plan(s)" shall mean the Design Documents; and

(d) Cross-references to measurement and payment provisions contained in the Project Standards shall be deemed to refer to the measurement and payment provisions in this Contract.

1.8. Standard for Approvals

In all cases where approvals or consents are required to be provided by RCTC or DB Contractor under the Contract, such approvals or consents shall not be withheld unreasonably except in cases where a different standard (such as sole discretion or good faith discretion) is specified or, in accordance with Section 1.6.1(v) (with respect to "may" and sole discretion), deemed to specify a different standard. In cases where RCTC's sole discretion is specified, the decision shall not be subject to dispute resolution or other legal challenge under the Contract.

1.9. Federal Requirements

1.9.1. DB Contractor acknowledges that (a) the Project may be paid for with funds received through State or federal funding or grant programs (together "**Funding Programs**"), (b) both RCTC and Department may receive funds through Funding Programs, and (c) the applications to receive those funds have been approved or may be approved after the Effective Date.

1.9.2. DB Contractor shall provide or cause to be provided such information, documentation, and administrative assistance as RCTC may request, and shall take such actions and execute such documents as are required to be in DB Contractor's name (including any amendments required to this Contract), to enable RCTC to meet all requirements of the Funding Programs.

1.9.3. DB Contractor shall comply and require its Subcontractors to comply with all applicable federal requirements, including those requirements in Exhibit 13 (State and Federal Requirements). In the event of any conflict, ambiguity or inconsistency between any applicable federal requirements and the other requirements of this Contract, the federal requirements shall prevail.

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SECTION 2
OVERVIEW; NATURE OF CONTRACT; TERM

2.1. Overview

RCTC engages DB Contractor to:

(a) Perform the Phase 1 Work; and

(b) Subject to obtaining Phase 2 Approval, perform the Phase 2 Work.

2.2. Nature of Contract

The Parties wish to fully embrace the principles of collaboration and progressive design-build best practices in the performance of the Work and agree to employ the following techniques to maximize the benefits of this Contract:

(a) Proceed on the basis of trust and good faith and create a culture of open and honest communication;

(b) Attempt to resolve disputes efficiently, in good faith and at the earliest possible stage of dispute resolution;

(c) Establish a cooperative and collaborative environment where all parties (including RCTC, Department, DB Contractor, and Subcontractors) have the opportunity to contribute their best efforts for the benefit of the Project as a whole, rather than to the benefit of individual Parties;

(d) Integrate the design and construction team (including RCTC, Department, DB Contractor, Major Subcontractors, key specialty contractors and trade partners) as early as possible into the design and constructability process; and

(e) Maximize the Work delivered for the NTE (Phase 1) and GMP (Phase 2) (as applicable).

2.3. Term

2.3.1. Except as expressly provided in Section 30.6, this Contract shall take effect on the Effective Date and shall remain in effect until:

(a) If Phase 2 Approval is not obtained, the date of RCTC's written notice to DB Contractor stating that Phase 2 Approval has not occurred, in accordance with Section 7.4.37.5.3; and

(b) If Phase 2 Approval is obtained, the expiration of the Warranty Period ("**Scheduled Expiration Date**"),

(c) If Contract is terminated early, the date of such earlier termination ("**Early Termination Date**") (the "**Term**").

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SECTION 3
REPRESENTATIONS, WARRANTIES AND COVENANTS

3.1. DB Contractor Representations, Warranties and Covenants

By executing this Contract, DB Contractor represents, warrants and covenants to RCTC as follows:

3.1.1. DB Contractor is a limited liability company, duly organized and validly existing under the laws of the State of California, with all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted;

3.1.2. DB Contractor is duly qualified to do business, and is in good standing, in the State, and shall remain in good standing throughout the term of this Contract and for as long thereafter as any obligations remain outstanding under this Contract;

3.1.3. As of the Effective Date, DB Contractor has full power, right and authority to execute and deliver this Contract, and to perform all of DB Contractor's obligations provided for under this Contract;

3.1.4. Each person executing this Contract on behalf of DB Contractor has been duly authorized to execute and deliver this Contract on behalf of DB Contractor;

3.1.5. No default under, violation of, or conflict with DB Contractor's governing instruments or any judgment, decree, indenture, loan, credit agreement or other material agreement or instrument to which DB Contractor is a party or DB Contractor is, or its properties and assets are bound will result from (i) DB Contractor's execution and delivery of this Contract, or (ii) DB Contractor's performance of its obligations under this Contract;

3.1.6. No Default of DB Contractor has occurred or is continuing, and no event has occurred that, with the giving of notice or passage of time or both, would constitute a Default of DB Contractor;

3.1.7. There is no action, suit, proceeding, litigation, or investigation pending or to DB Contractor's knowledge threatened against DB Contractor that individually or in the aggregate either: (i) challenge DB Contractor's authority to execute, deliver or perform or the validity or enforcement of any of this Contract or which challenges the authority of DB Contractor's Representative executing this Contract; or (ii) could reasonably be expected to result in any material adverse effect on the business, properties, or assets, or the condition, financial or otherwise, of DB Contractor or in any impairment of its ability to perform the Work; and DB Contractor has disclosed to RCTC any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters that DB Contractor is aware of or should be aware of after reasonable inquiry and investigation;

3.1.8. DB Contractor has evaluated the Planned ROW Limits and other constraints affecting design and construction of the Project and has reasonable grounds

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to believe, and does believe, that the Project can be designed and built within such constraints;

3.1.9. DB Contractor has evaluated the feasibility of performing the Work so as to achieve the Completion Milestones by the Completion Deadlines and for the Contract Price, accounting for constraints affecting the Project, and has reasonable grounds to believe and does believe such performance is feasible and practicable;

3.1.10. DB Contractor has, prior to submitting the SOQ and in accordance with Good Industry Practice, reviewed this Contract and the Reference Documents and has brought to RCTC's attention any Errors, conflicts and ambiguities in the Contract and the Reference Documents;

3.1.11. DB Contractor has, in accordance with Good Industry Practice, performed Reasonable Investigation regarding the Phase 1 Work, reviewed and analyzed all information provided in the Reference Documents regarding the Phase 1 Work, and evaluated the constraints affecting the Phase 1 Work, and has reasonable grounds for believing and does believe that the Phase 1 Work can be completed within such constraints for the NTE (Phase 1);

3.1.12. DB Contractor has evaluated the feasibility of performing and completing the Phase 1 Work in accordance with the applicable progress goals, the Phase 1 Milestone Deadlines, the NTE (Phase 1), and has reasonable grounds for believing and does believe, subject to the express terms of this Contract, that such performance is feasible and practicable;

3.1.13. DB Contractor will use best efforts to ensure that it achieves each Phase 1 Milestone by the applicable Phase 1 Milestone Deadline;

3.1.14. Failure by DB Contractor to acquaint itself with the available Site information will not relieve DB Contractor from responsibility for the difficulty or cost of successfully performing the Work. DB Contractor further acknowledges and agrees that changes in conditions at the Site may occur after the Effective Date, and that DB Contractor's entitlement to any Change Order in connection therewith shall be only as permitted under Section 21. Before commencing any Work on a portion of the Site, DB Contractor shall verify all governing dimensions at the relevant portion of the Site and shall examine all adjoining work which may affect its Work. DB Contractor shall ensure that the Design Documents and Construction Documents accurately depict all governing and adjoining dimensions and conditions;

3.1.15. DB Contractor has familiarized itself with the requirements of all applicable Governmental Rules and the conditions of all required Governmental Approvals prior to entering into this Contract. Except as specifically permitted under Section 21, DB Contractor shall comply, and shall cause its Subcontractors to comply, with all such Governmental Rules and conditions without any increase in the Contract Price or extension of any Completion Deadline on account of such compliance, regardless of whether such compliance would require additional time for performance or additional labor, equipment and/or materials not expressly provided for in this Contract. DB

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Contractor has no reason to believe that any Governmental Approval required to be obtained by DB Contractor will not be granted in due course in a timely fashion and thereafter remain in effect so as to enable the Work to proceed in accordance with this Contract;

3.1.16. DB Contractor will keep the RCTC Representative fully and regularly informed as to all matters affecting or relating to the Project Assets, including any matter which may change, or which has changed:

(a) The nature, scope or timing of the Work; or

(b) The reasonably possible levels of material expenditure by RCTC under this Contract.

3.1.17. All Work provided by DB Contractor throughout the term of the Contract shall be performed by or under the supervision of Persons who hold all necessary and valid licenses, certifications, registration, permits or approvals to perform the Work in the State, by personnel who are careful, skilled, experienced, and competent in their respective trades or professions, who are professionally qualified to perform the Work in accordance with this Contract, and who shall assume responsibility for the accuracy and completeness of the Design Documents, Construction Documents, and other documents prepared or checked by them (as applicable). Any Subcontractor that performs environmental remediation work shall, to the extent required by Governmental Rules, have a Hazardous Substance Removal Certification from the State of California Contractors State License Board; The award of this Contract by RCTC to DB Contractor was based, in part, on the qualifications and experience of the personnel listed in the SOQ and DB Contractor's commitment that such individuals would be available to undertake and perform the Work and that such individuals are available for and will fulfill the roles identified for them in the SOQ in connection with the Work;

3.1.18. This Contract constitutes the legal, valid and binding obligation of DB Contractor and, if applicable, each member of DB Contractor, in accordance with the terms of this Contract, subject only to applicable bankruptcy, insolvency, and similar Governmental Rules that affect the enforceability of the rights of creditors generally, and the general principles of equity. The Guarantees, if any, constitute the legal, valid, and binding obligation of the Guarantors, enforceable in accordance with the terms of the Guarantees, subject only to applicable bankruptcy, insolvency, and similar laws that affect the enforceability of the rights of creditors generally, and the general principles of equity;

3.1.19. DB Contractor agrees to avoid organizational conflicts of interest. For purposes of this Contract, an organizational conflict of interest exists if, due to its other activities, relationships, or contracts, a consultant to RCTC is unable to render impartial assistance or advice to RCTC, or the consultant's objectivity in providing services to RCTC is or might be otherwise impaired. For purposes of the SOQ, organizational conflicts of interest also included any matters that resulted in DB Contractor obtaining an unfair competitive advantage in connection with the procurement of this Contract. As of the SOQ Step 2

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Submittal Date, no organizational conflicts of interest exist with respect to DB Contractor and DB-Related Entities, except as otherwise approved in writing by RCTC. Between the SOQ Step 2 Submittal Date and the Effective Date, DB Contractor has not obtained knowledge of any additional organizational conflict of interest, and there have been no organizational changes to DB Contractor or Subcontractors identified in its SOQ not approved by Notice to DB Contractor;

3.1.20. DB Contractor is aware of the provisions of Labor Code section 3700 that 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 DB Contractor shall comply with such provisions before commencing performance of the Work, and at all times during the Term, whether by providing its own insurance or self-insurance in accordance with the provisions of that Code;

3.1.21. In connection with this Contract, DB Contractor has not committed or caused, and will not commit or cause, a violation of: (a) Government Code sections 1090 through 1099, 84308, or 87100 through 87105; or (b) California Code of Regulations sections 18438.1 through 18438.8;

3.1.22. Neither DB Contractor nor the Key Personnel nor any principal of DB Contractor or the Key Personnel is presently in arrears in payment of any taxes, permit fees or other statutory, regulatory or judicially required payments to the State related to the performance of any State contracts, or presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into, or otherwise participating in, this Contract by any federal agency or by any department, agency or political subdivision of the State. For purposes of this Section 3.1.22, the term "principal" means an officer, director, owner, partner, Key Person, employee, or other person in each case with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of DB Contractor or any Key Person;

3.1.23. DB Contractor has not, in the past three years, been convicted of or had a civil judgment rendered against it for (a) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (e.g., federal, state or local) transaction or public contract, (b) violation of federal or state antitrust statutes, or (c) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3.1.24. DB Contractor is not presently indicted for or otherwise criminally or civilly charged by a Governmental Entity with commission of any of the offenses enumerated in Section 3.1.27;

3.1.25. DB Contractor has not, in the past three years, had one or more public transactions (federal, state or local) terminated for cause or default;

3.1.26. DB Contractor has not received any communication or notice (written or oral), whether from a Governmental Entity, employee, citizens group or any other

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Person, that alleges DB Contractor is not in full compliance with all Governmental Rules and Governmental Approvals in connection with the Project and, to the knowledge of DB Contractor, there are no circumstances that may prevent or interfere with full compliance in the future;

3.1.27. DB Contractor (a) is not in violation of: (i) any applicable United States anti-money laundering laws, including those contained in the Bank Secrecy Act and the regulations promulgated thereunder; (ii) any applicable economic sanction laws administered by Office of Foreign Assets Control of the United States Department of the Treasury ("**OFAC**") or by the United States Department of State; or (iii) any applicable United States anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal, and (b) is not a Person: (i) that is charged with, or has reason to believe that he, she or it is under investigation for, any violation of any such laws; (ii) that has been convicted of any violation of, has been subject to civil penalties in accordance with, or had any of its property seized or forfeited under any such laws; (iii) that is named on the list of "Special Designated Nationals or Blocked Persons" maintained by OFAC (or any successor United States government office or list), or any similar list maintained by the United States Department of State (or any successor United States government office or list); (iv) with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by any applicable Governmental Rule; (v) that is owned, controlled by, or affiliated with any Person identified in Sections 3.1.27(b)(i), 3.1.27(b)(ii), 3.1.27(b)(iii) or 3.1.27(b)(iv); or 3.1.27(b)(vi) that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled or has its principal place of business;

3.1.28. DB Contractor owns or will own good and marketable title and sufficient rights to all Intellectual Property, materials, equipment, tools and supplies to be furnished under this Contract, free and clear of all Liens, royalties, fees or other charges of any kind or nature. DB Contractor warrants that all such Intellectual Property, materials, equipment, tools and supplies will be delivered free of any claim by a third party for infringement of any Intellectual Property or ownership right;

3.1.29. At any time a Guaranty is required to be in place in accordance with this Contract, the applicable Guarantor is duly organized, validly existing and in good standing under the laws of the state of its organization, will remain in good standing in the state of its organization for as long as any obligations guaranteed by such Guarantor remain outstanding under this Contract, and has all requisite power and all required licenses to carry on its present and proposed obligations under this Contract;

3.1.30. At any time a Guaranty is required to be in place in accordance with this Contract, all required approvals have been obtained with respect to the

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execution, delivery and performance of such Guaranty, and performance of such Guaranty will not result in a breach of or default under the applicable Guarantor's organizational documents, or any indenture, loan or credit agreement or other agreement or instrument to which the applicable Guarantor is a party or by which its properties and assets may be bound or affected; and

3.1.31. Each Guaranty has been duly executed and delivered by each Guarantor, and constitutes the legal, valid and binding obligation of such Guarantor, enforceable in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

3.2. RCTC Representations, Warranties and Covenants

RCTC represents, warrants and covenants that:

3.2.1. As of the Effective Date, RCTC has full power, right and authority to execute, deliver and perform this Contract and to perform all of RCTC's obligations provided for under this Contract;

3.2.2. Each person executing this Contract on behalf of RCTC has been duly authorized to execute and deliver this Contract on behalf of RCTC; and

3.2.3. This Contract has been (or will be) duly executed and delivered by RCTC.

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SECTION 4
GENERAL OBLIGATIONS APPLICABLE TO THE WORK

4.1. General Obligations of DB Contractor

4.1.1. DB Contractor shall, and shall cause its Subcontractors to:

(a) Comply with the terms of the General Warranty;

(b) Perform the Work in accordance with:

(i) The Administrative Project Plans;

(ii) All Governmental Rules, Governmental Approvals and Project Standards;

(iii) Supplier warranties in the case of equipment;

(iv) The RCTC-approved Final Design Documents and Construction Documents;

(v) Good Industry Practice;

(vi) RCTC's decisions or orders in accordance with this Contract; and

(vii) The terms of this Contract, in each case, taking into account the Planned ROW Limits and other constraints affecting the Project and in a diligent manner and without delays.

(c) Perform the Work so as to ensure:

(i) The Design Work meets each of the requirements set out in the Contract;

(ii) The Construction Work meets each of the purposes and requirements set out in the Contract; and

(iii) The Work is free of Deviations or Nonconformances unless approved by RCTC, in its sole discretion.

(d) Timely submit all Submittals by the applicable times in this Contract, including TP Section 3, and all such Submittals shall be accurate and complete as required under this Contract.

4.1.2. DB Contractor shall:

(a) Use the design Subcontractor(s) identified in Exhibit 2-F (Listed Subcontractors / Subcontractor Identification Form) to perform the design services required by this Contract or other Subcontractors approved by Notice from RCTC;

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(b) Not shift design Work from any Major Subcontractor or Listed Subcontractor to another without the prior written approval of RCTC, in its good faith discretion, except that DB Contractor may shift non-material amounts of design Work to the extent consistent with Governmental Rules where such shift does not eliminate a Major Subcontractor or Listed Subcontractor;

(c) Ensure labor harmony on the Site during all stages of the Project, including taking appropriate steps to prevent strikes, walkouts, work stoppages, work slowdowns, work curtailments, cessations or interruptions of production due to labor disputes or other labor-related matters.

4.1.3. Except as otherwise expressly provided in this Contract, DB Contractor:

(a) Accepts all risks, responsibilities, obligations and liabilities in connection with delivering the Work consistent with this Contract; and

(b) Is not entitled to make any Claim against RCTC for any Losses in connection with the Project, Work or this Contract other than as expressly provided in Section 21.

4.2. Coordination and Cooperation

4.2.1. DB Contractor shall perform the Work so as not to:

(a) Enter upon, disturb or use any property of any Person except with the express permission of, and in compliance with all requirements of, the owner or holder of such property;

(b) Damage, close or obstruct any Utility installation, highway, road or other property unless and until all applicable Governmental Approvals have been obtained; or

(c) Disrupt or otherwise interfere with the operation of any Utility, improvement or structure unless otherwise specifically authorized by this Contract, an applicable Governmental Rule or any Governmental Approval.

4.2.2. DB Contractor acknowledges and agrees that:

(a) Other RCTC Contractors might be working near or otherwise be present on or near the Site during performance of the Work;

(b) The work of Other RCTC Contractors might interfere with DB Contractor's use of certain facilities on or near the Site; and

(c) DB-Related Entities, including DB Contractor, shall fully cooperate and be solely responsible for coordinating the Work with Other RCTC Contractors and shall schedule and sequence the Work as reasonably necessary to accommodate the work of Other RCTC Contractors.

4.2.3. DB Contractor shall cooperate and coordinate with:

(a) RCTC and Other RCTC Contractors in connection with the ongoing operation, maintenance, renewal, and replacement of the 15 Express Lanes, this Project and

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other obligations under this Contract so as to not unreasonably interfere with the progress or completion of the work performed under such contracts or as part of such projects; and

(b) RCTC, Other RCTC Contractors, Utility Owners, Department, FHWA and other Governmental Entities with jurisdiction over the Work in performing oversight and conducting inspections during the performance of the Work and other matters relating to the 15 Express Lanes and this Project.

4.2.4. DB Contractor shall cause Subcontractors to cooperate and provide such information as is necessary or requested by RCTC to assist or facilitate the submission by RCTC of any documentation, reports or analysis required by the State, FHWA and/or any other Governmental Entity with jurisdiction over the Project.

4.2.5. Additional requirements for DB Contractor to coordinate the Work with TSP are included in Section 17.1.

4.2.6. Except as set out in Section 4.2.7 or as expressly provided under this Contract, if DB Contractor asserts that a contractor of Department, Local Agencies, or any Utility Owner has caused damage to the Work or has hindered or interfered with the progress or completion of the Work, then except as expressly set forth in this Contract, DB Contractor's sole remedy under this Contract shall be to seek recourse against the respective contractor.

4.2.7. DB Contractor may submit disputes between itself and contractors of Department, Local Agencies, or any Utility Owner for resolution under Section 28 so long as: (a) the DB Contractor and the DB Contractor's sureties agree to submit the dispute to the Disputes Review Board; and (b) the proceeding is conducted at no cost to RCTC.

4.2.8. DB Contractor shall have no right to compensation, time extension, or otherwise make any Claim against RCTC for the actions or omissions of any contractor retained, or work performed, by Department, other Local Agencies, or any Utility Owner except as expressly provided in this Contract.

4.3. Administrative Project Plans

4.3.1. DB Contractor shall:

(a) Perform all inspection, sampling, testing, Quality Validation and Quality Control for the Project necessary to manage the Work and otherwise in accordance with the RCTC-approved Administrative Project Plans and this Contract;

(b) Carry out internal audits of the Administrative Project Plans at the times prescribed in the Quality Management Plan and shall provide a written report setting forth full details of such audits to RCTC;

(c) Ensure that the DQVM and CQVM shall, irrespective of his or her other responsibilities, have express authority to establish and maintain the elements of the Administrative Project Plans and report directly to RCTC on the performance of the Administrative Project Plans with respect to those elements;

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4.3.2. Not terminate any agreement with the construction quality validation laboratory that may affect the Work or permit or suffer any substitution or replacement of the construction quality validation laboratory, except with RCTC's prior written approval, in its reasonable discretion.The construction quality validation laboratory shall not be owned at any time during the term of the Contract by DB Contractor or any subsidiary or affiliate of DB Contractor or DB Contractor's design Subcontractors unless agreed to by Notice from RCTC, in RCTC's sole discretion.

4.3.3. RCTC may propose, and DB Contractor shall implement, any change to the Administrative Project Plans required to:

(a) Comply with the requirements of TP Section 2.1;

(b) Comply with this Contract, Governmental Approvals, Governmental Rules and Good Industry Practice; or

(c) Reflect a change in working practice to be implemented by DB Contractor.

4.3.4. If any part or other documentation of the Administrative Project Plans refers to, relies on or incorporates any manual, plan, procedure or like document, then all such referenced or incorporated materials shall be submitted to RCTC for approval in its good faith discretion when the relevant part or other documentation of the Administrative Project Plans or change, addition or revision to the Administrative Project Plans is submitted to RCTC.

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SECTION 5
INFORMATION SUPPLIED TO DB CONTRACTOR; SUBMITTALS, DESIGN REQUIREMENTS AND DISCLAIMER; ROLES OF PCM, DEPARTMENT, FHWA

5.1. Meetings

5.1.1. DB Contractor shall:

(a) Arrange and conduct regular Progress Meetings with RCTC, and other Persons as provided in TP Section 2.5.4 and otherwise designated by RCTC, at least weekly during the course of the Work;

(b) At such Progress Meetings, discuss the following:

(i) Topics specified in the TPs or to be covered in any Monthly Progress Report;

(ii) Issues relevant to the progress or performance of any portion of the Work or development or submission of any Submittal; and

(iii) Any other matters that the RCTC Representative may require.

5.1.2. DB Contractor shall schedule all Progress Meetings with RCTC at a date, time, and place reasonably convenient to both Parties and, except in the case of urgency, shall provide RCTC with Notice and a meeting agenda at least three Business Days in advance of each meeting.

5.1.3. Within three Business Days after each Progress Meeting, the DB Contractor Representative shall prepare and deliver minutes of that meeting to all attendees and RCTC for review and comment; provided that RCTC may (in its sole discretion) designate another Person to prepare and issue agendas and/or minutes.

5.1.4. In addition, RCTC and DB Contractor, through their respective Representatives, shall meet from time to time at the other Party's request to discuss and resolve matters relating to the Work or Project.

5.2. Submittals

DB Contractor shall prepare, submit, update, and maintain all Submittals in accordance with the requirements of this Contract, including the Submittal Requirements.

5.2.1. General

(a) This Section 5 describes the terms and procedures that govern DB Contractor's Submittals to RCTC in accordance with this Contract. In the event of any irreconcilable conflict between the provisions of this Section 5 and other provisions of this Contract or the Administrative Project Plans concerning submission, review and approval procedures for Submittals, this Section 5 shall control, except to the extent that the conflicting provision expressly states that it supersedes this Section 5.

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(b) Where DB Contractor is required to make a Submittal to RCTC under this Contract, DB Contractor shall deliver such Submittal to the individual or organization, if any, appointed by RCTC to act on its behalf.

(c) Where DB Contractor is required to obtain an action (e.g., review, comment, approval) from Department or FHWA in connection with a Submittal under this Contract, DB Contractor shall timely make the corresponding Submittal to RCTC for RCTC to review and distribute to Department or FHWA, as applicable, in accordance with TP Section 3.1.2. In the case of all other third parties, DB Contractor shall make the Submittal directly to the third party in accordance with TP Section 3.1.2. DB Contractor shall coordinate with all third parties to determine and comply with their applicable requirements such that third-party action in connection with Submittals does not cause delay to the Project Schedule.

(d) DB Contractor shall provide RCTC with copies of all correspondence, communications, submittals or notices to, by or between DB Contractor and Department, FHWA, other Governmental Entities, Utility Owners, Other RCTC Contractors, property owners, insurers and other third parties with an interest arising out of or relating to the Work.

5.2.2. Time Periods

(a) Except as otherwise provided below, whenever RCTC and/or Department is entitled to review and comment on, affirmatively approve, or take other action with respect to a Submittal, RCTC and/or Department will have the following time periods to provide DB Contractor the applicable review, comment, approval or other action after the date RCTC and/or Department, as applicable, receive an accurate and complete Submittal:

(i) For Phase 1 Submittals, the time period indicated in TP Attachment 3-1;

(ii) For the Administrative Project Plans, Design Documents, Construction Documents, and Requests for Information, the time periods indicated in TP Attachment 3-1 and TP Section 3;

(iii) For any RFI submitted by DB Contractor, three Business Days after receipt of a complete RFI by RCTC; and

(iv) For all other Submittals, the time periods expressly indicated for the applicable Submittal in this Contract or, if no specific time period is indicated, ten Business Days after receipt by RCTC or Department (as applicable).

(b) DB Contractor acknowledges that this Contract, including TP Section 3.1.2.7, includes certain limitations on the number, type, sequencing, bundling and packaging of Submittals DB Contractor may submit to RCTC and/or Department at any one time and during any particular period. DB Contractor shall comply with such limitations and constraints and RCTC shall have no obligation to review any Submittal that does not comply with the requirements of the Contract, including such limitations and constraints.

(c) All time periods for RCTC and/or Department to act shall be extended by the period of any delay caused, in whole or in part, by (i) the acts or omission of any DB-Related Entity or any DB Contractor Fault, and (ii) any Relief Event impacting the Critical Path (other than those described in clauses (b), (d), and (e) of the definition of "Relief Event").

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(d) RCTC shall endeavor to reasonably accommodate Notices from DB Contractor for expedited action on specific Submittals, within the reasonable and practical limitations on availability of RCTC personnel appropriate for acting on the types of Submittal in question, so long as DB Contractor sets forth in its request specific, abnormal or exigent circumstances demonstrating the need for expedited action. Such accommodation, if undertaken, may result in extension of the time period for review, response and/or approval of other Submittals. This provision shall not apply, however, during any time described in Section 5.2.2(c). DB Contractor acknowledges and agrees that the foregoing does not apply to the Department and that RCTC may not bind the Department to reduced or expedited time periods.

(e) Whenever RCTC and/or Department are required to affirmatively approve a Submittal or other matter under this Contract, and RCTC and/or Department, as applicable, deliver no approval, disapproval, consent, denial, determination, decision or other action within the applicable time period under this Section 5.2.2, then DB Contractor shall deliver to RCTC and/or Department, as applicable, a Notice stating the date within which RCTC and/or Department was to have decided or acted. Any delay from and after such Notice shall constitute an RCTC-Caused Delay (for RCTC failure to decide or act where the standard is a "reasonable" standard) for which DB Contractor may be entitled to relief under Section 21.

5.2.3. RCTC and Department Approvals

(a) If the Submittal is one where this Contract indicates approval, consent, determination, acceptance, decision or other action (including a failure to act which constitutes a disapproval) is required from RCTC and/or Department in its sole or good faith discretion, then RCTC's and/or Department's lack of approval, consent, determination, acceptance, decision, or other action within the applicable time period under Section 5.2.2 will be deemed disapproval. If the approval, consent, determination, acceptance, decision or other action is subject to the sole discretion of RCTC and/or Department (as applicable), then its approval, consent, determination, decision or other action (including a failure to act which constitutes a disapproval) shall be subject to Section 1.8.

(b) Whenever this Contract indicates that a Submittal or other matter is subject to RCTC's and/or Department's approval, consent, determination, acceptance, decision or other action and the standard is a reasonableness standard, RCTC's and/or Department's exception, objection, rejection, disapproval or other action (including a failure to act which constitutes a disapproval) under this Section 5 shall be deemed reasonable, valid and binding if based on any of the following grounds or other grounds set forth elsewhere in this Contract:

(i) The Submittal or subject provision fails to comply, or is inconsistent, with any applicable covenant, condition, requirement, standard, term or provision of this Contract;

(ii) The Submittal or subject provision is not to a standard equal to or better than Good Industry Practice;

(iii) DB Contractor has not provided all content or information required or reasonably requested in respect of the Submittal or subject provisions thereof, in which case DB Contractor may resubmit the Submittal with the required content or information;

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(iv) Adoption of the Submittal or subject provision, or of any proposed course of action under such Submittal, would result in a conflict with or violation of any Governmental Rule or Governmental Approval; or

(v) In the case of a Submittal that is to be delivered to a Governmental Entity as a proposed Governmental Approval, or in order to obtain, modify, amend, supplement, renew, extend, waive or carry out a Governmental Approval, it proposes commitments, requirements, actions, terms or conditions that are (i) inconsistent with this Contract, Governmental Rule, the requirements of Good Industry Practice, or RCTC and/or Department practices for public-private contracting, or (ii) not usual and customary arrangements that RCTC and/or Department offers or accepts for addressing similar circumstances affecting its projects (except if usual and customary for RCTC and/or Department regarding its projects delivered via public-private contracting).

5.2.4. RCTC and/or Department Review and Comment

Whenever this Contract indicates that a Submittal or other matter is subject to RCTC and/or Department's review, comment, review and comment, disapproval or similar action not entailing a prior approval and RCTC and/or Department delivers no comments, exceptions, objections, rejections or disapprovals within the applicable time period under Section 5.2.2, then DB Contractor may proceed thereafter at its election and risk, without prejudice to RCTC and/or Department's rights to later object or disapprove in accordance with Section 5.2.3. No such failure or delay by RCTC and/or Department in delivering comments, exceptions, objections, rejections or disapprovals within the applicable time period under Section 5.2.2 shall constitute an RCTC-Caused Delay, or Relief Event or other basis for any Claim. When used in this Contract, the phrase "completion of the review and comment process" or similar terminology means either (a) RCTC and/or Department has reviewed, provided comments, exceptions, objections, rejections or disapprovals, and all the same have been fully resolved, or (b) the applicable time period has passed without RCTC and/or Department providing any comments, exceptions, objections, rejections or disapprovals.

5.2.5. Submittals Not Subject to Prior Review, Comment or Approval

Whenever this Contract indicates that DB Contractor is to deliver a Submittal to RCTC and/or Department but expresses no requirement for RCTC and/or Department review, comment, disapproval, prior approval or other action, then DB Contractor is under no obligation to provide RCTC and/or Department any period of time to review the Submittal or obtain approval of it before proceeding with further Project Work, and RCTC and/or Department may at any time review, comment on, take exception to, object to, reject or disapprove the Submittal in accordance with Section 5.2.6(a). No failure or delay by RCTC and/or Department in delivering comments, exceptions, objections, rejections or disapprovals with respect to any such Submittal shall constitute an RCTC-Caused Delay or be the basis of a Change Order, Relief Event or other basis for any Claim.

5.2.6. Resolution of RCTC and/or Department Comments and Objections

(a) DB Contractor acknowledges that RCTC and/or Department may provide comments, exceptions, disapprovals and objections which reflect concerns regarding interpretation or preferences of the commenter or which otherwise do not directly relate to grounds in this Section 5.2.6. DB Contractor shall undertake reasonable efforts to accommodate or

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otherwise resolve any such comments, exceptions, disapprovals or objections through the review processes described in this Section 5.2.6.

(b) DB Contractor shall respond in writing to all of RCTC's and/or Department's comments, exceptions, disapprovals and objections to a Submittal and, except as provided below, make modifications to the Submittal as necessary to fully reflect and resolve all such comments, exceptions, disapprovals and objections, in accordance with the review processes in TP Section 3. However, if the Submittal is not governed by Section 5.2.3, DB Contractor is not obligated to incorporate any comments or resolve exceptions, disapprovals or objections that (a) are not on any of the grounds in Section 5.2.3 (and not on any other grounds set forth elsewhere in this Contract), (b) are otherwise not reasonable with respect to subject matter or length, and (c) would result in a delay to a Critical Path matter in the Project Schedule, or in costs associated with additional work or delay, except in accordance with a Change. If, however, DB Contractor does not accommodate or otherwise resolve any comment, exception, disapproval or objection, DB Contractor shall deliver to RCTC and/or Department a Notice within a reasonable time period, not to exceed 14 days after receipt of RCTC and/or Department's comments, exceptions, disapprovals or objections, an explanation why modifications based on such comment, exception, disapproval or objection are not required. The explanation must include the facts, analyses, and reasons that support the conclusion.

(c) If DB Contractor fails to provide Notice to RCTC within the time period in Section 5.2.6(b) RCTC may deliver to DB Contractor a Notice stating the date by which DB Contractor was to have addressed RCTC's and/or Department's comments and that if DB Contractor does not address those comments within five Business Days after receipt of this Notice, then that failure to act will constitute DB Contractor's agreement to make all changes necessary to accommodate and resolve the comment or objection and full acceptance of all responsibility for such changes without right to an RCTC-Directed Change, Relief Event or other basis for any Claim, including any Claim that RCTC and/or Department assumes design or other liability.

(d) After RCTC receives DB Contractor's explanation as to why the modifications are not required as provided in Sections 5.2.6(a) through 5.2.6(c), if RCTC and/or Department is not satisfied with DB Contractor's explanation, the Parties shall attempt in good faith to resolve the Dispute. If they are unable to resolve the Dispute, either Party may request dispute resolution in accordance with Section Section 28; provided, however, that if RCTC elects to issue a Directive Letter with respect to the matter in Dispute, DB Contractor shall proceed in accordance with RCTC's Directive Letter while retaining any Claim as to the matter in Dispute.

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SECTION 6
PERSONNEL

6.1. Designation of Representatives

6.1.1. RCTC and DB Contractor shall each designate an individual or individuals who shall be authorized to make decisions and bind the Parties on matters relating to this Contract (each a "**Representative**").

6.1.2. The initial designations for the RCTC Representative and DB Contractor's Representative are specified in Exhibit 2-A (Contact Particulars (Phase 1)).

6.2. RCTC Representative

6.2.1. The RCTC Representative will give directions and carry out all other functions of the RCTC Representative under this Contract.

6.2.2. DB Contractor shall comply with any direction by the RCTC Representative given or purported to be given under a provision of this Contract.

6.2.3. Except where this Contract expressly provides otherwise, the RCTC Representative may give a direction orally but will as soon as practicable confirm such direction in writing.

6.2.4. RCTC may, by notice to DB Contractor, at any time, replace the RCTC Representative or appoint persons to exercise any of the RCTC Representative's functions under this Contract. The initial designations for exercise of the RCTC Representative's functions are specified in Exhibit 2-A (Contact Particulars (Phase 1)).

6.3. DB Contractor's Representative

6.3.1. DB Contractor shall ensure that the DB Contractor's Representative, as approved by RCTC, is present at the Site at all times reasonably necessary to ensure that DB Contractor is complying with its obligations under this Contract.

6.3.2. DB Contractor will be deemed to have received any direction given to the DB Contractor's Representative.

6.3.3. DB Contractor may replace the DB Contractor's Representative in accordance with Section 6.4 of this Contract.

6.4. Key Personnel; Qualifications of Employees

6.4.1. DB Contractor shall:

(a) Appoint or procure the engagement of the Key Personnel in the positions stated in the Contract Particulars;

(b) Not change, or permit any change, in Key Personnel without the prior written consent of RCTC, in its good faith discretion;

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(c) Provide Notice to RCTC of any proposed changes in any Key Personnel;

(d) Replace any Key Personnel who is unavailable due to disability, leave of absence, death, injury, illness, parental leave, promotion, retirement, termination, resignation, replacement for cause, or is otherwise unavailable, with a Person of at least equivalent experience, ability and expertise, who is approved, in writing, by the RCTC Representative (in its sole discretion) prior to such replacement;

(e) Provide e-mail addresses and mobile telephone numbers for all Key Personnel. RCTC requires the ability to contact the following Key Personnel 24 hours per day, seven days per week:

(i) Project Manager;

(ii) Traffic Manager – Construction; and

(iii) Construction Manager.

(f) Ensure the Key Personnel are available for the time commitment specified in TP Section 2.2; and

(g) Ensure that all Persons performing the Work:

(i) Have the skill and experience and any licenses, registrations or certifications required to perform the Work assigned to them; and

(ii) Are available for the Work and shall maintain active involvement in the prosecution and performance of the Work.

6.4.2. RCTC may review the qualifications and character of each individual to be appointed to a Key Personnel position requirements listed in TP Section 2.2 (including personnel employed by Subcontractors) and may approve or disapprove use of such individual in such position prior to the commencement of any Work by such individual or at any time during the prosecution of the Work.

6.4.3. If RCTC determines, in its good faith discretion, that any Person (a) is not performing the Work in a proper, safe and skillful manner or is detrimental to the Work; (b) poses a potential health, safety or security threat to RCTC's customers, RCTC parties or assets; (c) does not meet the minimum performance requirements of the Work; or (d) is not qualified to fulfill the responsibilities of his or her appointed Key Personnel position requirements, then upon Notice from RCTC, DB Contractor or its Subcontractor shall promptly remove such Person and shall not re-employ them on the Project without the prior written approval of RCTC, which RCTC may grant or withhold.

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6.5. Key Personnel Liquidated Damages

6.5.1. If an individual filling one of the below Key Personnel roles is not available for, or actively involved in, the performance of the Work as required in TP Section 2.2, as determined by RCTC in its good faith discretion, then:

(a) DB Contractor acknowledges that RCTC and the Project will suffer significant and substantial damages and that it is impracticable and extremely difficult to ascertain and determine the actual damages which would accrue to RCTC in such event; and

(b) DB Contractor agrees to pay RCTC a liquidated amount as follows, for each position held by such individual, as deemed compensation to RCTC for such damages:

POSITION	LIQUIDATED AMOUNT
Project Manager	$250,000
Lead Estimator	$100,000
Construction Manager	$250,000
Design Manager	$200,000
Design Lead Engineer – Structures	$100,000
Design Lead Engineer – Roadway	$100,000
Geotechnical Engineer of Record	$200,000
Environmental Compliance Manager	$100,000
Quality Manager	$150,000
Construction Quality Validation Manager	$150,000

6.5.2. A further liquidated amount in accordance with Section 6.5.1 for the positions listed above or in the amount of $25,000 for any other Key Personnel will be payable from DB Contractor to RCTC for each 2 month period where any Key Personnel position is vacant or not being fulfilled in accordance with this Contract as determined by RCTC.

6.5.3. DB Contractor is not liable for Liquidated Damages under Section 6.5.1 if: (a) DB Contractor removes or replaces such personnel at the direction of RCTC; (b) such individual is unavailable due to death, retirement, injury, illness, parental leave, leave of absence, disability or no longer being employed by the applicable DB-Related Entity (provided that moving to an affiliated company or a Subcontractor is not considered grounds for avoiding Liquidated Damages); or (c) such individual is unavailable due to RCTC's failure to issue NTP Phase 1 within 240 days of the SOQ Step 2 Submittal Date for a reason other than the acts or omissions or any DB-Related Entity, or any DB Contractor Fault; provided, however, that, in each case, if DB Contractor promptly proposes to RCTC a replacement for such personnel for review and approval within 15 days of unavailability, in the case of Sections 6.5.3(a) or 6.5.3(b) or 15 days from the issuance of NTP Phase 1, in the case of Section 6.5.3(c).

6.5.4. Upon approval of any Key Personnel replacement under Section 6.5.3, the new individual shall be considered a Key Personnel for all purposes under this Contract, including Section 6.5.1.

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6.6. Role of PCM

6.6.1. Project and Construction Manager ("**PCM**") is responsible for oversight of all Work on RCTC's behalf. PCM shall coordinate comments from RCTC to DB Contractor with respect to the Work and shall be the primary liaison between RCTC and DB Contractor. PCM will perform the function of the "Department Engineer" under the Department Standard Specifications.

6.6.2. DB Contractor shall deliver all Design Documents, Construction Documents, other Submittals and other documents required to be submitted to RCTC in accordance with Section 5.2 to PCM.

6.6.3. PCM has certain responsibilities with respect to environmental mitigation requirements, as specified in TP Section 6.3.2 and TP Attachment 6-1.

6.6.4. RCTC may retain other consultants to provide services to RCTC relating to the Project. DB Contractor shall fully cooperate with PCM and RCTC's other consultants in the exercise of their respective duties and responsibilities in connection with the Project.

6.6.5. PCM is not authorized to:

(a) Direct or suspend the performance of the Work, unless continued performance of Work will endanger the health, welfare, or safety of the public or any Project worker, or will damage or endanger Environmentally Sensitive Areas;

(b) Approve Deviations;

(c) Approve Plans, Approve Design Documents, Approve changes in or Deviations/ Design Standard Decision Documents from the approved Design Documents;

(d) Approve performance by DB Contractor of extra Work or changed Work;

(e) Waive any Contract requirements or provisions;

(f) Issue Directive Letters; or

(g) Approve Change Orders or Contract amendments.

6.7. Role of Department and FHWA

6.7.1. DB Contractor acknowledges and agrees that Department and FHWA will have certain review and approval rights with respect to the Project (including rights to approve the Project design and certain Change Orders), as well as the right to provide certain oversight, inspection and technical services with respect to the Project.

6.7.2. DB Contractor shall fully cooperate with Department and FHWA in the exercise of their respective duties and responsibilities in connection with the Project.

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6.7.3. DB Contractor shall comply with all applicable terms, requirements and conditions of the Department Cooperative Agreement expressly set out in this Contract.

6.8. Role of Other Local Agencies and RCTC Interface Contractors

6.8.1. DB Contractor acknowledges and agrees that other Local Agencies and RCTC Interface Contractors will have certain approval, review, and other rights with respect to the Project.

6.8.2. DB Contractor shall comply with all Local Agency terms, requirements and conditions applicable to the Work, including payment of all plan review and construction inspection costs charged by Local Agencies relating to the Work.

6.8.3. DB Contractor shall comply with applicable terms, requirements, and conditions in the Technical Provisions with respect to cooperation with Local Agencies and RCTC Interface Contractors.

6.8.4. Upon request by RCTC, DB Contractor shall: (a) provide additional obligee riders to the Payment Bonds and Performance Bonds in favor of Local Agencies; and (b) provide certificates naming Local Agencies as additional insureds to the insurance policies required to be provided under Section 14.

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SECTION 7
PLANNING AND DESIGN; NOTICES TO PROCEED; PHASE 1; PHASE 2

7.1. Technical Provisions (Phase 1)

7.1.1. DB Contractor Responsibility

DB Contractor:

(a) Warrants that its preparation of the Phase 1 Design Documentation in accordance with the Technical Provisions (Phase 1) will ensure that the Phase 1 Design Documentation complies with the requirements of this Contract; and

(b) Acknowledges that the Technical Provisions (Phase 1):

(i) Do not limit DB Contractor's obligations under this Contract or otherwise under any Governmental Rule or Governmental Approval; and

(ii) May require updating and refining throughout the performance of the Work to reflect any Change Order or to the extent that the Technical Provisions (Phase 1) do not reflect all tasks and other things to be done or provided to perform the Work in accordance with this Contract.

7.2. Commencement of Phase 1 Work

7.2.1. DB Contractor shall not commence any Phase 1 Work until RCTC has issued NTP Phase 1.

7.2.2. DB Contractor acknowledges and agrees that:

(a) RCTC has no obligation to issue NTP Phase 1; and

(b) Unless and until NTP Phase 1 is issued, RCTC has no liability to DB Contractor under this Contract.

7.2.3. Subject to Section 7.2.2(a), RCTC shall not issue NTP Phase 1 until the applicable conditions in the Contract Particulars have been satisfied.

7.2.4. Issuance of NTP Phase 1 authorizes DB Contractor to perform the Phase 1 Work, provided DB Contractor obtains the applicable approvals and permits described in TP Sections 1.1.4 and 9.4.3.

7.3. Phase 1 General Obligations.

Upon RCTC's issuance of NTP Phase 1, and during Phase 1, DB Contractor shall engage and work in a collaborative, efficient and coordinated manner with RCTC and Project stakeholders to:

(a) Commence to plan and perform the Phase 1 Work in consultation with RCTC and in accordance with this Contract;

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(b) Develop Project design, carry out design review activities and prepare all relevant Phase 1 Design Documentation and other Submittals in accordance with this Contract and as otherwise specified by RCTC in writing;

(c) Take all necessary steps (including submitting applicable documentation) to achieve:

(i) The Phase 1 Milestones by the relevant Phase 1 Milestone Deadline; and

(ii) Phase 2 Approval on or before the Phase 2 Approval Deadline.

(d) Update RCTC estimates, OPC and forecasts regarding the Project, provide data to RCTC to reflect real time information and provide all pricing, estimates and other data on an Open Book Basis in a format otherwise acceptable to RCTC;

(e) Implement a controls system approved by RCTC and capable of being broken down and reported in several different work breakdown structures, including organizing the financial data by cost element codes, Subcontracts, vendors, construction packages, etc.;

(f) Obtain required inputs regarding the Project's design and functionality to enable RCTC to develop the Technical Provisions (Phase 2) and coordinate the development of the GMP (Phase 2); and

(g) Undertake such risk reduction studies and actions as are required by the Technical Provisions or as are necessary, in accordance with Good Industry Practice, for the comprehensive, safe and accurate planning, scoping, design, costing and programming of the Work during Phase 1.

7.3.2. Requirements for Phase 1 Progress Submittals

Each Submittal during Phase 1 shall take into account:

(a) RCTC's proposed budget for the Project;

(b) The Project Goals;

(c) RCTC's desire to reduce the cost and time to achieve Project Completion, while obtaining a high-quality project that meets Project lifecycle and quality objectives;

(d) All opportunities for cost savings in accordance with Good Industry Practice without derogating from the Project Goals and meeting the other requirements of this Contract; and

(e) Any other relevant considerations which the RCTC Representative may from time to time specify to DB Contractor in writing.

7.3.3. Design Review Process and Compliance with Final Design Documents

(a) DB Contractor shall:

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(i) Prepare, sign, seal and provide Design Documents and Construction Documents to RCTC, Department and other third parties, as applicable, for appropriate action in accordance with this Contract, including TP Section 3;

(ii) Obtain Department and RCTC approval for any Deviation from Department Standards per TP Section 1.3.1.2, including design exceptions from applicable Department requirements, as specified in TP Section 10.3.2;

(iii) Obtain RCTC and Department approval of Release for Construction Packages in TP Section 3.3.1.7 and Final Design Documents and design changes in TP Section 3.3.1.8 in accordance with TP Section 3.1.2.5. Approval by RCTC and Department of Release for Construction Packages and Final Design Documents, as described in TP Section 3.1.2.5, shall constitute approval of the design in advance of construction by RCTC and Department for purposes of Government Code section 830.6, and shall not relieve DB Contractor of liability for the design;

(iv) Provide Notice to RCTC within the earlier of 14 days (i) after receipt of any comments, the incorporation of which DB Contractor believes would materially impact and/or adversely affect the Design Documents, Construction Documents, the Work, the Project Schedule or any other part of this Contract; or (ii) the date on which it should have, in the exercise of reasonable diligence or in the performance of its obligations under this Contract, been aware that such comments would materially impact and/or adversely affect the Design Documents, Construction Documents, the Work, the Project Schedule or any other part of this Contract. Failure of DB Contractor to provide Notice to RCTC shall not relieve DB Contractor of its full responsibility and liability for the design of the Project under this Section 7;

(v) Respond with reasonable detail to the comments and make modifications to the Design Documents and Construction Documents based on the comments in accordance with TP Section 3, including specifically TP Section 3.1.2.5. DB Contractor acknowledges that comments may be provided that reflect concerns regarding constructability, operability, maintenance, life cycle or preferences of the commenter or that otherwise do not directly relate to specific requirements of this Contract. DB Contractor shall undertake reasonable efforts to accommodate or otherwise resolve any such comments through the review processes described in TP Section 3.1.2, provided, however, that DB Contractor shall not be required to incorporate any comments regarding operability, maintenance, life cycle or preferences that would result in a significant disruption to its schedule or a significant increase in its costs, except in accordance with an RCTC-Directed Change; and

(vi) Coordinate design reviews by and obtain all required design approvals and other action required under this Contract from, Governmental Entities, and Utility Owners in connection with the Work in accordance with TP Section 3.1.2 and TP Attachment 3-2.

(b) The Final Design Documents may be changed only with prior written approval of RCTC and Department.

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7.4. Design Professional Licensing Requirements

(a) DB Contractor acknowledges that it shall furnish and provide the professional services of the Project itself or through Subcontracts with licensed/registered professional service firm(s) as provided in this Contract and Governmental Rules.

(b) Any references in this Contract to DB Contractor's responsibilities or obligations to "perform" the professional services portions of the Work shall be deemed to mean that DB Contractor shall "furnish" the professional services for the Project. The terms and provisions of this Section 7.4 shall control and supersede every other provision of this Contract.

7.5. Phase 2 Amendment and Phase 2 Approval

7.5.1. During Phase 1 and continuing through the Phase 2 Approval Deadline:

(a) The Parties shall negotiate in good faith to seek to reach an agreement on all details to be included in the Phase 2 Amendment; and

(b) DB Contractor shall prepare the required Submittals that form part of Phase 2 Amendment setting out the details agreed in Section 7.5.1(a) and submit such documents to RCTC for review and approval in accordance with the Submittal Requirements. RCTC shall prepare the Phase 2 Amendment setting out the details agreed in Section 7.5.1(a) use reasonable endeavors to negotiate and agree such form with RCTC. Upon review of the applicable Submittals, the RCTC Representative shall have sole discretion to determine if Phase 2 Approval has been achieved and that RCTC will enter into the Phase 2 Amendment.

7.5.2. If the RCTC Representative determines that Phase 2 Approval is achieved, then:

(a) RCTC will issue a written notice to DB Contractor stating the date upon which Phase 2 Approval was achieved ("**Date of Phase 2 Approval**");

(b) RCTC shall seek the Commission's approval of the Phase 2 Amendment for Phase 2 Award; and

(c) Subject to obtaining the Commission's approval and DB Contractor satisfying the conditions precedent to execution of the Phase 2 Amendment in the Contract Particulars (Phase 2) to RCTC's satisfaction, the Parties shall execute the Phase 2 Amendment and, from that point in time, references to "Contract" will be references to that amended contract, under which DB Contractor will complete the Phase 2 Work.

7.5.3. If RCTC determines that Phase 2 Approval is not achieved, then RCTC will issue a Notice to DB Contractor stating that Phase 2 Approval has not occurred and Section 7.7 shall apply.

7.5.4. The Commission is not obligated to approve the Phase 2 Amendment and authorize the execution of the Phase 2 Amendment, even if the Phase 2 Approval has been achieved and DB Contractor acknowledges that the Commission retains sole discretion as to such decision.

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7.6. DB Contractor Acknowledgements and Warranties Regarding Phase 2 Approval

7.6.1. DB Contractor acknowledges and agrees that:

(a) Unless directed otherwise by Change Order, DB Contractor may not proceed with the Phase 2 Work, unless Phase 2 Approval has occurred, the Phase 2 Amendment has been executed and the NTP Phase 2 has been issued;

(b) The division of Work into Phase 1 and Phase 2 is solely for the benefit of RCTC, to enable use of a delivery methodology allowing this Contract's award before completion of the Environmental Review Process and determination of GMP (Phase 2);

(c) Neither RCTC nor the RCTC Representative is required to exercise its discretion to determine Phase 2 Approval or Project Completion for DB Contractor's benefit;

(d) No provision of this Section 7 conferring sole discretion upon RCTC, the RCTC Representative, or the Commission gives DB Contractor any rights (including any right to make a Claim arising out of the exercise or failure to exercise that sole discretion);

(e) The exercise or failure to exercise such sole discretion is not capable of being the subject of a Dispute and is not otherwise subject to review or challenge; and

(f) As of the Phase 2 Amendment Effective Date, RCTC has fulfilled all of its obligations with regard to the Phase 1 Work, and DB Contractor hereby releases RCTC from any and all Claims in connection with the Phase 1 Work, including any of DB Contractor's rights under section 1542 of the Civil Code, which provides:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

As a condition precedent to the Phase 2 Amendment Effective Date, the foregoing waiver and release shall be set forth in a contemporaneous written agreement executed by DB Contractor in form and substance satisfactory to RCTC.

7.6.2. By executing the Phase 2 Amendment:

(a) DB Contractor acknowledges its material and primary role in the development of the applicable Technical Provisions, the Risk Matrix, Preliminary Design Plans and the Administrative Project Plans; and

(b) DB Contractor represents and warrants to RCTC as of the Phase 2 Amendment Effective Date, as follows:

(i) Upon execution of the Phase 2 Amendment, the representations and warranties in Section 3.1 are remade and confirmed as of the date of the Phase 2 Amendment and such representations and warranties continue to apply;

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(ii) The Technical Provisions for the applicable Phase adequately defines the Work for that Phase and complies with all other requirements under this Contract, except to the extent that RCTC has consented to modify any such requirement through a Change Order;

(iii) In accordance with Good Industry Practice and the Contract, including the applicable Technical Provisions, DB Contractor has: (A) reviewed and analyzed all information provided in the Reference Documents regarding the Work for Phase 2; (B) evaluated the constraints affecting such Work; and (C) reviewed and analyzed all information developed during Phase 1;

(iv) DB Contractor has reasonable grounds for believing and does believe such Work's performance in accordance with this Contract (including the applicable Technical Provisions) will not exceed the GMP (Phase 2) and can be completed within the Project Schedule;

(v) DB Contractor has familiarized itself with the requirements of Governmental Rules and the conditions of any Governmental Approvals required in connection with the applicable Phase and has no reason to believe that any Governmental Approval required to be obtained by DB Contractor will not be granted in due course and remain in effect so as to enable the Work to proceed in accordance with this Contract and the Project Schedule;

(vi) Subject to any entitlement for an extension of time as a result of a Relief Event, DB Contractor shall achieve: (A) Completion of the Work for the applicable Phase so as not to exceed the GMP (Phase 2); and (B) each Milestone by the applicable Milestone Deadline;

(vii) Except as expressly provided in this Contract, if the Phase 2 Work cannot be completed for the GMP (Phase 2), any additional costs shall be DB Contractor's responsibility and DB Contractor assumes liability for such costs without reimbursement by RCTC; and

(viii) No event has occurred that, with the passage of time or the giving of notice, would constitute a Relief Event or give rise to a Claim relating to the Phase 1 Work.

7.7. Failure to Achieve Phase 1 Milestone, Phase 2 Approval

7.7.1. If, due to no breach of DB Contractor's obligations under this Contract:

(a) Any Phase 1 Milestone is not achieved within 30 days after the applicable Phase 1 Milestone Deadline; or

(b) Phase 2 Approval is not achieved within 30 days after the Phase 2 Approval Deadline;

then, subject to Section 7.7.2 and upon RCTC's Notice to that effect, RCTC may terminate this Contract for convenience under Section 23 and the terms applicable to a termination for convenience shall apply.

7.7.2. If, due, in whole or in part, to DB Contractor Fault,

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(a) Any Phase 1 Milestone is not achieved by the applicable Phase 1 Milestone Deadline; or

(b) Phase 2 Approval is not achieved by the Phase 2 Approval Deadline,

then, RCTC may terminate this Contract under Section 24.2.1(a) and the terms applicable to an Event of Default shall apply, including as provided in Section 24.

7.8. Packages

It is anticipated that the Phase 2 Work will be completed in Packages. After the CEQA Approval and NEPA Approval (if applicable) are obtained, and after satisfaction of the conditions to Phase 2 described in Section 7.9, RCTC may, in its sole discretion, allow Phase 2 Work to be performed by Package and provide Notice to DB Contractor of that Package, in which case:

(a) Each such part of the Phase 2 Work will be a Package as specified in the Notice;

(b) The relevant provisions of this Contract regarding Phase 2 will apply to such Package as if it were the only work included in the Phase 2 Work;

(c) The Milestone Deadline(s), conditions to Completion, Completion Deadline, liquidated damages under Section 25.1, NTE for the applicable Package, insurance requirements under Exhibit 12 (Insurance Requirements), and premiums for Bonds and insurance will be:

(i) As agreed by the Parties; or

(ii) To the extent not agreed by the date stated in the Notice, as determined by the RCTC Representative,

and, in each case, recorded by RCTC in the Contract Particulars (Phase 2); and

(d) Such other conditions specified by RCTC in its NTP Phase 2 will apply.

7.9. Commencement of Phase 2 Work

7.9.1. DB Contractor shall not commence any Package of Phase 2 Work unless and until RCTC has issued an NTP Phase 2 authorizing the applicable Package of Phase 2 Work.

7.9.2. DB Contractor acknowledges and agrees that:

(a) RCTC has no obligation to issue any NTP Phase 2; and

(b) Unless and until an NTP Phase 2 is issued, RCTC has no liability to DB Contractor for the Phase 2 Work under this Contract.

7.9.3. Subject to Section 7.9.2(a), RCTC will issue an NTP Phase 2 upon satisfaction of the conditions for the applicable Package of Phase 2 Work set out in the Contract Particulars (Phase 2).

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7.10. Phase 2 Design Work

7.10.1. After RCTC issues an NTP Phase 2, if any, DB Contractor shall (as applicable):

(a) Commence to plan and perform the applicable Package of Phase 2 Work, in each case in consultation with RCTC and in accordance with this Contract;

(b) Take all necessary steps to achieve the Phase 2 Milestones or Package Milestones, as applicable, by the relevant Milestone Deadlines;

(c) Provide RCTC with all assistance it may reasonably require in connection with the Project Assets, before the Completion Deadline;

(d) Complete and furnish the Design Work and design review activities in accordance with (i) the Technical Provisions (Phase 2), (ii) the Phase 1 Design Documentation (as may have been modified in accordance with this Contract) and (iii) the other requirements of this Contract;

(e) Prepare all relevant Phase 2 Design Documentation and Submittals for submittal to RCTC in accordance with this Contract; and

(f) Coordinate and be responsible for the work of its design Subcontractors, including by providing and directing all necessary personnel to administer, supervise, inspect, coordinate and control these Subcontractors.

7.11. Availability

DB Contractor shall keep available for access on the Site, and any area off-Site where the Work is being carried out, for the use of the RCTC Representative, RCTC or anyone else acting on behalf of RCTC, one complete set of each of the Technical Provisions, all Phase 1 Design Documentation, all Phase 2 Design Documentation and all other Books and Records directed in writing by the RCTC Representative. Original hard copies are only required to be kept at the Site, and any area off-Site where the Work is being carried out for documents with wet signature.

7.12. Cost Control

DB Contractor shall:

(a) Conduct, on an Open Book Basis, review of the Phase 2 Proposal and any other OPC or Cost Model submissions (each a "**Cost Submission**") with the RCTC Representative as the preparation of the Phase 2 Design Documentation proceeds, to:

(i) Advise the RCTC Representative how the Phase 2 Design Documentation should or can be modified to ensure the cost of performing the Phase 2 Work is in line with Project Goals;

(ii) Institute a system of cost control on an Open Book Basis and, together with the RCTC Representative, review and, where approved by the RCTC Representative, amend the applicable Cost Submission to take account of any item affecting or likely to affect any component of the Cost Submission, and advise the RCTC Representative as to the alternative steps available where:

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(1) The proposals for any subcontracted part of the Work exceed the amount included for that work in the applicable Cost Submission; or

(2) The cost of the work exceeds (or appears likely to exceed) the amount allowed for that Work in the applicable NTE (Phase 1) or GMP proposal; and

(b) Perform the work and complete each Phase or Package of Project Completion (as applicable) so that the amounts payable to DB Contractor under Section 18 do not exceed the applicable NTE (Phase 1) or GMP (Phase 2) or GMP for the Package, as applicable.

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SECTION 8
TIME WITHIN WHICH PROJECT SHALL BE COMPLETED, PROJECT SCHEDULE AND PROGRESS

8.1. Time of Essence

8.1.1. DB Contractor acknowledges and agrees that time is of the essence with respect to the dates and times set forth in the Contract.

8.1.2. Except as otherwise specifically provided in Section 19 and 21, and subject to any constraints on Work under this Contract (including applicable Governmental Rules), DB Contractor shall:

(a) Perform the Work in accordance with this Contract so as to achieve each Completion Milestone by the applicable Completion Deadline and in accordance with the Project Schedule; and

(b) Provide such employees, materials, facilities and equipment, and work such hours, extra shifts, overtime operations, weekends, and Holidays as necessary to achieve each Completion Milestone by the applicable Completion Deadline.

8.2. Scheduling of Design, Construction and Payment

8.2.1. Project Schedule

(a) DB Contractor shall undertake and complete the Phase 1 Work prior to approval of the Phase 1 Baseline Schedule, in accordance with the Preliminary Phase 1 Baseline Schedule.

(b) DB Contractor shall submit to RCTC a Phase 1 Baseline Schedule within 60 days after the Effective Date and must obtain approval by RCTC of the Phase 1 Baseline Schedule within 90 days after the issuance of NTP Phase 1, in accordance with TP Section 4.3.2.

(c) DB Contractor shall undertake and complete the Phase 1 Work after approval of the Phase 1 Baseline Schedule, in accordance with the Phase 1 Baseline Schedule.

(d) DB Contractor shall submit to RCTC drafts of the Phase 2 Baseline Schedules for review and comment in accordance with TP Section 4.3.3.

(e) DB Contractor shall submit to RCTC a final draft of the Phase 2 Baseline Schedules with the Phase 2 Proposal for review and comment in accordance with TP Section 4.3.3.

(f) DB Contractor shall undertake and complete the Phase 2 Work in accordance with the Phase 2 Baseline Schedule.

(g) The Parties shall use the then-applicable Project Schedule to plan and monitor the progress of the Work, and as the basis to determine the amount of monthly progress payments owing from RCTC to DB Contractor.

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(h) RCTC has no obligation to accept a Project Schedule that sets forth Completion Deadlines that differ from a previously-approved Baseline Schedule (as applicable), as those durations may be extended in accordance with Section 21; provided, however, that, if RCTC accepts a Project Schedule with Completion Deadlines forecasted earlier than the previously-approved Project, then the difference between the forecasted early Completion Deadline and the specified Completion Deadline shall be considered Float.

(i) If DB Contractor plans to achieve any Completion Milestone prior to the scheduled Completion Deadline, RCTC shall not be responsible for any delays or compensation related to delays, however caused, that affect DB Contractor's planned early completion.

(j) Without limiting Section 1.4, RCTC's acceptance of a Project Schedule shall not:

(i) Imply RCTC's acceptance of any particular construction methods, or relieve DB Contractor from its responsibility to provide sufficient materials, equipment and labor to guarantee completion of the Project (or any portion thereof) in accordance with this Contract;

(ii) Attest to the validity of assumptions, activities, relationships, sequences, resource allocations or any other aspect of the applicable Project Schedule;

(iii) Imply that DB Contractor is entitled to any Change Order extending a Completion Deadline or adjusting the Contract Price; or

(iv) Modify this Contract.

(k) DB Contractor's failure to include any element of Work required by the Contract in the applicable Project Schedule shall not relieve DB Contractor's responsibility to perform that element of Work.

(l) If DB Contractor fails to submit the Phase 1 Baseline Schedule by the time required under Section 8.2.1(b) or have the Phase 1 Baseline Schedule approved by RCTC within 90 days after issuance of NTP Phase 1, RCTC may, in addition to any other withholdings, withhold up to 25% from each payment owing to DB Contractor until, as applicable, RCTC receives or approves the Phase 1 Baseline Schedule (as applicable).

(m) Except with the prior written approval of RCTC, DB Contractor shall not start undertake final design of any portion of the Project that is part of the Revalidation until RCTC has obtained the Revalidation.

8.2.2. Float

(a) All Float contained in the Project Schedule, or generated after RCTC's approval of the Baseline Schedule, shall be a Project resource available to either Party or both Parties, as needed, to absorb delays caused by any event and to achieve schedule milestones, interim completion dates and/or Completion Deadlines.

(b) All Float shall be shown as such in the Project Schedule and on each applicable schedule path. RCTC shall consider DB Contractor's identification of (or failure to identify) Float on the Project Schedule in determining whether to approve the Project Schedule.

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Once identified, DB Contractor shall monitor, account for and maintain Float in accordance with CPM.

8.3. Conditions to Design Work Review and Payment

8.3.1. RCTC shall have no obligation to commence its review of, or pay DB Contractor for, any Design Documents until RCTC (a) issues NTP Phase 1, and (b) receives and approves: (i) the Design Quality Management Plan (general requirements and professional services); and (ii) the Submittal Schedule.

8.3.2. All time periods available under this Contract for RCTC to review and, as applicable, approve any Design Document submitted before the date all conditions in Section 8.3.1 are satisfied shall begin to run on the date on which such conditions are satisfied and shall be subject to TP Section 3.1.2.7.

8.4. Conditions to Commencement of Construction

8.4.1. Construction Work Generally

(a) Except with the prior written approval of RCTC, DB Contractor shall not start construction of any portion of the Project (or recommence construction following any suspension) unless:

(i) RCTC has delivered NTP Phase 2 for the applicable portion of the Project to DB Contractor;

(ii) RCTC and, as applicable, Department have approved the Phase 2 Design Documentation, Emergency Incident Action and Communications Crisis Protocol Plan, the approved Pre-Construction Checklist, all requirements of the Construction Quality Management Plan, all Release for Construction Packages and Construction Documents for the applicable portion of the Project;

(iii) DB Contractor has obtained, complied with and delivered to RCTC in fully executed, required form, all approvals from RCTC and any Governmental Approvals necessary for construction of the applicable portion of the Project required by the Administrative Project Plans and this Contract;

(iv) RCTC has obtained the Revalidation for the applicable portion of the Project;

(v) The Performance Bond, Payment Bond and any Guaranty required under the Contract are in full force and effect;

(vi) All insurance policies required to be delivered to RCTC under this Contract prior to commencement of construction of the applicable portion of the Project have been received and approved by RCTC and shall remain in full force and effect;

(vii) All necessary rights of access acceptable to RCTC, in its good faith discretion, for construction of the applicable portion of the Project have been obtained, and

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all previous owners or occupants of such portion of RCTC-Provided Property have been relocated;

(viii) All pre-construction environmental surveys and mitigation have been completed as required by the Governmental Approvals or otherwise under this Contract for the area(s) proposed for construction, and DB Contractor has performed all other survey work and delivered all notices required by this Contract to be delivered prior to commencement of construction on such portion of the Project;

(ix) All representations and warranties of DB Contractor in Section 3.1 remain true and correct in all material respects;

(x) There exists no uncured Event of Default for which DB Contractor has received Notice from RCTC and no event exists that, with the giving of Notice or the passage of time, would constitute an Event of Default; and

(xi) DB Contractor has provided RCTC at least 15 days' advance Notice of the date DB Contractor determines it will satisfy the conditions in this Section 8.4.1.

(b) As used in this Section 8.4.1, the term "construction" specifically excludes potholing and geotechnical investigations incidental to design Work, mobilization, Site security and establishment of work yard(s) and storage sites.

8.4.2. DB Utility Work

(a) DB Contractor shall submit to RCTC the final Utility Strip Map for review and approval within 90 days after NTP Phase 1 ("**Utility Strip Map Deadline**").

(b) DB Contractor shall not commence or permit commencement of construction of any Relocation or Incidental Utility Work until:

(i) RCTC has issued NTP Phase 2;

(ii) RCTC approves the final Utility Strip Map; and

(iii) All the conditions in Section 8.4.1 that are applicable to the Relocation or Incidental Utility Work (reading such provisions as if they referred to the applicable Relocation or Incidental Utility Work) have been satisfied.

(c) With respect to Relocations only, DB Contractor shall not commence or permit commencement of construction of any Relocation until:

(i) Except as otherwise provided in Section 10.5.5, the Relocation is contemplated by an executed Utility Agreement;

(ii) The review and comment process has been completed or RCTC's approval has been obtained, as applicable, for the Utility Plans covering the Relocation; and

(iii) Any other required approvals, including Governmental Approvals, have been obtained for the Utility Plans covering the Relocation.

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8.5. Recovery Schedule

8.5.1. If at any time, the Work on any Critical Path or near critical item is delayed for a period that exceeds the lesser of (a) 30 days in the aggregate, or (b) that number of days in the aggregate equal to 5% of the days remaining until the applicable Completion Deadline (including delays for which DB Contractor is entitled to submit a Claim for a time extension subject to complying with Section 21), then DB Contractor shall prepare and submit to RCTC for review and approval a Recovery Schedule within ten Business Days after DB Contractor first becomes aware of such delay or otherwise at the request of RCTC.

8.5.2. Within ten Business Days after receipt of a Recovery Schedule, RCTC shall provide Notice to DB Contractor as to whether the Recovery Schedule is approved or rejected. Within five Business Days after RCTC's rejection of a Recovery Schedule, DB Contractor shall resubmit a revised Recovery Schedule incorporating RCTC's comments.

8.5.3. Within five Business Days after RCTC's approval of a Recovery Schedule, DB Contractor shall incorporate and fully include such Recovery Schedule into the Project Schedule and perform the Work so as to achieve the Recovery Schedule.

8.5.4. If DB Contractor fails to provide RCTC with an acceptable Recovery Schedule, and the reason for the necessity of the Recovery Schedule does not relate to an event for which DB Contractor is entitled to submit a Claim for a time extension subject to complying with Section 16, within 30 days after DB Contractor's receipt of Notice to do so, RCTC may withhold up to 10% from each progress payment owing to DB Contractor thereafter until DB Contractor prepares and RCTC reviews and approves the Recovery Schedule. Any failure or delay in DB Contractor's submittal or RCTC's approval of a Recovery Schedule shall not result in any compensation, time extension or otherwise entitle DB Contractor to any Claim under this Contract.

8.5.5. The requirement to submit a Recovery Schedule shall not preclude the need for, or delay the submittal of, regular monthly updates of the Project Schedule during the period when a Recovery Schedule is being prepared and submitted by DB Contractor and reviewed and approved by RCTC.

8.5.6. If a Recovery Schedule is submitted under Section 8.5 and approved by RCTC, DB Contractor shall promptly comply with the approved Recovery Schedule. If DB Contractor does not comply with the approved Recovery Schedule, RCTC may require an increase in DB Contractor's resources at DB Contractor's sole cost. Failure of DB Contractor to comply with this Section 8.5 shall be grounds for determination by RCTC that DB Contractor is not prosecuting the Work with the diligence required to ensure completion in accordance with this Contract and RCTC may exercise its rights for an Event of Default in Section 24.

8.5.7. DB Contractor's compliance with a Recovery Schedule shall not be considered acceleration or a direction to accelerate by RCTC and DB Contractor shall bear all costs and risks thereof. Acceleration Costs shall only be compensable

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pursuant to an executed Change Order that expressly identifies the applicable costs as Acceleration Costs compensable to DB Contractor.

8.6. Respective Roles of Parties

8.6.1. RCTC will coordinate with each applicable Governmental Entity on the Environmental Review Process required for CEQA Approval and NEPA Approval, which includes preparing the applicable Environmental Documents and obtaining CEQA Approval and NEPA Approval, as applicable.

8.6.2. DB Contractor shall provide Work with respect to the Project for RCTC's independent evaluation and consideration in connection with the Environmental Review Process required for CEQA Approval or NEPA Approval, as applicable; provided such DB Contractor services shall exclude analysis of the Project's effects, alternatives, or mitigation measures.

8.6.3. DB Contractor shall not prepare the CEQA or NEPA analysis of environmental impacts of the Project or any alternatives for purposes of the Environmental Review Process required for CEQA Approval or NEPA Approval, as applicable.

8.7. Rights and Responsibilities Related to the Revalidation and any Future Revalidations

8.7.1. Performance by either Party of its obligations under this Contract shall not limit:

(a) RCTC's independent evaluation and sole discretion when conducting the Environmental Review Process required for the Revalidation and any future revalidations (if any) and preparing the applicable Environmental Documents for the Revalidation and any future revalidations (if any); or

(b) RCTC's sole discretion to withhold Phase 2 Approval.

8.7.2. DB Contractor acknowledges and agrees that RCTC retains:

(a) sole discretion, exclusive control and decision-making authority over the description of the Project and any identification or evaluation of alternatives or mitigation measures for the purposes of the Revalidation and any future revalidations (if any); and

(b) sole discretion over whether to accept any of the Submittals for purposes of the Environmental Review Process applicable to the Revalidation and any future revalidations (if any).

8.7.3. Nothing contained in this Contract commits, or shall be construed to commit, RCTC to any Project alternative, modification, or mitigation regarding the Project (including a no-build alternative) reflected in the Revalidation or any future revalidations (if any) before RCTC approves the Project, alternative, modification or mitigation reflected in the Revalidation or any future revalidations (if any), as applicable.

8.7.4. DB Contractor shall have no right or obligation to perform, and shall not perform, any Work that would violate conflict of interest rules under CEQA and

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NEPA regarding the preparation, review, revision and decisions on scope and content of applicable Environmental Documents. All references in this Contract to DB Contractor's involvement with the Environmental Review Process or development of Environmental Documents shall be subject to the limitation in the preceding sentence.

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SECTION 9
CONTROL OF WORK

9.1. Safety and Control

9.1.1. DB Contractor shall:

(a) Have sole responsibility and control over the construction means and methods, techniques, sequences, procedures for the Work;

(b) Take all reasonable precautions and have sole responsibility for the safety of, and provide protection to prevent damage, injury, or loss to, all Persons on the Site or who would reasonably be expected to be affected by the Work, including Persons performing Work, employees of RCTC, Department, FHWA and their respective consultants, visitors to the Site and members of the public and travelling public;

(c) Comply with all safety requirements of this Contract, the RCTC-approved Health and Safety Plan, and all such requirements under applicable Governmental Rules and Government Approvals (as applicable); and

(d) Undertake the Work in a manner that will minimize the effect on surrounding property and the public to the maximum extent practicable.

9.1.2. If, in the sole discretion of RCTC, PCM or Department, any conditions or activities may present an imminent danger that could result in serious injury, death, material property damage or material loss of revenues, RCTC may direct DB Contractor to stop the affected portion of the Work immediately and not to recommence the Work until the practices or conditions are corrected to the satisfaction of RCTC, PCM and Department.

9.1.3. If the Work or any portion of it is suspended by RCTC, PCM, Department or any other Governmental Entity because of an unsafe condition, such suspension shall be treated in accordance with Section 22.2.1

9.2. Oversight, Inspection and Testing

9.2.1. DB Contractor shall at all times permit RCTC, Department, PCM, FHWA and their authorized representatives safe, free and unrestricted access to the Work and the Site to the extent necessary or advisable (as determined by each of such entities) to: (i) comply with FHWA or other applicable federal agency requirements; (ii) carry out Department's inspection and other rights under the Department Cooperative Agreement and California Streets and Highways Code section 91.2; and (iii) verify DB Contractor's compliance with this Contract and Administrative Project Plans. DB Contractor shall cause its representatives to be available at all reasonable times for consultation with RCTC, Department, PCM and FHWA.

9.2.2. RCTC, Department, FHWA and PCM shall perform activities under this Section 9.2 in compliance with DB Contractor's reasonable safety procedures and in a manner intended to minimize interference with the Project.

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9.2.3. If this Contract or any Governmental Rule requires any portion of the Project or the Site to be inspected, tested or approved by RCTC, FHWA or Department, DB Contractor shall give RCTC timely Notice of its readiness to continue the Work, pending satisfaction of any such inspection, test or approval, so RCTC and, if applicable, Department may observe or make such inspection, testing or approval. DB Contractor shall not proceed with any such inspection, test or approval until RCTC, FHWA or Department, as applicable, have observed or made such inspection, test or approval or provided Notice waiving their respective rights to inspect, test or approve.

9.2.4. DB Contractor shall provide to RCTC all test results and reports one Business Day after DB Contractor receives them. Where the inspection, test or approval does not meet the requirements of this Contract or Governmental Rules, DB Contractor shall provide further Notice to RCTC of such fact and re-perform the inspection, test or approval in accordance with this Contract as if it were the original inspection, test or approval.

9.2.5. When any Utility Owner is to accept or pay for a portion of the cost of the Work, its respective representatives have the right to oversee, inspect and test such Work.

9.2.6. Without limiting the foregoing, DB Contractor shall afford RCTC, PCM, Department, FHWA, and their respective authorized representatives: (a) safe and unrestricted access to the Project and the Site at all times, (b) safe access during normal business hours to DB Contractor's Project offices and operations buildings and (c) unrestricted access to data related to the Project, subject to Section 29.2. Without limiting the foregoing, DB Contractor shall deliver to RCTC upon request accurate and complete Books and Records regarding the Project and the Relocation Work, in the format required by the Contract, including the Technical Provisions.

9.2.7. Nothing in this Contract shall preclude, and DB Contractor shall not interfere with, any review or oversight of Submittals or of Work that FHWA or any other applicable federal agency may desire to conduct.

9.2.8. DB Contractor shall bear the costs of inspections, tests or approvals as set out in the Technical Requirements.

9.3. Obligation to Uncover Finished Work

9.3.1. Before covering any part of the Work, DB Contractor shall provide Notice to RCTC and Department, and offer RCTC, Department, PCM and any other Persons designated by RCTC a full and adequate opportunity to inspect and test such part of the Work before it is covered.

9.3.2. At all times before Final Acceptance, DB Contractor shall remove or uncover such portions of the finished or covered construction Work as directed by RCTC or Department for inspection and/or testing by RCTC, Department, PCM and any other Persons designated by RCTC.

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9.3.3. If, after inspection and/or testing under Sections 9.2.1 or 9.2.2, the Work exposed or examined is found to not be in accordance with this Contract:

(a) DB Contractor shall rebuild, repair or replace the Work to the standard required by this Contract; and

(b) Recovery of any delay to any Critical Path occasioned by such examination shall be at DB Contractor's cost and DB Contractor is not entitled to any Claim in connection with the inspection and/or testing.

9.3.4. If DB Contractor fails to provide Notice in accordance with Section 9.3.1 to allow RCTC, Department, PCM and any other Persons designated by RCTC a full and adequate opportunity to inspect and test any Work done or materials used, DB Contractor may be ordered to uncover, remove, repair, restore or replace the Work by RCTC at DB Contractor's cost and without an entitlement to a Claim, even if the Work proves to be in compliance with the Contract after uncovering.

9.4. Nonconformances and Correction of Work

(a) At any time prior to Project Completion and within a reasonable period after RCTC has Actual Knowledge of any Nonconformance, RCTC may give DB Contractor a Notice of Nonconformance.

(b) If RCTC fails to provide Notice in accordance with Section 9.4(a), such failure shall not constitute a waiver of RCTC's rights.

(c) If DB Contractor has Actual Knowledge of any Nonconformance or has received Notice from RCTC under Section 9.4(a), DB Contractor shall:

(i) Promptly, and within five Business Days, provide Notice to RCTC of such Nonconformance and otherwise comply with the obligations in TP Section 5.3.3.1.2;

(ii) Subject to Section 9.4(c)(iii), remedy such Nonconformance and any damage to the TSP Work, or property of third parties to the extent caused by such Nonconformance within ten Business Days of having Actual Knowledge;

(iii) If DB Contractor considers it is not possible to remedy the Nonconformance within ten Business Days of having Actual Knowledge or receipt of Notice: (1) make efforts to remedy such Nonconformance within ten Business Days of having Actual Knowledge or receipt of Notice; (2) submit a written plan to RCTC for approval, in its good faith discretion, identifying DB Contractor's process for remedying the Nonconformance and the proposed timeframe for remedying the Nonconformance within ten Business Days of having Actual Knowledge or receipt of Notice ("**Corrective Action Plan**"); and (3) if such Corrective Action Plan is approved by RCTC, remedy the Nonconformance within the time period for remedy approved in such Corrective Action Plan;

(iv) Take all action necessary to prevent similar Nonconformance from occurring in the future; and

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(v) Perform such tests as RCTC may require to determine that the Nonconformance has been remedied.

(d) If DB Contractor has received Notice from RCTC under Section 9.4(a), failure of DB Contractor to provide timely Notice to RCTC in accordance with Section 9.4(c)(i) shall be treated as DB Contractor's acknowledgement that the Nonconformance exists and shall preclude DB Contractor from disputing the existence of such Nonconformance.

(e) RCTC's right to remedy Nonconformances shall be in addition to all other rights and remedies provided under this Contract or by applicable Governmental Rules and shall not relieve DB Contractor of any of its responsibilities under this Contract.

9.4.2. Agreement to Accept Nonconformances

(a) If RCTC agrees (subject to Department's prior written consent) to accept any Nonconformance without requiring it to be fully remedied, DB Contractor shall pay RCTC an amount equal to the greater of: (i) the amount deemed appropriate by RCTC and Department to provide compensation for future revenue impacts and maintenance and/or other Costs relating to the Nonconformance; or (ii) 100% of DB Contractor's cost savings associated with its failure to perform the Work in accordance with Contract requirements.

(b) Without limiting Section 18.12.2, DB Contractor shall pay RCTC within thirty Days after DB Contractor's receipt of an invoice from RCTC identifying the amounts owing.

(c) DB Contractor acknowledges and agrees that RCTC and Department shall each have sole discretion regarding resolution and acceptance of Nonconformances and the amount payable in connection with such Work; provided, however, that the foregoing does not preclude DB Contractor from disputing whether or not a Nonconformance has occurred. Payment, reimbursement or deduction of the amounts owing to RCTC under this Section 9.4.2 shall be a condition precedent to the acceptance of the applicable Nonconformances.

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SECTION 10
ACCESS TO SITE; UTILITIES; ENVIRONMENTAL MITIGATION; HAZARDOUS MATERIALS; APPROVALS;

10.1. Access to Site

10.1.1. Access to RCTC-Provided Property

(a) Subject to Section 10.1.1(b) and Section 10.1.1(c), RCTC shall furnish:

(i) The RCTC-Provided Property pursuant to a schedule for access that will be developed during Phase 1 and included as part of the Phase 2 Amendment; and

(ii) The Utility Easements by the time(s) specified in the applicable Utility Agreement, in the case of Utility Easements (if any) that RCTC is required to provide under any Utility Agreement.

(b) RCTC is not required to provide access to, and construction shall not be scheduled to commence on, RCTC-Provided Property earlier than the applicable date set forth on the schedule for access that will be developed during Phase 1 and included as part of the Phase 2 Amendment.

(c) DB Contractor shall:

(i) Obtain and maintain encroachment permits and other Governmental Approvals and rights of entry to gain access to areas of RCTC-Provided Property within the jurisdictions of Local Agencies (excluding Department); and

(ii) Pay all fees and comply with all requirements of Governmental Approvals in connection with RCTC-Provided Property, including obtaining necessary approvals of plans and specifications (including Design Documentation).

(d) RCTC shall obtain encroachment permits to gain access to areas of RCTC-Provided Property within the jurisdiction of Department, and DB Contractor shall obtain and maintain any corresponding encroachment permit riders or rights of entry required to perform the Work as further set out in TP Section 1.1.4.

(e) The Department Cooperative Agreement provides certain terms and conditions relating to the encroachment permit process applicable to Existing Department ROW. DB Contractor shall remain informed of and comply with any access restrictions in any documents granting access to any Project ROW (including the Department Cooperative Agreement).

(f) Various agreements that RCTC has entered into, or will enter into, with respect to the I-15 Express Lanes provide, or will provide, that the TSP operator shall have access to the Project ROW for purposes of sporadic operations and maintenance activities. DB Contractor shall remain informed of and comply with any documents granting the TSP operator the right to access the Project ROW, subject to DB Contractor's right to additional time for completion and compensation in case of a Relief Event resulting from such access to the Planned ROW Limits taken by the TSP operator.

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(g) RCTC shall provide Notice to DB Contractor within ten Business Days after it becomes apparent to RCTC that RCTC will not be able to obtain any particular parcel(s) included in the RCTC-Provided Property, and shall provide a Directive Letter or Change Order requiring DB Contractor to take action as necessary to accommodate the change.

(h) Concurrently with preparation and review of the Phase 2 Baseline Schedule, DB Contractor and RCTC shall: (i) discuss ROW access requirements associated with the scheduled activities; (ii) identify and agree which parcels are on a Critical Path; and (iii) agree latest dates, to be included in the Phase 2 Baseline Schedule, for scheduled activities associated with provision of access as specified in the schedule for access that will be developed during Phase 1 and included as part of the Phase 2 Amendment. The Phase 2 Baseline Schedule shall provide commercially reasonable workarounds, re-sequencing, and redeployments to progress the Project based on the scheduled access date for each parcel, and minimize dependence on the acquisition process.

(i) Within ten Business Days after RCTC determines that it will be unable to provide access to a particular parcel or parcels of RCTC-Provided Property by the date set out in the schedule for access that will be developed during Phase 1 and included as part of the Phase 2 Amendment, RCTC shall provide Notice to DB Contractor regarding the revised projected date for delivery of access. DB Contractor shall fully cooperate with RCTC to work around, re-sequence, and redeploy around such parcel until access can be provided, including rescheduling Work so as to avoid any delay to the overall Project.

(j) Without limiting the requirements of Section 19 and Section 20, within ten Business Days after DB Contractor is advised of a projected delay, DB Contractor shall provide RCTC with Notice (i) specifying the Project Schedule activity number, late finish date, and current total Float associated with the parcel in question, and (ii) advising RCTC of any potential impacts to a Critical Path and potential costs that may be incurred as the result of a delay.

10.1.2. Additional Properties

(a) In addition to provision of access to the Planned ROW, RCTC will provide access to certain other parcels provided DB Contractor provides Notice and can demonstrate to RCTC's reasonable satisfaction (after consultation with Department), that: (i) the property is required for permanent improvements for the Project or for Relocations being constructed by the Utility Owners; (ii) acquisition of the property is otherwise consistent with applicable Governmental Rules and Governmental Approvals; and (iii) DB Contractor has complied with TP Section 9.4.2 ("**Additional Properties**"). RCTC has no obligation to acquire temporary interests in property but may agree to do so following receipt of request from DB Contractor.

(b) The process for acquisitions of any Additional Properties by RCTC is set out in TP Section 9.4.

(c) The process for scheduling provision of access in Section 10.1.1 shall apply to Additional Properties except that (i) RCTC shall provide DB Contractor with Notice of the minimum time necessary for provision of access upon its approval of the acquisition, and (ii) delay in acquisition is not considered an RCTC-Caused Delay, except to the extent that the delay was directly attributable to grossly negligent actions affirmatively taken by RCTC.

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(d) Except as set out in Section 10.1.2(f), DB Contractor shall pay directly all Costs in connection with acquiring Additional Properties, including:

(i) The cost of acquisition services and document preparation;

(ii) The cost of condemnation proceedings required by RCTC and Department, including private attorneys' fees and expert witness fees, and all fees and expenses for exhibits, transcripts, photos and other documents and materials production;

(iii) The purchase prices, court awards or judgments in connection with the acquisition of all Additional Properties (to be paid by DB Contractor at the time of closing or final award, as applicable);

(iv) The cost of any applicable Governmental Approvals;

(v) Closing costs associated with parcel purchases;

(vi) Relocation assistance payments and costs;

(vii) The cost for separate property survey(s) in addition to the Planned ROW Limits survey(s); and

(viii) The cost of all claims for good will, severance damages or inverse condemnation in connection with the acquisition of the Additional Properties.

(e) All Costs described in Section 10.1.2(d) shall be determined in accordance with the California Relocation Assistance Law (Government Code section 7260 et seq.), the Uniform Act, and RCTC and Department policies. If RCTC incurs any such Costs on DB Contractor's behalf, RCTC may submit invoices for such Costs to DB Contractor, in which case DB Contractor shall pay the invoices prior to delinquency. If RCTC pays any such Costs on DB Contractor's behalf, and without limiting Section 18.12.2, DB Contractor shall reimburse RCTC within ten Business Days of RCTC's submittal to DB Contractor of an invoice for such RCTC Costs.

(f) Notwithstanding the foregoing DB Contractor is not responsible for costs of acquisition for any Utility Easement unless required because of a change to the Project design proposed by DB Contractor.

(g) Except as set out in Section 10.1.2(f), in the event that the acquisition of Additional Properties necessitates any Governmental Approvals, DB Contractor shall: (i) be solely responsible for the cost and schedule impact of any related review, analysis, assessment, approvals, permits and findings; (ii) be solely responsible for the risk that any Governmental Approvals are not (1) granted, issued, approved or obtained or (2) timely granted, issued, approved or obtained; and (iii) not be entitled to any increase in the Contract Price or extension of the Completion Deadlines as a result of any delay, inability or cost associated with the Governmental Approvals related to such Additional Properties.

(h) Except as expressly provided otherwise in this Contract, DB Contractor is not entitled to any increase in the Contract Price or any extension of a Completion Deadline in accordance with Section 21 or otherwise entitled to make a Claim as a result of (i) Site conditions associated with any Additional Properties (including those relating to Hazardous Materials,

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Differing Site Conditions or Utilities); or (ii) any delay, liability or cost associated with the acquisition of any Additional Properties.

(i) DB Contractor shall support any requests for acquisition of Additional Properties with such information as may be required by RCTC, including all information required by TP Section 9.4.2. In all cases, RCTC's obligation to provide such access is subject to the following conditions: (i) if requested by RCTC, DB Contractor's providing an analysis regarding alternative courses of action; (ii) RCTC's agreement (after consultation with Department) that the property acquisition is compliant with Governmental Rules and is in the best interest of the Project; (iii) DB Contractor's providing such evidence as RCTC may require to enable issuance of a determination of necessity; and (iv) if required, issuance of a determination of necessity by the Commission.

10.1.3. Acquisition of Temporary Interests by DB Contractor

(a) DB Contractor shall acquire all temporary interests in property (if any) that DB Contractor determines are necessary, desirable, or advisable to complete the Project, other than temporary interests included in RCTC-Provided Property. Temporary interests may include construction easements or rights to use property for borrow pits and storage, as well as any property needed for any temporary utility facilities being constructed by DB Contractor. DB Contractor shall pay the purchase price for all such property interests directly.

(b) If the property is within the limits of the RCTC-Provided Property or is intended to be used for permanent improvements, or if DB Contractor intends to request that RCTC acquire such property, DB Contractor shall not negotiate with the property owner(s), except in compliance with the California Relocation Assistance Law (Cal. Gov. Code section 7260 et seq.), the Uniform Act, and 23 CFR Part 710.

(c) Additional requirements regarding early access to properties subject to temporary rights or interests are provided in TP Section 9.

(d) RCTC has no obligations or responsibilities with respect to the acquisition, maintenance, or disposition of such temporary rights or interests or the condition of such rights or interests and is not obligated to use its powers of eminent domain in connection therewith.

(e) DB Contractor shall comply with all applicable Governmental Approvals and Governmental Rules in acquiring and maintaining or disposing of any such property rights or interests. DB Contractor shall cause the documentation of any such property interest to contain the grantor's express acknowledgment that RCTC has no liability or obligations with respect thereto.

(f) If a temporary interest in property is sought by DB Contractor for any property that is owned or otherwise possessed or occupied by a Person with whom RCTC has acquired or is acquiring RCTC-Provided Property or if DB Contractor requires use of any TCE beyond the applicable time specified:

(i) DB Contractor shall not attempt to secure such temporary interest;

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(ii) RCTC shall, if such acquisition is, in RCTC's determination, consistent with Governmental Rules and Governmental Approvals, reasonably attempt to secure access through the applicable property owner;

(iii) RCTC makes no representations or guaranty that RCTC shall be able to secure such interests or access; and

(iv) DB Contractor shall be solely responsible for the cost and schedule impact of any acquisition, including any inability to acquire such interests.

10.1.4. Avoidance of Additional Permanent Acquisitions

DB Contractor shall use its best efforts to avoid additional permanent acquisitions. To the extent reasonably possible, DB Contractor shall use retaining walls or make other engineering adjustments as an alternative to acquiring Additional Properties.

10.1.5. Conveyance Documents

DB Contractor shall prepare all documents necessary to evidence any easements or conveyance of other real property interests relating to the Project to be granted by RCTC to Utility Owners and other Persons; except that RCTC shall prepare legal descriptions and grant documentation for any transfers of real property and/or interests therein by RCTC to Department.

10.1.6. Agreements with Governmental Entities

DB Contractor shall enter into any agreements with Governmental Entities or others, and obtain and maintain any Governmental Approvals from such Governmental Entities or others that are necessary to comply with the requirements of TP Section 6 or that otherwise apply to the Work, except for those items expressly described in this Section 10 or Section 11 as being the responsibility of RCTC.

10.2. Utility Relocations

10.2.1. Scope of DB Utility Work

(a) Sections 10.2 through 10.6 describe DB Contractor's responsibilities with respect to DB Utility Work, and how the risks associated with DB Utility Work are allocated between RCTC and DB Contractor. TP Section 7 further describes the scope of Work with respect to DB Utility Work.

(b) DB Contractor shall perform (and the scope of the DB Utility Work includes) all Relocations and Incidental Utility Work necessary to complete the Project, except Relocations under Section 10.2.3, and any other efforts expressly identified as "work by others" in the Utility Information or that this Section 10 or TP Section 7 specifically identifies as the responsibility of Utility Owners or RCTC, or otherwise specifically excludes from the DB Utility Work.

(c) The DB Utility Work includes all Work associated with Relocation of Utilities and Incidental Utility Work, including:

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(i) The Work described in Sections 10.2 through 10.6 and TP Section 7;

(ii) Any Betterments added to the scope of the DB Utility Work in accordance with Section 10.4.1;

(iii) Any Work to be performed by DB Contractor in accordance with Section 10.1 with regard to acquisition of Utility Easements; and

(iv) Any efforts expressly identified as "work by others" (including Utility Owners and RCTC) in the Utility Maps or Utility Agreements that this Section 10 or TP Section 7 expressly identifies as the responsibility of DB Contractor.

(d) The DB Utility Work does not include:

(i) Drafting or negotiating Utility Agreements with Utility Owners (except that DB Contractor shall fully cooperate and provide assistance to RCTC with preparing and finalizing Utility Agreements and preparing and issuing any Notices to Owner, as specified in TP Section 7);

(ii) Except as set out in Section 10.2.1(c)(iv), any efforts expressly identified as "work by others" (including Utility Owners and RCTC) in the Utility Maps or Utility Agreements;

(iii) Billing for and collecting payments due from Utility Owners (except that DB Contractor shall fully cooperate with RCTC, assist in the preparation of estimates and invoices, and provide supporting documentation, as specified in Section 18.2 and in TP Section 7);

(iv) Reimbursing Utility Owners for costs they incur in connection with Relocations (except that this foregoing exclusion shall not limit DB Contractor's obligations to reimburse RCTC for certain payments to Utility Owners, to indemnify, defend and hold harmless RCTC and/or Utility Owners with respect to certain matters, and to repair damage to Utilities caused by any DB-Related Entity, all as specified in this Contract);

(v) Obtaining access to or rights or interests in property for the benefit of Utility Owners (except that DB Contractor shall perform any duties and bear any costs that are DB Contractor's responsibility in accordance with Section 10.1 and/or TP Section 9, and DB Contractor shall at all times accommodate work by, and cooperate with, Utility Owners in performing each party's obligations and exercising each party's rights under the applicable Utility Agreements); and

(vi) Relocations under Section 10.2.3.

(e) Relocations may be necessary upon discovery of the following conditions: (i) a physical conflict exists between the Project and a Utility (including their respective construction, operation, maintenance, or use); and/or (ii) a conflict exists between the Project, as designed, and a Utility based on the applicable Utility Standards, Governmental Approvals, and/or Governmental Rules (even though there is no physical conflict). The limits of Relocation of existing Utilities extend as far as necessary to accommodate or permit construction of the Project in accordance with the foregoing, whether inside or outside the Planned ROW Limits. DB

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Contractor shall ensure that all Relocations are compatible, interface properly, and do not conflict with the Project.

(f) Certain Utilities being Relocated are also being modified to provide service to the Project (i.e., they are "**New Utilities**"). This Section 10.2 and all other provisions of this Contract pertaining to Relocations apply to such New Utilities. Any New Utilities that do not also involve Relocation Work, however, are not subject to provisions in the Contract pertaining to Relocations. The scope of DB Contractor's responsibilities relating to the New Utilities is addressed in TP Sections 7.1.3, 15.3.3.1, and 19.3.6.

10.2.2. Agreements with Utility Owners

(a) If any Utilities are identified after the Setting Date as requiring Relocation, RCTC will prepare, negotiate and enter into additional Utility Agreements with the applicable Utility Owners setting out the details for the applicable Relocation(s).

(b) DB Contractor shall provide such assistance as RCTC shall reasonably require, as provided in TP Section 7 with respect to any subsequently entered Utility Agreement. DB Contractor shall not be a party to any Utility Agreement and shall have no authority to enter into Utility Agreements on RCTC's behalf.

(c) Subject only to DB Contactor's entitlement, if any, to a Change Order under Section 21.12, DB Contractor shall:

(i) Comply with the terms and conditions of all Utility Agreements; and

(ii) Timely perform DB Contractor's obligations under each Utility Agreement together with any of RCTC's obligations under each Utility Agreement that are delegated to DB Contractor under this Contract.

(d) If applicable, and in accordance with TP Section 7.2.4, RCTC shall issue FD Notices to Owner and Construction Notices to Owner for any Relocations to be performed by Utility Owners, except as otherwise provided in TP Section 7.2.6. DB Contractor shall not issue or negotiate FD Notices to Owner or Construction Notices to Owner but shall provide such assistance as RCTC shall reasonably require, including attendance at meetings, preparation of such designs, reports, documentation, and information as RCTC may require for RCTC's meetings with the Utility Owners, and preparation of exhibits.

10.2.3. Responsibility for Relocations

(a) For any known, unknown or misidentified Utility that requires Relocation, the corresponding Utility Owner will be responsible for design, construction and/or materials procurement, in accordance with TP Section 7.2.6 unless otherwise provided under the applicable Utility Agreement.

(b) For purposes of this Section 10.2.3 and TP Section 7.2.6, references to responsibility for design and construction of Relocations includes all tasks customarily associated with a Relocation; except that DB Contractor shall coordinate with Utility Owners as necessary in order to accomplish the Relocations in compliance with the requirements of this Contract.

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10.2.4. Incidental Utility Work

(a) DB Contractor shall provide all designs for Incidental Utility Work it performs, unless a Utility Owner provides such designs under the applicable Utility Agreement.

(b) DB Contractor shall not be required to provide a credit or reimburse RCTC on account of any Incidental Utility Work performed by a Utility Owner, even if RCTC is required to reimburse the Utility Owner for such work.

10.2.5. Work Not Assigned to DB Contractor in a Utility Agreement

(a) RCTC may issue a Directive Letter or Change Order requiring DB Contractor to perform Relocation Work regardless of whether the Work is covered under a Utility Agreement, and regardless of the assignment of responsibility for such Work under the applicable Utility Agreement or this Contract. In such case, Relocation Work shall be treated as if a Utility Agreement has been executed that requires DB Contractor to perform the Work in question. If the Utility Owner objects to such direction to proceed, then Section 10.5 shall apply.

(b) DB Contractor shall ensure that the Project Schedule includes sufficient time for all required Relocations (without regard to whether a Relocation is performed by DB Contractor or by the affected Utility Owner or its contractors). Accordingly, any reallocation of responsibility for Relocation work between DB Contractor and a Utility Owner shall not entitle DB Contractor to any compensation, time extension or otherwise make any Claim under this Contract.

10.2.6. Bonds and Insurance Increase or Change for DB Utility Work

(a) Utility Owners whose Relocations are included in the DB Utility Work may, upon request, require DB Contractor to:

(i) Add the Utility Owner as an additional obligee to the Payment Bonds and Performance Bonds, to the extent of the amount of the applicable DB Utility Work; provided that the Payment Bonds and Performance Bonds continue to cover the full amounts required by RCTC, with no riders that reduce RCTC's potential of recovery; or

(ii) Provide separate bonds satisfactory to the Utility Owners to cover such DB Utility Work.

(b) DB Contractor shall:

(i) Procure from and provide all information necessary for the bonds required under Section 10.2.6(a) to the surety(ies) providing such bonds;

(ii) Include the cost (or the allocable cost, as applicable) of any applicable bond premiums in all cost estimates it provides for DB Utility Work; and

(iii) Without limiting the requirements of Section 14, comply with all insurance requirements established in the applicable Utility Agreement(s). Such insurance shall be provided by naming the applicable Utility Owner as an additional insured on the insurance provided by DB Contractor and any Subcontractor in accordance with Section 14, to the extent it satisfies the requirements of the Utility Agreement(s).

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10.3. Accuracy of RCTC-Supplied Information Concerning Existing Utilities

10.3.1. Main or Trunkline Utilities

RCTC's and DB Contractor's entitlements to Change Orders for certain inaccuracies in the Utility Information regarding Main or Trunkline Utilities are described in Section 21.12.

10.3.2. All Other Utilities

DB Contractor acknowledges that:

(a) Except as expressly provided in Section 21.12 with respect to Utility Relief Events, any information with respect to Utilities (including their existence, location, ownership, occupancy rights, type, material, status, usage or any other characteristic including the Proposed Dispositions for any Utilities or how the Proposed Dispositions will be accomplished) provided in the Utility Information, or elsewhere in the Reference Documents or this Contract, is subject to Section 10.3.2 of the Contract;

(b) The information with respect to Utilities described in Section 10.3.2(a) does not identify most Service Lines at the Site and may not identify all non-Service Line Utilities at the Site. During Phase 1, DB Contractor shall verify all information with respect to Utilities included in the Utility Information, and elsewhere in the Reference Documents or this Contract, and shall perform its own investigations as provided in TP Section 7.3.2; and

(c) DB Contractor is not entitled to any adjustment to the Contract Price (either up or down) or an extension of any Completion Deadlines on account of any inaccuracies in the Utility Information, other Reference Documents or this Contract, with respect to any Utility (including its existence, location, ownership, type, material, status, usage and/or any other characteristic), unless otherwise expressly allowed in accordance with Section 21.12 for a Utility Relief Event.

10.3.3. Acknowledgements and Waivers

(a) The Parties specifically intend to delegate to DB Contractor all responsibilities with respect to identification of Utilities, and to allocate to DB Contractor all risk of increased costs and time of the Work resulting from having to repair, remove, relocate, or Protect in Place any Utilities not identified or misidentified in the Utility Information, other Reference Documents, and this Contract, except as otherwise provided in Section 21.12 with respect to Utility Relief Events. DB Contractor acknowledges and agrees that the provisions of Section 21.12 satisfy RCTC's obligations in accordance with Government Code section 4215.

(b) DB Contractor acknowledges and agrees that:

(i) If the Parties' delegation to DB Contractor of the obligation described in Section 10.3.3(a) is deemed ineffective, RCTC shall be entitled to a credit against the Contract Price equal to the actual costs incurred by RCTC to cause performance of the obligations and satisfaction of the liabilities from which DB Contractor is thereby relieved; and

(ii) The acknowledgements, waivers and agreements in Section 10.3.3(a) extend to and include any rights that DB Contractor might otherwise claim under Chapters 11-4.3 and 11-2.4 of RCTC's ROW Policies and Procedures Manual.

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10.3.4. DB Contractor's Failure to Timely and Accurately Identify Utilities

If any Utility potentially requiring Protection in Place or Relocation is not identified fully and accurately in the final Utility Strip Map and DB Contractor's Utility Conflict Matrix that DB Contractor submits to RCTC in accordance with Section 8.4.2(a), then DB Contractor shall (i) reimburse RCTC for the increase (if any) in the amount that RCTC owes to the Utility Owner for such Protection in Place or Relocation (including with respect to the acquisition of Utility Easements) that could have been avoided if the Utility had been fully and accurately identified (and the actual field conditions addressed) in the final Utility Strip Map; and (ii) DB Contractor shall also bear the cost and schedule impact of such Protection in Place or Relocation and shall not be entitled to any compensation, extension of time of otherwise make a Claim under this Contract.

10.3.5. Changes by DB Contractor

(a) For purposes of this Section 10.3.5, a Project design change during Phase 2 that impacts Relocations is a change in Project plans that requires Relocation of a Utility that was not listed on Utility Strip Map.

(b) DB Contractor acknowledges and agrees that:

(i) Through the design and construction of the Project, DB Contractor may have opportunities to reduce the costs of certain portions of the Work, which may increase the costs of certain other portions of the Work or of Relocation work to be performed by Utility Owners;

(ii) In considering such opportunities, DB Contractor shall consider the impact of Project design changes on Relocations with the overall goal of minimizing the necessity for Relocations to the extent practicable, in compliance with Section 10.6; and

(iii) Except for cost increases or decreases resulting from RCTC-Directed Changes in Project design affecting Relocation work during Phase 2, and notwithstanding any other contrary provision of this Contract, the following rules shall apply with respect to Project design changes during Phase 2 which either reduce the nature or extent of or eliminate any Relocation, or result in unanticipated Relocations or an increase in the nature, extent, or costs of anticipated Relocations:

(1) DB Contractor is not entitled to extension of any Completion Deadline on account of delays resulting from any such Project design changes (including delays in acquisition of Utility Easements by RCTC or Utility Owners or delays in performing any Relocations);

(2) DB Contractor is not entitled to any increase in the Contract Price for any additional costs DB Contractor incurs as a result of such Project design changes (including additional costs of DB Utility Work, the costs of any additional Work on other aspects of the Project undertaken in order to facilitate the avoidance or minimization of Relocations, and increased costs resulting from any Site conditions associated with Utility Easements made necessary by such design changes);

(3) If RCTC incurs any additional costs as a result of such design changes (including any increases in reimbursement for Utility Easement acquisition costs

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or other amounts owed by RCTC to Utility Owners, e.g. for work which is unusable or which must be redone), then without limiting Section 18.12.2, DB Contractor shall reimburse RCTC for such costs within ten days after receipt of RCTC's invoice for such work; and

(4) RCTC is not entitled to a credit on account of reductions in the Contract Price due to any such avoided or minimized Relocations.

(c) This Section 10.3.5 shall not apply to any changes in design made to accommodate any change in Utility Standards or Change in Law.

10.4. Utility Enhancements

10.4.1. Betterments

Betterments shall be addressed as provided in this Section 10.4.1 and in TP Section 7.2.7.3.

(a) Notwithstanding any other provision of this Section 10.4.1, DB Contractor cannot claim a Betterment for any work initially included in the Work as described in the Contract, including any Utility Agreement.

(b) Any Utility Owner may request that RCTC permit DB Contractor to perform Betterments as part of the DB Utility Work, at the Utility Owner's expense. RCTC may, in its sole discretion, approve or deny a Utility Owner's request for a Betterment. DB Contractor shall provide RCTC with such information, analyses and certificates as may be requested by RCTC in connection with the possible addition of a Betterment to the DB Utility Work.

(c) If RCTC approves any such Betterment request, DB Contractor shall perform such work, with the right to receive additional payment and, if allowed in accordance with Section 10.4.1(e), an extension of any affected Completion Deadline. Work performed in accordance with such Betterment request shall be performed on a time and materials basis in accordance with Section 21.11 unless RCTC, the Utility Owner and DB Contractor agree upon a lump sum price or other pricing method for such additional Betterment work.

(d) A Betterment approved by RCTC will be added to the scope of the Work by execution of an agreement between RCTC and the Utility Owner providing for performance of such work as a Betterment. In such event, RCTC agrees to issue a Change Order increasing the Contract Price on account of any Betterment added to the Work in accordance with this Section 10.4.1. The amount of any such Change Order shall be a direct pass-through of the price determined in accordance with Section 10.4.1(c) as set forth in the applicable agreement between RCTC and the Utility Owner (with no additional mark-ups, profit, or overhead including any DB Contractor Overhead (G&A) Rate or DB Contractor Profit) or, if no such price has been negotiated, an amount determined in accordance with Section 21.11. DB Contractor shall not be entitled to any compensation, time extension or any other Claim for a Betterment, unless the work in question (i) has been approved by RCTC (including the amount of any compensation and extent of any time extension) and identified as a Betterment in the applicable agreement, and (ii) was not initially included in the Work. DB Contractor shall not accept any payment directly from the Utility Owner for any Betterment initially included in or added to the Work as of the Phase 2 Amendment Effective Date. Any change in the scope of Work in accordance with this Section 10.4.1 shall not be considered an RCTC-Directed Change.

(e) If the addition of an approved Betterment to the Work causes delay to a Critical Path, then DB Contractor shall be entitled to an extension of any affected Completion Deadline, but only if DB Contractor complies with the requirements stated in this Section 10.4.1(e) and Section 21. If DB Contractor anticipates that a proposed Betterment would cause delay to a Critical Path, DB Contractor shall submit a DB Contractor Change Request to RCTC in accordance with Section 21.5.1; provided, however, that such DB Contractor Change Request shall be delivered to RCTC concurrently with DB Contractor's submittal to RCTC of Utility Plans providing for such Betterment (in lieu of the deadline specified for delivery of a DB Contractor Change Request in Section 21.5.1(a)). If DB Contractor delivers to RCTC more than one version of Utility Plans providing for such a Betterment, DB Contractor shall include a DB Contractor Change Request with each version. Notwithstanding any contrary provision of the Contract, if DB Contractor fails to timely provide a Notice required by this Section 10.4.1(e), DB Contractor shall be deemed to have irrevocably waived and forfeited any Claim or right to a time extension or additional compensation, and shall be precluded from any relief on account of any delay caused by such Betterment, regardless of (a) any contrary provision of this Contract, (b) Actual Knowledge on the part of RCTC and (c) any alleged lack of prejudice to RCTC from late notice.

(f) If DB Contractor's Work with regard to any Betterment previously added to the Work (in accordance with this Section 10.4.1) is reduced or eliminated, then RCTC shall be entitled to a deductive Change Order equal to the full amount added to the Contract Price in accordance with Section 10.4.1(d) if an added Betterment is being deleted entirely; otherwise, RCTC shall be entitled to a deductive Change Order determined in accordance with Section 21.10.4.

(g) DB Contractor shall promptly provide Notice to RCTC of any requests or requirements by Utility Owners that DB Contractor considers to be Betterments and shall keep RCTC informed as to the status of discussions with Utility Owners concerning such requests and requirements. If DB Contractor and the Utility Owner disagree as to whether a particular Utility Owner request or requirement is a Betterment, DB Contractor shall provide Notice to RCTC and the provisions of this Section 10.4 shall apply.

(h) Except as otherwise provided in this Section 10.4.1, any Change Order requested by DB Contractor to extend a Completion Deadline or increase the Contract Price on account of a Betterment shall be addressed in accordance with the requirements and procedures set forth in Section 21.

(i) Except as otherwise provided in this Section 10 or in TP Section 7, all the terms and conditions of the Contract which apply to the DB Contractor Utility Work shall apply to any Betterment initially included in the Work or added to the Work in accordance with this Section 10.4.1.

10.4.2. Utility Owner Projects

(a) If requested by a Utility Owner, DB Contractor may design and/or construct any Utility Owner Project meeting the requirements of Section 10.4.2(b); provided, however, that DB Contractor shall perform any such work in accordance with a separate contract between DB Contractor and the Utility Owner, outside of the Contract and the Work, and without any right to a Change Order, relief or impact on any Completion Deadline or on the Contract Price.

(b) DB Contractor shall not proceed with any Utility Owner Project that is incompatible with the Project or cannot be performed within the constraints of the applicable

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Governmental Rules, the Governmental Approvals and this Contract, including the Completion Deadlines and the Contract Price, in each case, as determined by RCTC prior to commencement of the Utility Owner Project, in its sole discretion. DB Contractor shall provide RCTC with such information, analyses and certificates as RCTC may request in order to determine compliance with this Section 10.4.2.

10.5. Failure of Utility Owners to Cooperate

10.5.1. DB Contractor shall make diligent efforts to obtain the cooperation of each Utility Owner as necessary for the Project.

10.5.2. DB Contractor shall provide Notice to RCTC immediately if:

(a) DB Contractor reasonably believes for any reason that any Utility Owner would not undertake or permit a Relocation in a manner consistent with the timely completion of the Project or in accordance with the applicable Utility Agreement, Governmental Rules, the Governmental Approvals, or this Contract;

(b) DB Contractor becomes aware that a Utility Owner is not cooperating in providing needed work, reviews, comments, or approvals; or

(c) Any other dispute arises between DB Contractor and any Utility Owner with respect to the Project, including any dispute as to whether a particular Utility Owner request or requirement is a Betterment.

10.5.3. After giving Notice in accordance with Section 10.5.2, DB Contractor shall:

(a) Continue to diligently pursue the Utility Owner's cooperation or to otherwise resolve the dispute, and may request RCTC's assistance for such purposes;

(b) Include in any request for assistance evidence satisfactory to RCTC showing that DB Contractor has made diligent efforts to obtain the Utility Owner's cooperation or to otherwise resolve the dispute, but that such efforts have not succeeded; and

(c) Provide RCTC with such evidence and information as RCTC requests regarding the Utility Owner's failure to cooperate and the effect of any resulting delay on the Project Schedule.

10.5.4. Following RCTC's receipt of satisfactory evidence and information under Section 10.5.3(c), RCTC shall take such reasonable steps as DB Contractor may request to obtain the cooperation of the Utility Owner or resolve the dispute and DB Contractor shall comply with Section 11.2.1(a)(iii); except that RCTC is not obligated to take legal action against an uncooperative Utility Owner unless RCTC elects to do so in its sole discretion.

10.5.5. If a Utility Owner fails to complete work for which it is responsible on or before the deadline established in the applicable Utility Agreement(s), or if RCTC reasonably determines that the Utility Owner will be unable to timely complete such work, then RCTC may, if permitted by applicable Governmental Rules or the applicable Utility Agreement(s), terminate the Utility Owner's performance of such work and either direct DB Contractor to perform such work or cause it

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to be performed by another contractor. If RCTC directs DB Contractor to perform work in accordance with this Section 10.5.5, then the provisions of Section 10.2.5 shall apply.

10.5.6. Monitoring and Notification

DB Contractor shall verify progress of each Utility Owner's work and provide Notice to RCTC when DB Contractor believes that any Utility Owner will not meet a deadline determined in accordance with Section 10.5.5. DB Contractor shall provide Notice to RCTC within two Business Days after discovery of such potential delay.

10.6. Avoiding Relocations and Minimizing RCTC Costs

10.6.1. DB Contractor shall use its best efforts to minimize costs to Utility Owners that will be subject to reimbursement by RCTC (provided that DB Contractor has Actual Knowledge of RCTC's reimbursement obligation or has been advised of such reimbursement obligation, whether by receipt of Utility Agreements providing for same, or by other notice from RCTC), to the extent practical and allowable in accordance with this Contract.

10.6.2. Subject to Section 10.6.1, DB Contractor shall consider the location of Utilities and the potential impact of Relocations in developing and finalizing the design of the Project, with the goal of minimizing Relocations to the extent practical and allowable in accordance with this Contract.

10.6.3. DB Contractor shall reimburse RCTC for any costs RCTC incurs as a result of DB Contractor's failure to comply with the requirements of this Section 10.6 (including with respect to the acquisition of Utility Easements). Without limiting the generality of the foregoing, DB Contractor shall reimburse RCTC for any payments RCTC makes to Utility Owners in reimbursement for Relocations (whether temporary or permanent) not necessary for the Project but undertaken merely for DB Contractor's convenience or as a result of a Project design change. Without limiting Section 18.12.2, all reimbursement amounts required in accordance with this Section 10.6 (plus an administrative charge equal to 10% of the amount) shall be due within ten days after DB Contractor receives RCTC's request for reimbursement.

10.6.4. DB Contractor shall use best efforts to avoid multiple Relocations or Protections in Place of the same Utility, whether by the Utility Owner or by DB Contractor. Accordingly, after a Utility has been Relocated or Protected in Place once in order to accommodate the Project, DB Contractor shall be responsible for all costs incurred by any of DB Contractor, the Utility Owner or RCTC in order to subsequently Relocate or Protect in Place such Utility to accommodate the Project. If the Utility Owner performs such subsequent Relocation or Protection in Place at RCTC's expense, then DB Contractor shall reimburse RCTC for all amounts paid by RCTC to such Utility Owner in reimbursement for such subsequent Relocation or Protection in Place. If DB Contractor performs such subsequent Relocation or Protection in Place, then DB Contractor shall not receive any extension of any Completion Deadline or increase in the Contract Price on account of the performance of such subsequent Relocation or Protection in Place.

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10.6.5. DB Contractor shall provide documentation satisfactory to RCTC showing that the required analysis was performed, and an appropriate determination made regarding the need for any Relocation and shall also bear the burden of proving that the amount of any additional costs or time incurred by DB Contractor are both necessary and reasonable.

10.6.6. Coordination Costs

DB Contractor is not entitled to any increase in the Contract Price for any costs of coordinating with Utility Owners.

10.6.7. Cost Liability; Reimbursement by Utility Owners

DB Contractor may not collect reimbursement from Utility Owners for DB Utility Work. Subject to DB Contractor's right to obtain an increase in the Contract Price for certain Work in accordance with this Section 10, all DB Utility Work is included in the Contract Price, regardless of whether RCTC or the Utility Owner has Cost Liability for such DB Utility Work. Accordingly, the determination of Cost Liability for a Relocation (as between the Utility Owner and RCTC), and/or RCTC's collection of reimbursement from any Utility Owner, shall not constitute grounds for any change in the Contract Price (either up or down) or extension of time.

10.6.8. Voluntary Action by DB Contractor

If DB Contractor elects to make payments to Utility Owners or to undertake any other efforts which are not required by the terms of this Contract, DB Contractor is not entitled to any compensation, time extension or any other Claim unless DB Contractor has received a Directive Letter or Change Order to do so. DB Contractor shall promptly provide Notice to RCTC of the terms of any such arrangements and provide RCTC with copies of all related correspondence and agreements.

10.6.9. RCTC's Utility Easement Acquisition Costs

If, due to a circumstance entitling DB Contractor to a Change Order for increased costs in accordance with any of Sections 10.2 through 10.6 or Section 21, RCTC incurs additional costs in acquisition of a Utility Easement which DB Contractor is otherwise required to reimburse in accordance with Section 10.1.2(d), then DB Contractor is not required to reimburse RCTC for such additional costs, notwithstanding the provisions of Section 10.1.2(d).

10.7. Process to Follow Upon Discovery of Certain Site Conditions

10.7.1. Notification to RCTC

(a) If DB Contractor discovers or becomes aware of within the Site (1) any material that DB Contractor believes may contain Hazardous Materials required to be removed or treated in accordance with this Contract or applicable Governmental Rules, (2) any Differing Site Conditions, or (3) any other protected resources that may affect the Work, DB Contractor shall immediately:

(i) Notify RCTC by telephone or in person, to be followed immediately by Notice, with a copy of the Notice provided directly to Department (if it relates to Hazardous Materials); and

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(ii) Except where DB Contractor is required to take immediate action under this Contract or applicable Governmental Rules, stop Work in and secure the area unless the materials are Known or Suspected Hazardous Materials in which case Section 10.8 will apply.

(b) DB Contractor's Notice under Section 10.7.1(a)(i) shall:

(i) Specify the nature of the discovery, including, if possible, whether the potential Hazardous Material is HM-1 or HM-2;

(ii) Specify whether the Hazardous Material is located within Existing Department ROW; and

(iii) Advise RCTC of any obligation to notify Governmental Entities under applicable Governmental Rules and Governmental Approvals.

(c) Except where DB Contractor is required to take immediate action under this Contract or applicable Governmental Rules, RCTC and Department shall have three Business Days after RCTC receives Notice to inspect the area and consult with DB Contractor about the recommended approach before any other action is taken that would inhibit RCTC's or Department's ability to ascertain the nature and extent of the discovery.

10.7.2. RCTC Response

(a) Upon receipt of Notice under Section 10.7.1(a)(i), RCTC will:

(i) View the location and conduct such further investigation as RCTC deems appropriate; and

(ii) Use reasonable efforts to provide Notice to DB Contractor within three Business Days of receiving Notice under Section 10.7.1(a)(i) whether Work should be resumed, whether further investigation is required, whether additional action is required to be undertaken by DB Contractor, or whether in RCTC's opinion the situation falls within the scope of Section 10.8.3.

(b) If Hazardous Materials or Contaminated Groundwater is involved, RCTC's Notice under Section 10.7.2(a)(ii) shall describe the type of remediation measures, if any, that DB Contractor is to undertake with respect to such Hazardous Materials or Contaminated Groundwater.

(c) If any Governmental Approval or this Contract specifies a procedure to be followed that differs from the procedure in this Section 10.7.1, DB Contractor shall follow the procedure in the Governmental Approval or this Contract in lieu of the procedure in Section 10.7.1.

(d) RCTC may require DB Contractor to recommence Work in the area at any time, even though an investigation may still be ongoing. DB Contractor shall promptly recommence Work in the area upon Notice from RCTC to do so. Upon recommencing Work, DB Contractor shall follow all applicable procedures contained in this Contract and all other Governmental Rules with respect to such Work, consistent with RCTC's determination or preliminary determination regarding the nature of the material or condition and the basis upon which DB Contractor may recommence Work.

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10.8. Hazardous Materials Management

10.8.1. Procedures and Compensation for Hazardous Materials Management

(a) Except for Hazardous Materials Management with respect to HM-1 undertaken by Department under Section 10.8.3, DB Contractor shall test, manage, treat, handle, store, remediate, remove, transport (where applicable), document and dispose of all Hazardous Materials, including Contaminated Groundwater, and perform all other aspects of Hazardous Materials Management as appropriate, in accordance with Governmental Rules, Governmental Approvals, the approved plans required to be provided under TP Section 6.3, and all provisions of this Contract.

(b) Where the discovery relates to quantities of Hazardous Materials that trigger any reporting, investigation, remediation, other response action requirements under any Environmental Law not covered by Section 10.8.3, develop and obtain RCTC's approval of a plan to undertake Hazardous Materials Management, which plan shall provide for reasonable steps, including design modifications and/or construction techniques, to avoid excavation, dewatering or other active, intrusive management in areas where Hazardous Materials are encountered.

(c) Where excavation or dewatering is unavoidable, DB Contractor shall use appropriately trained personnel and shall select the most cost-effective approach to Hazardous Materials Management, unless otherwise directed by RCTC. Wherever feasible and consistent with applicable Governmental Rules, contaminated soil and groundwater shall not be disposed off-Site.

(d) DB Contractor shall: (i) comply with all Governmental Rules and Governmental Approvals applicable to Hazardous Materials brought onto the Site by any DB-Related Entity; (ii) test, contain, store, manage, transport and dispose of all such Hazardous Materials in accordance with this Contract and all Governmental Rules and Governmental Approvals; and (iii) be responsible and liable for, and pay all Losses arising in connection with, such Hazardous Materials.

10.8.2. Hazardous Materials Generator

(a) Subject to Section 10.8.2(b), as between DB Contractor and RCTC, RCTC shall be considered the generator and assume generator responsibility for (i) existing Hazardous Materials located within the RCTC-Provided Property as of the date of issuance of NTP Phase 1; and (ii) any spill of Hazardous Material by a third party that falls within clause (iv)(A) of the definition of Relief Event.

(b) Section 10.8.2(a) does not alter or modify DB Contractor's obligation to undertake all Hazardous Materials Management, specifically including the hazardous waste management responsibilities found at 40 CFR Part 261, but excluding Hazardous Materials Management undertaken by Department under Section 10.8.3. DB Contractor may list RCTC as the "generator" under applicable Governmental Rules of materials covered under Section 10.8.2(a) on all manifests and other waste tracking records.

(c) DB Contractor shall propose to RCTC a licensed destination facility to which existing, or third party-generated Hazardous Materials will be transported. RCTC shall exercise reasonable discretion regarding selection of such destination facility(ies).

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(d) This Section 10.8.2 does not preclude or limit any rights or remedies that RCTC may have against any Governmental Entity or other third parties, including prior owners, lessees, licensees and occupants of properties on or under which Hazardous Materials exist under Sections 10.8.2(a)(i) or 10.8.2(a)(ii). Notwithstanding the foregoing, DB Contractor (and not RCTC) shall be considered the generator and assume generator responsibility for performing the obligations and all Costs associated with any Release(s) of Hazardous Materials for which DB Contractor is responsible under Section 27.1.1(g).

10.8.3. HM-1 in Existing Department ROW

(a) In accordance with the terms of the Department Cooperative Agreement, Department is responsible for Hazardous Materials Management of HM-1 discovered within the Existing Department ROW excluding any costs of testing to determine whether such material is HM-1 which shall be borne by DB Contractor under this Contract. If HM-1 is discovered within the Existing Department ROW, Department may either (i) undertake the Hazardous Materials Management with Department forces or contractors or (ii) delegate the Hazardous Materials Management investigation work to RCTC, to be undertaken by DB Contractor in which case Section 10.7.2 will apply as if RCTC had received a Notice from DB Contractor under Section 10.7.1(a)(i).

(b) Upon receipt of the Notice under Section 10.7.1(a)(i), Department or its representative has three Business Days to investigate and commence Hazardous Materials Management of any HM-1 located within the Existing Department ROW. Upon commencement of the applicable Hazardous Materials Management, Department has an additional seven days to complete such Hazardous Materials Management.

(c) During the period of Department's investigation and Hazardous Materials Management of any HM-1 discovered within the Existing Department ROW, DB Contractor shall fully cooperate with RCTC to work around and re-sequence and redeploy around the area, including rescheduling Work so as to avoid any delay to the overall Project.

10.8.4. Environmental Approvals Relating to Hazardous Materials

DB Contractor shall obtain, maintain and comply with all Governmental Approvals relating to Hazardous Materials Management performed by DB Contractor, including federal and State surface water and groundwater discharge permits, permits for recycling or reuse of Hazardous Materials, and Governmental Approvals governing the preparation of waste profiles, waste manifests and bills of lading. DB Contractor shall coordinate with RCTC on obtaining appropriate signatures.

10.8.5. Public Contract Code Section 7104

DB Contractor acknowledges and agrees that, as a result of its agreement to undertake the risk of and responsibility for differences in site conditions from those which may have been anticipated by DB Contractor, and except to the extent that a Change Order is allowed under Section 20, information regarding site conditions included in the Technical Provisions, and Reference Documents (including any information, reports, or studies about site conditions, geotechnical conditions, Utilities or structure and bridge design, and any interpretations, extrapolations, analyses and recommendations contained in the Reference Documents) shall not be considered "indicated" therein as such term is used in Public Contract Code section 7104.

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To the maximum extent permitted by law, DB Contractor knowingly, unconditionally, irrevocably and specifically waives each and every right and benefit of Public Contract Code section 7104 to the extent that it may be inconsistent with any provision of this Contract, including the provisions in Section 20. DB Contractor acknowledges and agrees that this waiver and the risk allocations in this Contract are material consideration for RCTC to award this Contract to DB Contractor and to enter into this Contract. The foregoing shall in no way affect DB Contractor's rights to an increase in the Contract Price and/or extension of a Completion Deadline as and to the extent provided in Section 21.

10.9. Environmental Review, Mitigation, and Approval Requirements

10.9.1. Performance of Mitigation Measures

(a) DB Contractor shall:

(i) Perform all environmental mitigation measures (which term shall be deemed to include all requirements of the Governmental Approvals which Section 11 provides are DB Contractor's responsibility, regardless of whether such requirements would be considered to fall within a strict definition of the term) for the Project, excluding only those which are expressly specified as RCTC's responsibility in TP Attachment 6-1 and this Section 10.9; and

(ii) Monitor the progress of performance of environmental mitigation measures and provide periodic reports to RCTC as required by the Environmental Management Plan, the requirements in TP Attachment 6-1 that are specified as being the responsibility of DB Contractor, and TP Section 6.

(b) DB Contractor acknowledges and agrees that the Environmental Management Plan may be updated from time to time to account for any revisions in mitigation requirements. Whenever a New Approval is obtained which changes the existing environmental mitigation requirements or adds new environmental mitigation requirements, the Environmental Management Plan will be revised to include such amendments or new requirements, and DB Contractor shall comply with the revised plan from and after the date it receives the revised plan.

(c) No Change Order shall be allowed in connection with any update or revision to the Environmental Management Plan except that (a) Change Orders shall be issued for additional Work resulting from New Approvals which are RCTC's responsibility as specified in Section 11.2.3(a), and (b) if DB Contractor believes that any revision represents an RCTC-Directed Change, it may seek a Change Order on that basis in accordance with the requirements of, and subject to the limitations in Section 19 and Section 21.

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SECTION 11
GOVERNMENTAL APPROVALS

11.1. CEQA and NEPA: Environmental Review Process and Environmental Compliance

RCTC has obtained the Existing CEQA Approval and will obtain the Revalidation by March 1, 2027.

11.2. Approvals

11.2.1. Governmental Approvals and Third Party Agreements

(a) DB Contractor shall:

(i) Obtain and pay the cost of obtaining all Governmental Approvals required in connection with the Project (except to the extent RCTC has expressly agreed to be responsible under Section 10.9.9 or with respect to RCTC-Provided Approvals);

(ii) Comply with and maintain in full force and effect all Governmental Approvals (including subsequent re-evaluations, re-validations, and modifications of the NEPA/CEQA Approval), except to the extent that this Contract expressly assigns responsibility for performance of such actions to another Person;

(iii) Provide such assistance as is reasonably requested by RCTC in dealing with any Governmental Entity or Utility Owner and/or in prosecuting and defending lawsuits in any and all matters relating to the Project. Such cooperation shall include DB Contractor's staff and consultants acting as witnesses in such lawsuits and proceedings and providing testimony, information, reports, graphs, photos, plans, renderings, and similar materials to RCTC's counsel, executing declarations, attending meetings and hearings. RCTC shall remit to DB Contractor any amounts collected on DB Contractor's behalf as a result of any such action or proceeding. This provision is not intended to require DB Contractor to provide legal services for the benefit of RCTC and any assistance provided by RCTC shall not relieve DB Contractor of its sole and primary responsibility for the satisfactory compliance with its obligations under this Contract;

(iv) Prior to submitting to a Governmental Entity any application for a Governmental Approval (or any proposed modification, renewal, extension or waiver of a Governmental Approval or provision thereof), submit the same, together with any supporting environmental or technical studies, data and analyses, to RCTC. RCTC shall approve any application for a proposed modification, renewal, extension or waiver of an RCTC-Provided Approval. All other applications for Governmental Approvals shall be subject to RCTC's review and comment; and

(v) Promptly provide RCTC and Department with copies of all Governmental Approvals and any other permit, license, consent, authorization, approval or similar document issued to DB Contractor by, or agreement entered into between DB Contractor and any Governmental Entity, Utility Owner, property owner or other third party relating to the Project.

(b) If DB Contractor wishes to pursue Additional Properties, or any other Deviation from any Governmental Approvals, including RCTC-Provided Approvals, DB Contractor shall first comply with, and obtain and maintain, as applicable, any consent, approval or waiver

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required in accordance with, then-existing agreements between RCTC and other Governmental Entities.

(c) Upon DB Contractor's request, RCTC will reasonably cooperate with DB Contractor in providing DB Contractor with copies of the applicable agreements between RCTC and other Governmental Entities.

(d) If any Governmental Approvals required to be obtained by DB Contractor (including Major Approvals) must formally be issued in the name of RCTC, DB Contractor shall undertake all efforts to obtain and maintain such approvals subject to RCTC's reasonable cooperation with DB Contractor, at DB Contractor's expense (except in connection with Governmental Approvals required solely due to an RCTC-Directed Change), including execution and delivery of appropriate applications and other documentation in form approved by RCTC. DB Contractor shall assist RCTC in obtaining any Governmental Approvals which RCTC may be obligated to obtain, including providing information requested by RCTC and participating in meetings regarding such approvals.

(e) In the event that RCTC, Department or FHWA must act as the lead agency and directly coordinate with a Governmental Entity in connection with obtaining Governmental Approvals which are the responsibility of DB Contractor, DB Contractor shall provide all necessary support to facilitate the approval, mitigation or compliance process. Such support shall include conducting necessary field investigations, surveys, and preparation of any required reports, documents and applications.

(f) DB Contractor shall not enter into any agreement with any Governmental Entity, Utility Owner, property owner or other third party having regulatory jurisdiction over any aspect of the Project or having any property interest affected by the Project that in any way purports to obligate RCTC or Department, or states or implies that RCTC or Department has an obligation, to the third party to carry out any installation, design, construction, maintenance, repair, operation, control, supervision, regulation or other activity after the expiration or termination of this Contract, unless RCTC otherwise approves such agreement by Notice, in its sole discretion. DB Contractor has no power or authority to act as an agent or representative of RCTC or Department, or to enter into any such agreement with a third party in the name of, or on behalf of RCTC or Department.

(g) DB Contractor shall reimburse RCTC for RCTC's costs of technical studies and documentation, including biological and cultural resource studies, prepared in connection with any such environmental re-evaluations, re-validations, and new or modified Environmental Approvals, other Governmental Approvals and any other approvals, authorizations and consents required for the Work.

11.2.2. RCTC-Provided Approvals

(a) RCTC-Provided Approvals, as obtained or procured are included in the Reference Documents, but do not form part of this Contract. DB Contractor shall comply with applicable requirements and conditions of those RCTC-Provided Approvals in TP Sections 2.5.2 and 6.3 and TP Attachment 6-1.

(b) Where RCTC or Department acts as a regulatory authority or permitting entity:

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(i) Section 5.2.2(e) does not apply, and nothing in this context shall be considered an RCTC-Caused Delay; and

(ii) RCTC or Department is not obligated to: (A) exercise its legal rights in order to avoid or eliminate the requirement to obtain any Governmental Approvals; or (B) automatically grant Governmental Approvals for which it is the authorizing entity and will apply its usual procedures and criteria in considering applications from DB Contractor for such Governmental Approvals.

11.2.3. New Approvals

(a) New Approvals To Be Obtained at RCTC's Expense

(i) RCTC shall obtain any New Approvals necessitated by an RCTC-Directed Change or Force Majeure Event. DB Contractor shall provide support services to RCTC with respect to obtaining any such New Approval.

(ii) Any Change Order covering a New Approval necessitated by an RCTC-Directed Change or Force Majeure Event shall include compensation to DB Contractor for any material changes in the Work (including performance of material additional mitigation measures but excluding performance of such support services) resulting from such New Approvals, as well as any time extension necessitated by obtaining such New Approvals, subject to the limitations contained in Section 19 and Section 21 21.

(b) Other Governmental Approvals To Be Obtained at DB Contractor's Expense:

(i) Subject to Sections 11.2.3(b)(ii) and 11.2.3(b)(iii), if any Governmental Approval (including any New Approval) becomes necessary for any reason other than those specified in Section 11.2.3(a), (including if DB Contractor chooses to add or select any ground or resource disturbing features such as material (gravel, borrow, disposal or re-use) sites, equipment staging sites, office sites, water lines, holding ponds, Hazardous Materials and/or non-Hazardous Materials staging areas, etc.), DB Contractor shall: (1) be solely responsible for the risk that any such Governmental Approvals are not (or are not timely) granted, issued, approved or obtained as well as for any litigation arising in connection therewith; and (2) not be entitled to any increase in the Contract Price or extension of the Completion Deadlines as a result of any delay or cost associated with such Governmental Approvals.

(ii) RCTC shall be the implementing agency for any New Approvals under applicable Governmental Rules with the exception of the California Water Resources Control Board Clean Water Act - section 402 Permit.

(iii) If DB Contractor wishes to adopt any design or construction approach that would require a New Approval, DB Contractor shall consult with RCTC (and with Department if the RCTC-Provided Approval is in Department's name). DB Contractor shall not implement any such approach unless concurrence of RCTC (and Department) has first been obtained and arrangements have been made to reimburse RCTC and Department for the costs of the proposed change.

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11.2.4. Major Approvals

DB Contractor shall obtain and maintain all Major Approvals including complying with TP Section 6.3.5.1, even though such approvals must formally be issued in RCTC's name.

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SECTION 12
SUBCONTRACTORS AND LABOR

12.1. Subcontracts

12.1.1. General

(a) DB Contractor shall:

(i) Engage and manage each Subcontract;

(ii) Be responsible for:

(1) All Work performed by its Subcontractors including proper supervision and coordination of the Work performed by its Subcontractors so as to ensure that all Work is in accordance with this Contract;

(2) The actions, errors, omissions, negligence, willful misconduct, or breach of applicable Governmental Rules or contract by any DB-Related Entity or Subcontractor, as though DB Contractor directly employed all such Persons; and

(3) For Subcontracts for Construction Work with a value exceeding one-half of 1 percent (0.5%) of the Contract Price allocable to construction work, comply with the requirements set forth in the California Public Contract Code Section 22180.6(b).

(b) RCTC may reasonably object to DB Contractor's selection of any Subcontractor.

(c) DB Contractor may not materially amend or terminate any Major Subcontract or amend the scope of a Listed Subcontractor without the prior written consent of RCTC, in its sole discretion except that DB Contractor may terminate a Major Subcontract in the event of material default by the Major Subcontractor, provided that DB Contractor has provided Notice of such intended termination to RCTC in advance of the termination. Where an amendment includes a material addition to the scope of work under a Subcontract with a Listed Subcontractor, RCTC may require such work to be the subject of a new procurement by DB Contractor under Section 12.1.2. RCTC shall respond to such Notice within 10 Business Days.

(d) No Subcontractor performing Construction Work may start any Work until after RCTC receives a copy of its Subcontract, a copy of such Subcontractor's valid California Contractor License, and any insurance documents required under Section 14.

12.1.2. Procurement of New Subcontracts

The following procedures shall apply to procurement of Subcontracts under this Contract by DB Contractor for construction Work (including Subcontractors for fabrication and installation of a portion of the Work), excluding Subcontracts with Listed Subcontractors and Affiliates.

(a) DB Contractor shall (i) provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive

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bidding process of RCTC and the Subcontractor Procurement Plan; and (ii) provide a fixed date and time on which the subcontracted work will be awarded.

(b) DB Contractor shall use a competitive process that complies with the provisions of Public Contract Code section 6826. Prior to soliciting any proposals or bids for Subcontracts, DB Contractor shall submit to RCTC for its review and approval a Subcontractor Procurement Plan including a reasonable procedure for the conduct of the procurement and approval process applicable to Subcontracts.

(c) DB Contractor shall promptly provide Notice to RCTC identifying each Subcontractor selected and, upon RCTC's request, provide the solicitation and evaluation materials and results.

(d) If any Subcontractor is an Affiliate, DB Contractor shall require such Affiliate to follow the procedures under this Section 12.1.2 in connection with lower tier Subcontracts for construction Work and shall comply with Section 12.1.5.

12.1.3. Substitution of Subcontractors

(a) DB Contractor may not make any substitution of any Listed Subcontractor or Subcontractor selected in accordance with Section 12.1.2 except in accordance with the provisions of the Subletting and Subcontracting Fair Practices Act, Public Contract Code section 4100 et seq.

(b) Any additional cost incurred to substitute a Subcontractor shall be borne solely by DB Contractor and not otherwise reimbursable.

12.1.4. Subcontract Requirements

(a) Each Subcontract shall be consistent in all respects with this Contract's terms and conditions to the extent such terms and conditions are applicable to that Subcontract's scope of work, and each Subcontract shall:

(i) Include express requirements that: (1) RCTC and Department are third party beneficiaries of the Subcontract, and shall each have the independent right to enforce all of the terms of the Subcontract for their own benefit; (2) all guarantees and warranties, express or implied, shall inure to the benefit of RCTC and Department, and their respective successors and assigns; (3) the rights of DB Contractor under the Subcontract are assigned to RCTC contingent only upon delivery of Notice from RCTC following default by DB Contractor or termination or expiration of this Contract, allowing RCTC to assume the benefit of DB Contractor's rights with liability only for those remaining obligations of DB Contractor accruing after the date of assumption by RCTC; and (4) the Subcontractor shall recognize and attorn to RCTC upon receipt of Notice from RCTC that RCTC has exercised its rights under this Contract, without necessity for consent or approval from DB Contractor or to determine whether RCTC validly exercised its rights, and DB Contractor's covenant to waive and release any claim or cause of action against the Subcontractor in connection with its recognition and attornment in reliance on any such Notice, and DB Contractor hereby waives such claims and causes of action;

(ii) Not impose upon RCTC or Department any obligation or liability;

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(iii) Not create any contractual relationship between RCTC or Department and the applicable Subcontractor;

(iv) Include the following provision:

> Nothing contained herein shall be deemed to create any privity of contract between or among the Riverside County Transportation Commission (RCTC), the California Department of Transportation (Department) and the Subcontractor, nor does it create any duties, obligations, or liabilities on the part of RCTC or Department to the Subcontractor except those allowed under California law. In the event of any claim or dispute arising under the Subcontract and/or DB Contractor's Contract with RCTC, the Subcontractor shall look only to DB Contractor for any payment, redress, relief, or other satisfaction. The Subcontractor hereby waives any claim or cause of action against RCTC or Department arising out of the Subcontract or otherwise arising in connection with the Subcontractor's Work.

(v) Set forth a standard of professional responsibility or standard for commercial practice (as applicable) at least equal to the requirements of this Contract and Good Industry Practice for work of similar scope and scale and contain certification by the Subcontractor that the Subcontractor is experienced in and qualified to do, and knowledgeable about, the subcontracted Work;

(vi) Require the Subcontractor to carry out its applicable scope of work in accordance with this Contract, applicable Governmental Approvals, and Governmental Rules, and to be joined in any dispute resolution proceeding in accordance with Section 28 if RCTC determines such joinder is reasonably necessary to resolve the Dispute;

(vii) Set forth effective procedures for claims and change orders, which procedures are consistent with the Change Order process in this Contract;

(viii) Set forth warranties, guaranties, and liability provisions of the contracting party in accordance with Good Industry Practice for work of similar scope and scale;

(ix) Include the following: (1) requirement to maintain usual and customary Books and Records for the type and scope of operations of business in which the Subcontractor is engaged (e.g., constructor, equipment supplier, designer, service provider); (2) provision permitting audits and interviews to be conducted by DB Contractor, RCTC, Department, and FHWA; (3) provision that Subcontractor warrants the completeness and accuracy of all information the Subcontractors or its agents provide in connection with Section 29.2; (4) requirement to provide progress reports to DB Contractor appropriate for the type of work it is performing sufficient to enable DB Contractor to provide the reports it is required to provide RCTC under this Contract; (5) requirement for the Subcontractor to maintain all appropriate licenses and for any Subcontractor performing Construction Work to be registered and maintain registration to perform public work in accordance with Labor Code section 1725.5 and to notify of any labor dispute that may delay performance under this Contract, requiring each Subcontractor to give notice and information to the next higher tier Subcontractor (or to DB Contractor, if it is a direct Subcontract; (6) provision prohibiting assignment of the Subcontract by the Subcontractor without

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DB Contractor's prior written consent; (7) provisions implementing the requirements of Section 29, and (8) copies of Labor Code sections 1771, 1775, 1776, 1777.5, 1813, and 1815;

(x) For Major Subcontracts: (i) be terminable only for cause, unless RCTC exercises a Termination for Convenience under this Contract in accordance with Section 23.1, in which case DB Contractor may terminate the Subcontractor for convenience in accordance with Section 12.1.4(a)(xii); (ii) include an indemnity from the Subcontractor in favor of DB Contractor and the Indemnified Parties against any and all Losses in connection with any negligent act error, or omission, gross negligence, fraud, recklessness, willful misconduct, or breach of Governmental Approvals, violation of Governmental Rules, or breach of contract by the Subcontractor or any of its officers, employees, agents or representatives; provided, however, that such Subcontractor indemnities shall not inure to the benefit of an Indemnified Party so as to impose liability on the Subcontractor for the active negligence of RCTC, or to relieve RCTC of liability for such active negligence; and (iii) include a covenant, expressly stated to survive termination of the Major Subcontract, to promptly execute and deliver to RCTC a new contract between the Subcontractor and RCTC on the same terms and conditions as the Major Subcontract, in the event: (A) the Major Subcontract is rejected by DB Contractor in bankruptcy or otherwise wrongfully terminated by DB Contractor or (B) RCTC delivers Notice for such new contract following termination or expiration of this Contract;

(xi) Expressly require that, upon Notice from DB Contractor after RCTC's request, the Subcontractor participate in meetings between DB Contractor and RCTC concerning matters pertaining to the Subcontract or its work. Nothing in this Section 12.1.4(a)(xi) shall limit the authority of RCTC to give such direction or take such action which, in its opinion, is necessary to remove an immediate and present threat to the safety of life, property or revenues;

(xii) Include the right of DB Contractor to terminate the Subcontract in whole or in part upon any Termination for Convenience of this Contract without liability of DB Contractor or RCTC for the Subcontractor's lost profits, consequential, or other damages, or business opportunity (except for Subcontractor's undisputed Work duly performed up to the date of termination);

(xiii) Expressly provide that all Liens, claims, and charges of the Subcontractor and its Subcontractors at any time shall not attach to any interest of RCTC or Department in the Project or the Project ROW;

(xiv) Include the prompt payment requirements in Section 18.16.1 and require the Subcontractor to make payments to sub-subcontractors and Suppliers in a similar manner;

(xv) Include provisions consistent with Public Contract Code section 9204(d)(5), which provides that a Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that DB Contractor present a claim for work which was performed by the Subcontractor or by a lower tier Subcontractor on behalf of the Subcontractor. In such event the Subcontractor must furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, DB Contractor is required to notify the Subcontractor in writing as to whether DB Contractor presented the claim to RCTC and, if DB Contractor did not present the claim, provide the Subcontractor with a statement of the reasons for not having done so;

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(xvi) Be consistent in all respects with the terms and conditions of this Contract to the extent such terms and conditions are applicable to the scope of work of such Subcontractors, and include all other provisions required by this Contract; and

(xvii) Provide that DB Contractor may assign its rights under this Contract and may subcontract Work in compliance with the requirements of this Contract, but shall not otherwise sublet, transfer, assign, or dispose of any portion of the Contract, or delegate any of its duties hereunder, except with RCTC's prior written approval. DB Contractor's assignment or delegation of any of its Work under this Contract shall be ineffective to relieve DB Contractor of its responsibility for the Work assigned or delegated, unless RCTC, in its sole discretion, has approved in writing such relief from responsibility.

(b) The amount of retainage to be withheld under Subcontracts shall not exceed the amount withheld by RCTC in accordance with Section 18.12.1.

(c) RCTC is not bound by any Subcontract, and no Subcontract shall include a provision purporting to bind it.

(d) As part of its Phase 2 Proposal, DB Contractor shall complete and provide RCTC a schedule listing its current Subcontractors, in the form of Exhibit 9-H (Subcontractor Identification Form). DB Contractor shall provide an updated schedule monthly throughout performance of the Work.

(e) DB Contractor shall allow RCTC access to all Subcontracts and records regarding Subcontracts and shall deliver to RCTC, within ten days after execution, true and complete copies of all Major Subcontracts, and within ten days after receipt of a request from RCTC, true and complete copies of all other Subcontracts as may be requested. At DB Contractor's option, copies of the pages of the Subcontracts delivered to RCTC may be redacted to remove pricing information.

(f) RCTC may review the form of subcontract used by DB Contractor for the Project and require modifications to such form to conform to the requirements in this Contract.

(g) As a condition precedent to Completion of the Work or a Package, DB Contractor shall procure and provide to RCTC the warranties described in this Contract from the relevant Subcontractor undertaking or supplying the work or item that is the subject of the warranty.

(h) No warranty will be construed in any way to modify or limit any of the rights, powers or remedies of RCTC against DB Contractor under this Contract or otherwise under Governmental Rules.

(i) No assignment of any warranty under Section 12.1.4(j)(ii) will be construed in any way to modify or limit any of RCTC's rights, powers or remedies against DB Contractor under this Contract or Governmental Rules.

(j) If DB Contractor is unable to or fails for any reason to provide any warranty required under this Contract:

(i) DB Contractor is deemed to have provided the warranty itself on like terms;

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(ii) RCTC will be entitled to elect to take an assignment of all the right, title and interest in DB Contractor's rights against the Subcontractor in relation to the Project Assets; and

(iii) For the purpose of Section 12.1.4(j)(ii), DB Contractor irrevocably appoints RCTC as its lawful attorney to execute any instrument necessary to give effect to the assignment.

12.1.5. Subcontracts with Affiliates

(a) DB Contractor may have Work and services performed by Affiliates only under the following terms and conditions:

(i) DB Contractor shall execute a written Subcontract with the Affiliate which complies with all requirements for Subcontracts under this Contract;

(ii) The terms and conditions of the Subcontract (including pricing and scheduling) shall be no less favorable to DB Contractor than those that DB Contractor could reasonably obtain in an arm's length, competitively procured transaction with an unaffiliated Subcontractor. DB Contractor shall bear the burden of proving that the same are no less favorable to DB Contractor; and

(iii) No Affiliate shall be engaged to perform any Work which this Contract or the Administrative Project Plans requires be performed by an independent or unaffiliated party. No Affiliate shall be engaged to perform any Work which would be inconsistent with Good Industry Practice or other Contract requirements.

(b) Before entering into or amending any Subcontract with an Affiliate, DB Contractor shall submit a true and complete copy of the proposed Subcontract to RCTC for review and comment. RCTC has 30 Days after receipt to deliver its comments to DB Contractor.

(c) DB Contractor shall make no payments to Affiliates for Work in advance of provision of such Work, except for reasonable mobilization payments or other payments consistent with arm's length, competitive transactions of similar scope.

12.1.6. Other Subcontracting Requirements

(a) In accordance with section 6109 of the Public Contract Code, no Subcontractor shall perform Work if that Subcontractor is ineligible to perform work on public works projects in accordance with section 1777.1 or 1777.7 of the Labor Code.

(b) DB Contractor shall comply with all other subcontracting requirements in 5-1.13 of Exhibit 5 (Modified Standard Specifications).

12.2. Performance of Work by DB Contractor or Affiliate

12.2.1. DB Contractor and its Affiliates shall self-perform Work totaling not less than 50% of the Construction Work included in the GMP (Phase 2). The dollar value included in the percentage performed by DB Contractor and Affiliates shall include the value of labor, materials and equipment to be incorporated or used in the Work and directly purchased or performed by DB Contractor or Affiliates

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and shall not include the value of subcontracted labor, materials and equipment, incorporated or used in the Work.

12.2.2. The designated percentage of Work to be performed by DB Contractor and its Affiliates may not be reduced below the level specified in Section 12.2.1 by the addition of Subcontractors added after the Effective Date.

12.3. Requirements for Self-Performed Work

12.3.1. DB Contractor or any Affiliate may only perform Work if:

(a) The express written approval of the RCTC Representative is obtained; and

(b) DB Contractor and the RCTC Representative agree in writing upon a Lump Sum Scope of Work in accordance with Section18.6 or other compensation structure for the Work before its commencement.

12.3.2. For any scope of Work that DB Contractor or any Affiliate proposes to perform in excess of the level specified in Section 12.2.1, DB Contractor shall submit to RCTC, on an Open Book Basis, a proposal that includes:

(a) A detailed description of the aspects of the Technical Provisions to be performed;

(b) A detailed explanation of the effect of the proposed Work on the Project, including cost savings, benefits to the Project and risks to the Project; and

(c) Any other information reasonably requested by RCTC.

12.3.3. In RCTC's sole discretion, RCTC may:

(a) Require DB Contractor to prepare an RFP document and solicit Subcontractors to perform the Work proposed to be performed by DB Contractor or any Affiliate; and

(b) Select a third party to review DB Contractor's proposal, the Affiliate's proposal and any other proposals for the proposed Work.

12.3.4. When calculating the costs for Work to be performed by DB Contractor or any Affiliate, the following shall apply:

(a) The costs for that Work shall not include costs that are also included in the Fixed General Conditions Cost; and

(b) Notwithstanding Section 12.3.4(a), in determining the costs for that Work and additional general conditions, DB Contractor may include costs that are directly associated with that Work, which DB Contractor would not have incurred but for that Work.

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12.3.5. If the RCTC Representative approves the Work under Section 12.3.1(a), DB Contractor must obtain the RCTC Representative's written approval before subcontracting the Work or otherwise performing it in a different manner.

12.3.6. DB Contractor shall enter into an Approved Subcontract Agreement as a pre-condition to any Affiliate's commencement of any Work under this Section 12.2.

12.4. Equal Employment Opportunity

12.4.1. DB Contractor shall not, and shall cause the Subcontractors to not, discriminate on the basis of race, color, national origin or sex in the selection of Subcontractors and the performance of the Work under this Contract. Failure by DB Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as RCTC deems appropriate (subject to DB Contractor's rights to notice and opportunity to cure in this Contract).

12.4.2. DB Contractor shall include Section 12.4.1 in every Subcontract (including purchase orders and in every subcontract of any DB-Related Entity for the Work) and shall require that they be included in all Subcontracts at lower tiers, so that such provisions will be binding upon each Subcontractor.

12.4.3. DB Contractor confirms that DB Contractor has an equal employment opportunity policy ensuring equal employment opportunity without regard to race, color, national origin, sex, age, religion or handicap; and that DB Contractor maintains no employee facilities segregated on the basis of race, color, religion or national origin. DB Contractor shall comply with all applicable Governmental Rules relating to equal employment opportunity and nondiscrimination, including those in Section 7-1021 of Exhibit 5 (Modified Standard Specifications), and in Exhibit 13 (State and Federal Requirements), and shall require its Subcontractors to comply with such provisions.

12.5. Labor Code Requirements

12.5.1. DB Contractor shall comply and cause its Subcontractor to comply with the provisions of the Labor Code and implementing regulations, including requirements with respect to prevailing wages, skilled and trained workforce and employment and training of apprentices, as described in Exhibit 13-B (Labor Code Requirements).

12.5.2. DB Contractor shall comply with the applicable provisions of the Labor Code and implementing regulations relating to labor nondiscrimination, and with the applicable federal requirements, including those in Exhibit 13 (State and Federal Requirements).

12.5.3. The California Department of Industrial Relations (DIR) is responsible for monitoring and enforcing prevailing wage requirements of applicable labor laws to ensure that all contractors working on the Project are in compliance with State (Division 2, Part 7, Chapter 1 of the Labor Code) prevailing wage statutes and regulations. Accordingly, the Project is subject to the requirements of DIR's compliance monitoring and enforcement program in Title

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8, Chapter 8, Subchapter 4.5 of the California Code of Regulations, which include, among other requirements, the obligation to provide payroll records directly to the DIR Labor Commissioner. In addition, DB Contractor shall upload to a site designed by RCTC on a weekly basis the payroll records showing compliance with the requirements in this Section 12.5.3.

(a) Refer to Section 7-1.02K(3) of Exhibit 5 (Modified Standard Specifications) and Exhibit 13-B (Labor Code Requirements) for certain information regarding a number of labor compliance requirements applicable to the Contract under Labor Code section 1776. The labor compliance requirements do not constitute an exhaustive list, and that additional labor compliance requirements may apply to the Project under other Governmental Rules.

12.5.4. DB Contractor shall post a notice at the Site containing the following language:

This public works project is subject to monitoring and investigative activities by the Division of Labor Standards Enforcement (DLSE), Department of Industrial Relations, State of California. This Notice is intended to provide information to all workers employed in the execution of the contract for public work and to all contractors and other persons having access to the job site to ensure compliance with and enforcement of prevailing wage laws on public works projects.

The prevailing wage laws require that all workers be paid at least the minimum hourly wage as determined by the Director of Industrial Relations for the specific classification (or type of work) performed by workers on the Project. These rates are listed on a separate job site posting of minimum prevailing rates required to be maintained by the public entity which awarded the public works contract. Complaints concerning nonpayment of the required minimum wage rates to workers on this Project may be filed with the office of the DLSE.

Complaints should be filed in writing immediately upon discovery of any violations of the prevailing wage laws due to the short period of time following the completion of the Project that the CMU may take legal action against those responsible.

Complaints should contain details about the violations alleged (for example, wrong rate paid, not all hours paid, overtime rate not paid for hours worked in excess of 8 hours per day or 40 per week, etc.) as well as the name of the employer, the public entity which awarded the public works contract, and the location and name of the Project.

For general information concerning the prevailing wage laws and how to file a complaint concerning any violation of these prevailing wage laws, you may contact any DLSE office. Complaint forms are also available at the Department of Industrial Relations website found at www.dir.ca.gov/dlse/PublicWorks.html.

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12.5.5. Whenever DB Contractor has knowledge that any actual or potential labor dispute may delay its performance under this Contract, DB Contractor shall immediately provide Notice to and submit all relevant information to RCTC.

12.5.6. The Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874 and 40 U.S.C. § 3145, and implementing U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States", 29 C.F.R. Part 3.

12.6. Prevailing Wages

12.6.1. DB Contractor shall comply and cause its Subcontractors to comply with all applicable requirements of Division 2, Part 7, Chapter 1 of the Labor Code, including those in Exhibit 13 (State and Federal Requirements).

12.6.2. If it is found that a DB Contractor employee or a Subcontractor has been or is being paid a rate of wages less than the rate of wages required by this Contract to be paid, RCTC may declare a DB Contractor Default under Section 24.1.1(g).

12.6.3. RCTC will periodically perform interviews with craft workers regarding work being performed, wages being paid, and benefits received. DB Contractor will cooperate with RCTC/PCM staff performing the interviews.

12.7. Disadvantaged Business Enterprise (DBE) Program

This Contract is subject to the federal Disadvantaged Business Enterprise (DBE) program requirements found at 49 CFR Part 26 (the "DBE Regulations"). For this reason, RCTC has adopted Department's "Disadvantaged Business Enterprise Policy" and has specified DBE requirements applicable to this Project. The purpose of the federal DBE program is to create a level playing field on which DBEs can compete fairly for contracts and subcontracts on the Project. The DBE Regulations are incorporated by reference as part of RCTC's Design-Build Contract Specific DBE Requirements for the Project.

On October 3, 2025, the USDOT issued an IFR that makes certain changes to the DBE program (49 CFR Part 26), effective immediately. RCTC is currently awaiting further instruction from the Department related to this IFR to identify necessary program and procedural changes to ensure full compliance. As such, the DBE goal of this Project is as set forth in Section 12.7.2 below until the Department provides notice that DBE participation can be counted. Subject to applicable Governmental Rules, RCTC may amend any of the DBE requirements set forth in this Contract in the future to allow the counting of DBE participation.

12.7.1. Compliance

Upon notification from RCTC that Department has provided notice as referenced in Section 12.7, DB Contractor shall comply with (a) the Progressive Design-Build Contract Specific DBE Requirements; and (b) DB Contractor's DBE Performance Plan, as approved by RCTC. In the event of any conflicts or inconsistencies between the DBE Regulations and the Design-Build Contract Specific DBE Requirements for the Project, the DBE Regulations shall prevail.

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12.7.2. DBE Participation – DBE Goal

RCTC has established a 0.0% DBE goal for the Project, which represents the level of DBE participation, DB Contractor shall commit to meeting on the Project. Once RCTC has received notice from Department as referenced in Section 12.7, RCTC may adjust the DBE goal in order to comply with 49 CFR Part 26. RCTC will maintain oversight of DB Contractor's activities, including those identified within the RCTC-approved DBE Performance Plan, to ensure full compliance with the DBE requirements.

12.7.3. DB Contractor Reporting Requirements

Upon notification from RCTC that Department has provided Notice as referenced in Section 12.7, DB Contractor shall commence the following reporting activities:

(a) DB Contractor shall develop reporting formats, in a form acceptable to RCTC, to effectively provide updates to all DBE Performance Plan elements on a monthly basis.

(b) DB Contractor shall submit a monthly report to RCTC no later than the 10th day of each month until Final Acceptance. The format and content of the report is to be developed by DB Contractor, in accordance with the reporting requirements prescribed in the Progressive Design-Build Contract Specific DBE Requirements.

(c) Failure to submit these reports by the 10th day of each month to RCTC shall result in the application of appropriate administrative sanctions, including withholding of payment to DB Contractor of two percent of the invoice amount due per month, until such time as a completed report is submitted.

12.7.4. Calculation and Crediting of DBE Participation

DBE participation shall be credited and calculated in accordance with 49 CFR § 26.55.

12.7.5. DBE Program Records Management

Upon notification from RCTC that Department has provided notice as referenced in Section 12.7, DB Contractor shall maintain and submit monthly all records substantiating the progress of DBE participation regardless of tier and demonstrating compliance with the Progressive Design-Build Contract Specific DBE Requirements for DBE prompt payment and payment of retainage, and such documentation, including copies of cancelled checks issued, unconditional waivers, and progress payment releases shall be made available for inspection upon request by RCTC.

12.7.6. DBE Frauds and Fronts

Only legitimate DBEs are eligible to participate in federally funded contracts. Therefore, DB Contractor shall not knowingly and willfully use "fronts" to attain DBE participation for the Project. The use of "fronts" and "pass-through" Subcontracts to non-DBE firms constitute criminal violations. Further, any indication of fraud, waste, abuse, or mismanagement of federal funds should be immediately reported to the Office of Inspector General, U.S. Department of Transportation, at the toll-free Fraud, Waste and Abuse Hotline, 800-424-9071.

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SECTION 13
PERFORMANCE AND PAYMENT BONDS; GUARANTY

13.1. Phase 1 Bonds

13.1.1. On or before the Effective Date, DB Contractor shall provide RCTC:

(a) A performance bond in the amount specified in the Contract Particulars (Phase 1), including a multiple obligee rider in favor of Department, and in the form of Appendix 7-A-1 (Form of Phase 1 Performance Bond) ("**Phase 1 Performance Bond**") to Exhibit 7-A (Form of Performance Bonds); and

(b) A payment bond in the amount specified in the Contract Particulars (Phase 1), including a multiple obligee rider in favor of Department, and in the form of Appendix 7-B-1 (Form of Phase 1 Payment Bond) ("**Phase 1 Payment Bond**") to Exhibit 7-B (Form of Payment Bonds),

(together "**Phase 1 Bonds**").

13.1.2. RCTC will release:

(a) The Phase 1 Performance Bond as follows:

(i) Upon the issuance of RCTC's Notice to DB Contractor under Section 7.5.3 stating that Phase 2 Approval has not occurred; or

(ii) If RCTC provides Notice to DB Contractor under Section 7.5.2(a) stating that Phase 2 Approval has occurred, upon either:

(1) The date that the Phase 2 Performance Bond is provided to RCTC in the form provided in Appendix 8-A-2 (Form of Phase 2 Performance Bond) to Exhibit 7-A (Form of Performance Bonds); or

(2) The Date of Phase 2 Approval, if the Phase 2 Performance Bond is provided to RCTC in an alternate stand-alone form approved by RCTC, in its sole discretion,

provided, in each case, no claim currently has been filed by RCTC or Department against the Phase 1 Performance Bond and DB Contractor is not in default under this Contract and no event has occurred which, with the passage of time or the giving of notice, would constitute a default under this Contract; and

(b) The Phase 1 Payment Bond as follows:

(i) Upon the issuance of RCTC's Notice to DB Contractor under Section 7.5.3 stating that Phase 2 Approval has not occurred; or

(ii) If RCTC provides Notice to DB Contractor under Section 7.5.2(a) stating that Phase 2 Approval has occurred upon either:

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(1) The date that the Phase 2 Payment Bond is provided to RCTC in the form provided in Appendix 8-B-2 (Form of Phase 2 Payment Bond) to Exhibit 7-B (Form of Payment Bonds); or

(2) The Date of Phase 2 Approval, if the Phase 2 Payment Bond is provided to RCTC in an alternate stand-alone form approved by RCTC, in its sole discretion,

provided, in each case, DB Contractor is not in default under this Contract, and no event has occurred which, with the passage of time or the giving of notice, would constitute a default under this Contract and either: (1) DB Contractor has delivered to RCTC (a) evidence, satisfactory to RCTC, that all persons eligible to file a Claim against the Phase 1 Payment Bond have been fully paid and (b) unconditional releases of Liens and stop payment notices from all Subcontractors who filed a preliminary notice of a claim against the Phase 1 Payment Bond; or (2) the statutory period for Subcontractors to file a claim against the Phase 1 Payment Bond has expired and no claims have been filed.

13.2. Phase 2 Bonds

13.2.1. As a condition precedent to Phase 2 Approval and the execution of the Phase 2 Amendment, DB Contractor shall provide to RCTC:

(a) A performance bond in the amount specified in the Contract Particulars (Phase 2), including a multiple obligee rider in favor of Department, and in the form of Appendix 8-A-3 (Form of Phase 2 Performance Bond) to Exhibit 7-A (Form of Performance Bonds) or in an alternative stand-alone form approved by RCTC, in its sole discretion ("**Phase 2 Performance Bond**"); and

(b) A payment bond in the amount specified in the Contract Particulars (Phase 2), including a multiple obligee rider in favor of Department, and in the form of Appendix 8-B-3 (Form of Phase 2 Payment Bond) to Exhibit 7-B (Form of Payment Bonds) or in an alternative stand-alone form approved by RCTC, in its sole discretion ("**Phase 2 Payment Bond**"),

(together "**Phase 2 Bonds**").

13.2.2. RCTC will release:

(a) The Phase 2 Performance Bond upon Completion of the Work, provided (i) no claim has been filed by RCTC or Department against the Phase 2 Performance Bond; (ii) DB Contractor is not in default under this Contract and no event has occurred which, with the passage of time or the giving of notice, would constitute a default under this Contract; and (iii) RCTC has received the Warranty Bond in accordance with Section 13.2.3; and

(b) The Phase 2 Payment Bond upon Completion of the Work, provided (i) DB Contractor is not in default under this Contract, and no event has occurred which, with the passage of time or the giving of notice, would constitute a default under this Contract; and (ii) either: (x) DB Contractor has delivered to RCTC (1) evidence, satisfactory to RCTC, that all persons eligible to file a Claim against the Phase 2 Payment Bond have been fully paid, and (2) unconditional releases of Liens and stop payment notices from all Subcontractors who filed a preliminary notice of a claim against the Phase 2 Payment Bond; or (y) the statutory period for

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Subcontractors to file a claim against the Phase 2 Payment Bond has expired and no claims have been filed.

13.2.3. Warranty Bond

(a) Upon Final Acceptance, DB Contractor may obtain a release of the Phase 2 Performance Bond and Phase 2 Payment Bond if DB Contractor provides to RCTC and maintains a warranty bond in the form of Exhibit 7-C, or such other security as RCTC may approve, that guarantees performance of Work required to be performed during the period following Final Acceptance, including Warranty Work and Plant Establishment Work, and which shall also constitute a payment bond guaranteeing payment to Persons performing such Work (the "**Warranty Bond**"). The Warranty Bond, if used, shall include a multiple obligee rider, in form and substance consistent with that in Exhibit 7-C, in favor of Department, Utility Owners and Local Agencies (as applicable).

(b) If used, the Warranty Bond shall be in an amount specified in Exhibit 9-A (Contract Particulars (Phase 2)) ("**Warranty Bond Amount**"). RCTC will release the Warranty Bond upon the later of expiration of the Warranty Period or Plant Establishment Period, provided the following conditions have been met:

(i) DB Contractor is not in default under this Contract and no event has occurred that, with the passage of time or the giving of Notice, would constitute a default under this Contract;

(ii) RCTC receives (1) evidence satisfactory to RCTC that all Persons eligible to file a Claim against the Warranty Bond have been fully paid, and (2) unconditional releases of Liens and stop payment notices from all Subcontractors, if any, that filed preliminary notice of a claim against the Warranty Bond;

(iii) The statutory period for Subcontractors to file a Claim against the Warranty Bond has expired and no claims have been filed;

(iv) No claim by RCTC or Department has been filed against the Warranty Bond; and

(v) As of the end of the Warranty Period, DB Contractor has assigned and transferred to RCTC all unexpired warranties on equipment, materials or otherwise relating to the Work.

13.2.4. Eligible Surety; Replacement Bonds; Increase in Bonds

(a) Each Bond required under this Contract shall be issued by an Eligible Surety authorized to do business in the State and listed on United States Department of the Treasury's Listing of Approved Sureties or otherwise approved by RCTC in its sole discretion.

(b) If any Bond previously provided becomes ineffective, or if the Eligible Surety that provided the Bond no longer meets the requirements of this Contract, DB Contractor shall provide a replacement Bond in the same form issued by an Eligible Surety. DB Contractor shall provide Notice to RCTC promptly following such Bond being rendered ineffective or when such Bond's surety is no longer an Eligible Surety, in no case later than two Business Days thereafter.

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(c) If the Contract Price is increased in connection with a Change Order, RCTC may require a corresponding proportionate increase in the amount of any Bond, a new Bond, or alternative security to cover the Change Order Work.

13.3. No Relief of Liability

Notwithstanding any other provision of this Contract, performance by a Surety or Guarantor of any of the obligations of DB Contractor shall not relieve DB Contractor of any of its obligations under this Contract.

13.4. Guaranty

(a) The Guarantor shall provide and maintain the guaranty, in the form provided in Exhibit 14 (Guaranty), in full force and effect throughout the Term.

(b) DB Contractor shall periodically report to RCTC regarding the financial capacity of the Guarantor as required in Section 29.1.2(b). If, at any point during the course of this Contract, the Guarantor's financial capacity is materially negatively affected, as determined by RCTC in its good faith discretion, RCTC may require, and DB Contractor provide, one or more additional guarantees so that the combined financial capacity of the Guarantor and the additional guarantors provides equivalent security to RCTC as the guaranty provided as of the Effective Date. Each such guaranty shall be substantially in the form provided in Exhibit 14 (Guaranty), together with appropriate evidence of authorization, execution, delivery and validity of such guarantee.

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SECTION 14
INSURANCE

DB Contractor shall purchase and continuously maintain in full force and effect the insurance coverages specified in this Section 14 and Exhibit 12 (Insurance Requirements) for each Phase. Coverage shall be maintained from and after the Effective Date through the expiration of the Warranty Period, or such longer or shorter time as may be specifically provided in this Section 14 or Exhibit 12.

14.1. General Insurance Provisions

14.1.1. Commencement of Work

DB Contractor and its Subcontractors shall not commence Work under this Contract or any applicable Subcontract until DB Contractor or the applicable Subcontractor: (a) obtains the insurance coverage required under this Section 14 and Exhibit 12 for the applicable Work; (b) provides RCTC with evidence that the required insurance, as specified under Section 14.1.8, is in effect for the applicable Work; and (c) RCTC approves such insurance. RCTC has no duty to pay or perform under this Contract until such evidence of insurance, in compliance with all requirements of this Section 14, has been provided.

14.1.2. Non Limitation of Insurance Requirements

(a) The Parties acknowledge and agree that:

(i) The insurance coverage provided and limits required under this Contract are minimum requirements and are not intended to limit DB Contractor's indemnification obligations under Section 27, nor do the indemnity obligations limit the rights of the Indemnified Parties to the coverage afforded by their insured status;

(ii) Requirements of specific coverage features or limits contained in this Section 14 and Exhibit 12 are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by insurance;

(iii) Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type; and

(iv) All insurance coverage and limits provided by DB Contractor, or by third parties in accordance with DB Contractor's obligations under this Contact, and, in each case, available or applicable to this Contract are intended to apply to the full extent of the insurance policies, and nothing contained in this Contract limits, or shall be deemed to limit, the application of such insurance coverage.

(b) With the exception of any insurance required by a railroad, liability insurance coverage shall not be limited to the specific location designated as the Site, except that if DB Contractor arranges project-specific general liability, excess liability, or workers' compensation coverage, limitations of coverage to the Site will be permitted subject to RCTC approval and use of the broadest available site-specific endorsements. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third-party-over action"

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claims, including any exclusion for bodily injury to an employee of the insured or of any Subcontractor.

14.1.3. No Recourse

There shall be no recourse against RCTC or Department for payment of premiums, deductibles, or other amounts with respect to the insurance DB Contractor is required to provide under this Contract, except for deductibles payable by RCTC as specified in this Contract.

14.1.4. Changes in Insurance Requirements

RCTC shall provide Notice to DB Contractor of any changes in the requirements to insurance DB Contractor is required to provide under this Contract. Subject to Section 14.1.10(c), any additional cost from such change shall be paid by RCTC and any reduction in cost shall reduce the Contract Price in accordance with a Change Order.

14.1.5. Premiums, Deductibles and Self-Insured Retentions

(a) DB Contractor shall pay all insurance premiums required under this Section 14.

(b) DB Contractor acknowledges and agrees that for each Claim made against insurance policies provided under this Contract, with respect to all matters for which DB Contractor is responsible under this Contract, DB Contractor shall be solely responsible for all deductibles, self-insured retentions, and loss amounts in excess of the coverage limits provided.

(c) Any self-insured retentions maintained by DB Contractor over $500,000 must be declared to and approved by RCTC; except that (i) self-insured retentions for professional liability insurance shall be governed by Section 6 of Exhibit 12, and (ii) self-insured retentions for commercial general liability insurance shall be governed by Section 1(d) of Exhibit 12.

(d) In the event RCTC determines, in its good faith discretion, that conditions exist that could result in substantial financial peril to DB Contractor, RCTC may, in its good faith discretion, require DB Contractor to post collateral to RCTC guaranteeing payment of losses and related investigations, claims administration, and defense expenses or require DB Contractor to reduce the amount of self-insured retentions under the policies.

14.1.6. Required Endorsements or Policy Provisions

All insurance policies that DB Contractor is required to provide under this Contract shall contain provisions or be endorsed to comply with the following requirements:

(a) Each of the Indemnified Parties, either through endorsement or policy provision, shall be an insured under DB Contractor's and Subcontractors' commercial general liability, automobile liability, umbrella or excess liability, pollution liability, and builder's risk insurance policies. Insured status for Indemnified Parties under any commercial general liability policy shall be as specified in Section 1(a) of Exhibit 12. Insured status for Indemnified Parties under any builder's risk insurance policies shall be as specified in Section 7 of Exhibit 12.

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(b) For Claims covered by the insurance required under this Contract, said insurance coverage shall be primary insurance with respect to the insureds, additional insureds, and their respective members, directors, officers, employees, agents, and consultants. Any insurance or self-insurance beyond that required in this Contract that is maintained by an Indemnified Party, their directors, officers, employees, agents, or consultants shall be excess of such insurance required by this Contract and shall not contribute with it.

(c) The insurance shall apply separately to each insured and additional insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability.

(d) Each insurance policy required under this Contract shall:

(i) Be endorsed to state that coverage shall not be canceled or non-renewed except after providing to RCTC 30 days' prior Notice (or ten days' prior Notice in the case of cancellation for non-payment of premium), and such endorsement shall not include any limitation of liability of the insurer for failure to provide such Notice; and

(ii) Provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of professional liability), and no policy issued on an occurrence basis shall have any sunset clause requiring reporting within a specified period of time, except as specified for pollution liability policies in Section 4(e) of Exhibit 12.

14.1.7. Waivers

RCTC and DB Contractor waive all rights against each other, against each other's agents and employees, and their respective members, directors, officers, employees, agents, and consultants for any Third Party Claims to the extent covered by insurance obtained in accordance with this Section 14 and Exhibit 12, except such rights as they may have to the proceeds of such insurance. DB Contractor shall include similar waivers in all Subcontracts. Workers' compensation policies must be endorsed to waive the insurer's right of subrogation for the parties identified above. All other policies, except professional liability, shall waive any right of subrogation by endorsement, or by policy provision that would allow the insured to waive its right of recovery against the Indemnified Parties and their respective members, directors, officers, employees, agents and consultants "before loss."

14.1.8. Verification of Coverage

(a) DB Contractor Policies

DB Contractor shall:

(i) Prior to its commencement of the applicable Work, cause each Subcontractor to provide certificates of insurance and amendatory endorsements effecting coverage required by this Section 14 and Exhibit 12 and maintain such evidence until the fifth anniversary of the expiration of the last Warranty Period, at which time DB Contractor shall forward to RCTC all collected evidence of insurance relating to the Project, or copies thereof; and

(ii) Permit, and cause each Subcontractor to permit, RCTC to inspect any insurance policies that have not been delivered to RCTC; except that this requirement

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shall not apply to the corporate or practice professional liability insurance policies of design Subcontractors.

(b) Renewal Policies

DB Contractor shall promptly deliver to RCTC evidence of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverages for the terms specified in this Contract. Such evidence shall be delivered to RCTC as far in advance of renewal or binding any policy as is reasonably possible.

14.1.9. Review of Coverage

(a) RCTC may at any time to review the coverage, form, and amount of insurance required under this Section 14 and Exhibit 12, and may require DB Contractor to make changes in such insurance reasonably sufficient in coverage, form, and amount to provide adequate protection against the kind and extent of risk that exists at that time.

(b) RCTC may change the insurance coverages and limits required under this Section 14 and Exhibit 12 by Notice to DB Contractor, whereupon DB Contractor shall, within 60 days of such Notice date, procure the additional and/or modified insurance coverages. Upon such change, and except as provided in Section 14.1.10, any additional Cost from such change shall be paid by RCTC and any reduction in Cost shall reduce the Contract Price in accordance with a Change Order.

14.1.10. Commercial Unavailability of Required Coverages

(a) If, through no fault of DB Contractor, any of the coverages required in this Section 14 or Exhibit 12 (or any of the required terms of such coverages, including policy limits) become unavailable or are available only with commercially unreasonable premiums, RCTC will consider in good faith alternative insurance packages and programs that DB Contractor proposes, with the goal of reaching agreement on a package that provides coverage equivalent to that specified in this Contract.

(b) DB Contractor shall:

(i) Demonstrate to RCTC's satisfaction that DB Contractor used diligent efforts in the global insurance markets to place the required insurance coverages and shall advise RCTC of the specific results of those efforts; and

(ii) Not be entitled to any increase in the Contract Price for increased Costs resulting from the unavailability of coverage and the requirement to provide acceptable alternatives. RCTC, however, may receive a reduction in the Contract Price if it accepts alternative policies that provides less than equivalent coverage, with the amount of such reduction to be determined by extrapolation using the insurance quotes included in the Proposal or Phase 2 Proposals (as applicable), or based on other evidence of insurance premiums as of the Setting Date if the Proposal or Phase 2 Proposals do not provide adequate information.

14.1.11. Notice of Prosecution of Claims

Responsibility for Notice and prosecution of Claims shall be in accordance with the following provisions:

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(a) To the extent permitted by applicable Governmental Rules, RCTC may submit RCTC's Claims and tenders of defense and indemnity under applicable insurance policies. Unless otherwise directed by RCTC by Notice with respect to RCTC's insurance Claims, DB Contractor shall report and process all potential claims by RCTC or DB Contractor against the insurance policies. DB Contractor agrees to report timely to the insurer(s) under such policies any and all matters that may give rise to an insurance Claim by DB Contractor or RCTC, and to promptly and diligently pursue such insurance Claims in accordance with the Claims procedures specified in such policies, whether for defense or indemnity or both. DB Contractor shall enforce all legal rights against the insurer under the applicable insurance policies and applicable Governmental Rules in order to collect thereon, including pursuing necessary litigation and enforcement of judgments.

(b) DB Contractor shall immediately provide Notice to RCTC, and thereafter keep RCTC fully informed, of any incident, Claim, or other matter of which DB Contractor becomes aware that involves or could conceivably involve an Indemnified Party as a defendant. DB Contractor shall cooperate with RCTC and shall require its liability insurers to agree in writing to work with RCTC to assure compliance with all requirements of the California Government Claims Acts, Government Code sections 910, 911, 912, 913, and 945, regarding timely response to claims.

(c) RCTC shall promptly provide Notice to DB Contractor of RCTC's incidents, potential Claims against RCTC, and matters of which RCTC is actually aware and that may give rise to an RCTC insurance claim, or to a right of defense and indemnification under Section 23.1. Delivery of any such Notice will constitute a tender of RCTC's defense of the Claim to DB Contractor and the insurer under any applicable insurance policies, subject to RCTC's rights to control its own defense to the extent provided in Section 27.2 or by applicable Governmental Rules. RCTC shall cooperate with DB Contractor as necessary for DB Contractor to fulfill its duties under this Contract, including providing DB Contractor a copy of all written materials RCTC receives asserting a claim against RCTC that is subject to defense by an insurer under an insurance policy or by DB Contractor under Section 23.1.

(d) If an insurer providing any of the insurance policies required under this Section 14 becomes the subject of bankruptcy proceedings, becomes insolvent, or is the subject of an order or directive given by any Governmental Entity, including the State, limiting the insurer's business activities, DB Contractor shall promptly secure alternative coverage that complies with the insurance requirements in this Section 14, so as to avoid any lapse in insurance coverage.

14.1.12. DB Contractor's Failure to Comply

(a) If DB Contractor or any Subcontractor fails to provide and maintain insurance as required in this Contract, then RCTC may purchase such insurance or suspend DB Contractor's right to proceed with the Work until proper evidence of insurance is provided.

(b) Any amounts paid by RCTC in accordance with Section 14.1.12(a) (plus an administrative charge equal to 10% of the cost) shall, at RCTC's sole option, be deducted from amounts payable to DB Contractor, or reimbursed by DB Contractor upon demand. Nothing in this Contract shall preclude RCTC from exercising its rights and remedies under Section 23 or Section 24 as a result of the failure of DB Contractor or any Subcontractor to satisfy the obligations of this Section 14 and Exhibit 12.

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(c) If on account of DB Contractor's failure to comply with the provisions of this Section 14 or Exhibit 12, RCTC is adjudged to be responsible for all or any portion of a judgment, loss, or settlement (through admission or stipulation by DB Contractor or court decision) that would have been covered by insurance but for non-compliance with this Section 14 or Exhibit 12, then any loss or damage RCTC sustains by reason thereof shall be borne by DB Contractor, and DB Contractor shall immediately pay the same to RCTC, upon receipt of Notice and evidence of such loss or damage.

(d) DB Contractor acknowledges and agrees that any actual or alleged failure on the part of RCTC to inform DB Contractor of non-compliance with any requirement imposes no additional obligations on RCTC nor does it waive any rights under this Contract.

14.1.13. Subcontractor Insurance Requirements

(a) DB Contractor shall cause each Subcontractor to provide insurance that complies with the requirements for DB Contractor-provided insurance in this Section 14 and Exhibit 12 in circumstances where Subcontractor acts or omissions are not covered by DB Contractor-provided insurance.

(b) Except as otherwise specified in this Section 14 or Exhibit 12, DB Contractor has sole responsibility for determining the limits of coverage required to be obtained by Subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

(c) DB Contractor shall cause each such Subcontractor to include the Indemnified Parties as additional insureds under such Subcontractor's general liability and excess liability insurance policies.

(d) If requested by RCTC, DB Contractor shall promptly provide certificates of insurance evidencing coverage for each Subcontractor. RCTC may contact the Subcontractors directly in order to verify the above coverage. DB Contractor's determination of such insurance shall not be interpreted as relieving DB Contractor, or its insurer of any liability otherwise imposed on DB Contractor or its insurers under this Contract.

14.1.14. Coverage to be Provided by DB Contractor During Warranty Period and Plant Establishment Period

During the period from Project Completion and through the expirations of the Warranty Period and Plant Establishment Period, DB Contractor shall continue to comply with insurance requirements, which shall be the same as required during the period after issuance of NTP Phase 1 and prior to issuance of NTP Phase 2, as specified in Sections 1 through 7 of Exhibit 12.

14.1.15. Disclaimer

(a) DB Contractor and each Subcontractor shall ensure that their insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage they deem advisable, whether or not specified in this Contract, and to fulfill their defense and indemnity obligations as specified under this Contract.

(b) RCTC makes no representation or warranty that the coverage, limits of liability, or other terms specified for the insurance policies required under this Section 14 or Exhibit

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12 are adequate to protect DB Contractor against its undertakings under this Contract or its liability to any third party, nor shall the existence of any such terms preclude RCTC from taking any actions as are available to it under this Contract or otherwise at law.

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SECTION 15
SITE SECURITY; MAINTENANCE AND REPAIR; TITLE

15.1. Site Security

DB Contractor shall provide appropriate security for the Site, and shall take all reasonable precautions and provide protection to prevent damage, injury, vandalism, theft and loss to the Work, equipment and materials used to perform the Work, real property within the Site (including all RCTC-Provided Property, Available Properties and Additional Properties) and other property at or on the Site, whether owned, or under exercise of other real property rights, by DB Contractor, RCTC, Department or any other third party.

15.2. Obligation to Maintain and Repair

15.2.1. Maintenance and Repair Liability

(a) Subject to DB Contractor's relief from maintenance responsibilities under Section 15.2.3, DB Contractor shall:

(i) Perform Maintenance Work and Extra Maintenance Work within the RCTC-Provided Property, in accordance with and during the time periods in TP Section 21.4;

(ii) Maintain and, as applicable, rebuild, repair, or replace Work (including Design Documents, Construction Documents, materials, equipment, supplies, and maintenance equipment purchased for permanent installation in, or for use during construction of, the Project, and regardless of whether RCTC has title thereto) that is injured or damaged from NTP Phase 1 until Final Acceptance for all other Work;

(iii) Maintain and protect existing landscaping (including existing trees, shrubs, lawns, and other plantings), replacement plantings, and irrigation systems within the Site in accordance with and during the time periods in TP Section 20.4; and

(iv) Subject to DB Contractor's entitlement to additional compensation or extension of time for Extra Maintenance Work, maintain and, as applicable, rebuild, repair, or replace all other property (including structures, Utilities, curbs, walks, drives, trees, shrubs, lawns, and landscaping) at or on the Site or affected by DB Contractor's activities, whether owned by DB Contractor, RCTC, Department, or any other third party from the Encroachment Permit Construction Commencement Date until Final Acceptance as provided in TP Section 21.4.5, Table 21-1.

(b) DB Contractor shall provide suitable drainage of the roadway and erect temporary structures where necessary to protect the Work, and equipment and materials used to perform the Work, from damage and loss. If any element of the Work is damaged, DB Contractor shall rebuild, repair, or replace the damaged element to the condition this Contract requires for initial construction of the element.

(c) DB Contractor shall provide guards, protection and covering as necessary to protect third-party owned real property (including RCTC-Provided Property, Available Property and Additional Property) and other property within, on, or adjacent to the Site, and affected in connection with the Work but excluding the TCS Infrastructure. If any such third-party owned real or other property is damaged (whether caused by a DB-Related Entity or arising

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out of the Work) DB Contractor shall immediately provide Notice to the affected third party and to RCTC and, subject to Section 15.2.1(d), rebuild, repair, or replace, as applicable, the damaged property to its condition before the damage.

(d) Where a Governmental Rule or preexisting agreement between the third-party property owner and either RCTC or DB Contractor requires a different standard for rebuilding or replacing damaged property, DB Contractor shall rebuild, repair, or replace the damaged property to such different standard. If, however, the third-party property owner elects to rebuild or repair the damaged property with its own forces, DB Contractor shall pay such party to perform that work.

(e) If DB Contractor fails to comply with the requirements of Section 15.2.1(c) through 15.2.1(d), RCTC may take action under Section 9.4 as if the work was a Nonconformance.

(f) If ordered by RCTC, DB Contractor shall properly store materials that have been partially paid for by RCTC. Storage by DB Contractor shall be on behalf of RCTC; RCTC shall at all times be entitled to the possession of the materials; and DB Contractor shall promptly return the materials to the Site when requested by RCTC. DB Contractor shall not dispose of any of the materials stored except with RCTC's prior written consent.

15.2.2. Use of Insurance Proceeds

(a) If insurance proceeds with respect to any loss or damage are paid to RCTC under any insurance policies required to be provided under this Contract, then RCTC shall arrange for such proceeds to be paid to DB Contractor as approved rebuild, repair or replacement work is performed by DB Contractor to the extent that RCTC has not previously paid for such rebuild, repair or replacement work.

(b) Release of proceeds to DB Contractor under Section 15.2.2(a) is not a condition precedent to DB Contractor performing such repair, rebuild or replacement work or an indication that such rebuild, repair or replacement work has been approved and accepted by RCTC, and DB Contractor shall remain obligated to pay deductibles and self-insured retentions as specified in Section 14.

15.2.3. Relief from Maintenance Liability

(a) All elements of the Work (except for Plant Establishment Work) and remaining portions of the RCTC-Provided Property shall be considered accepted for maintenance purposes, and relief from maintenance responsibility for DB Contractor shall occur, as of the Final Acceptance Date.

(b) Upon expiration of the Plant Establishment Period, DB Contractor shall be relieved of responsibility for Plant Establishment Work.

(c) Notwithstanding the foregoing, all elements of the Work and portions of the RCTC-Provided Property that will be owned by Persons other than RCTC or Department (such as Utility facilities or Local Agencies) will be considered accepted for maintenance purposes only as of the date of acceptance of maintenance responsibilities by such Persons.

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15.2.4. Extension of Maintenance and Repair Obligation

RCTC may require DB Contractor to continue to maintain, rebuild, repair or replace Work accepted by RCTC by way of a Change Order or Directive Letter under Section 21.4. Any RCTC-Directed Change extending DB Contractor's obligations to maintain, rebuild, repair and replace Work shall include a requirement to provide performance security separate from the Bonds described in Section 13.1 and extensions of certain insurance coverages described in Section 14 and Exhibit 12 (Insurance Requirements). Notwithstanding the RCTC-Directed Change, DB Contractor shall be entitled to release of each Phase 2 Performance Bond and Phase 2 Payment Bond in accordance with the terms of those instruments and Section 13.1, provided that (a) DB Contractor has otherwise satisfied all conditions to the release of the Phase 2 Payment Bond and Phase 2 Performance Bond but for the addition of the extended maintenance, rebuild, repair and replacement obligations directed by RCTC, and (b) DB Contractor has provided separate performance security for the extended maintenance, rebuild, repair and replacement obligations in form, amount and substance satisfactory to RCTC and such security will remain in effect after the release of the Phase 2 Payment Bond and Phase 2 Performance Bond.

15.3. Title

DB Contractor warrants that:

(a) DB Contractor owns, or will own, and has, or will have, good and marketable title to all materials, equipment, tools and supplies provided, or to be provided, by it and its Subcontractors that become part of the Project or are purchased for RCTC for the operation, maintenance, rebuild, repair or replacement thereof, free and clear of all Liens;

(b) Title to all such materials, equipment, tools and supplies delivered to the Site shall pass to RCTC, free and clear of all Liens, upon the sooner of (i) incorporation into the Project, (ii) payment by RCTC to DB Contractor of invoiced amounts pertaining to such materials, equipment, tools and supplies; and (iii) acceptance by RCTC; and

(c) Notwithstanding any such passage of title, DB Contractor shall retain sole care, custody and control of, and risk of loss with respect to, such materials, equipment, tools and supplies and shall exercise due care with respect thereto until Final Acceptance or until DB Contractor is removed from the Project.

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SECTION 16
WARRANTIES AND NONCONFORMANCES DURING THE WARRANTY PERIOD

16.1. DB Contractor Warranties

16.1.1. General Warranty

DB Contractor warrants that:

(a) All Design Work furnished under this Contract shall conform to Good Industry Practice and shall comply with the applicable requirements of this Contract;

(b) The Project and the Work shall be free of Nonconformances;

(c) Materials furnished by or on behalf of any DB-Related Entity under this Contract shall be of good quality and shall be new when installed;

(d) Equipment furnished by or on behalf of any DB-Related Entity shall be of modern design and in good working condition;

(e) The Design Work shall be free of Deviations, in accordance with Good Industry Practice unless approved by RCTC and shall meet all of the requirements and warranties of this Contract;

(f) The Construction Work shall be free of Deviations unless approved by RCTC and shall meet all of the requirements and warranties of this Contract; and

(g) The Construction Work shall conform to Good Industry Practice and be fit for use for the purposes and requirements set out in this Contract.

16.1.2. Warranty Period

(a) Subject to Sections 16.1.2(b) and 16.1.2(c), the original Warranty Period during which the Project shall meet the General Warranty is as follows:

(i) For each element of the Project, except elements that will be owned by Persons other than RCTC and/or Department (e.g., Utility Owners and Local Agencies), the Warranty Period commences upon Project Completion and ends two years after the Project Completion Date; and

(ii) For each element of the Project that will be owned by Persons other than RCTC and/or Department (e.g., Utility Owners and Local Agencies), the Warranty Period commences upon acceptance of the element by the Person that will own such element and ends two years after such acceptance, or, in the case of Relocations, for such longer term required by the applicable Utility Agreement(s).

(b) For each element of the Project subject to Warranty Work, the Warranty Period for that element shall extend beyond the original Warranty Period, if necessary, to provide at least a two-year Warranty Period after acceptance of the Warranty Work; except that no Warranty Period shall exceed three years after the Project Completion Date.

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(c) If this Contract is terminated for any reason prior to Substantial Completion, then a two-year Warranty Period shall apply to the elements of the Project completed or provided in accordance with the requirements of this Contract on or prior to such termination. For such elements, the Warranty Period shall commence upon the Termination Date and end two years after the Termination Date.

(d) At the completion of the Warranty Period, DB Contractor shall assign and transfer to RCTC all unexpired warranties on equipment, materials or otherwise relating to the Work.

16.1.3. Nonconformances during the Warranty Period; Warranty Work

(a) Subject to Section 16.1.3(b), if RCTC determines within the applicable Warranty Period that any of the Work does not meet the General Warranty, DB Contractor shall perform the Warranty Work necessary to remedy such Work as specified in Section 16.1.3(b), even if performance of such Warranty Work extends beyond the applicable Warranty Period.

(b) To the extent applicable, the provisions in Sections 9.4 through 9.4.2 regarding notice and remedy of Nonconformances prior to Project Completion, shall apply to Warranty Work, except that if DB Contractor fails to remedy Nonconformances in accordance with Section 9.4, RCTC may, without limiting its rights under Section 18.12.2, make a claim under any Bond, or draw on any certificate of deposit, letter of credit, or other security provided by DB Contractor in accordance with this Contract to satisfy such amounts.

(c) RCTC and Department, and DB Contractor shall conduct a walkthrough of the Site prior to expiration of the applicable Warranty Period and produce a punch list of Nonconformances that require Warranty Work.

16.2. Subcontractor Warranties

16.2.1. Warranty Requirements

(a) Without in any way derogating the General Warranty and DB Contractor's own representations and warranties and other obligations with respect to the Work, DB Contractor shall obtain from all Subcontractors for periods at least coterminous with the Warranty Period and cause to be extended to RCTC and Department, appropriate representations, warranties, guarantees and obligations with respect to design, materials, workmanship, equipment, tools and supplies provided by such Subcontractors to comply with this Section 16.

(b) Subject to Section 16.2.1(c), DB Contractor shall cause Subcontractor warranties to be extended and enforceable by:

(i) RCTC and Department and any other parties for whom Work is being performed or equipment, tools, supplies or software is being supplied by such Subcontractor; and

(ii) Local Agencies and Utility Owners, with respect to those portions of the Work owned or controlled by each such Person, respectively provided such enforcement shall not exceed RCTC and Department's applicable rights under this Section 16.2.1(b).

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(c) Section 16.2.1(b) shall not apply to standard, pre-specified manufacturer warranties of mass-marketed materials, products (including software products), equipment or supplies where the warranty cannot be extended to RCTC using commercially reasonable efforts. RCTC agrees to forebear from exercising remedies under any such warranty so long as DB Contractor is diligently pursuing remedies thereunder.

(d) All representations, warranties, guarantees and obligations of Subcontractors (i) shall be written so as to survive all RCTC and Department inspections, tests and approvals under this Contract, and (ii) shall run directly to and be enforceable by DB Contractor, Department and/or RCTC and their respective successors and assigns.

(e) DB Contractor assigns to RCTC and Department all of DB Contractor's rights and interest in all extended warranties DB Contractor receives from any of its Subcontractors for periods exceeding the applicable Warranty Period. To the extent that any Subcontractor warranty would be voided by reason of DB Contractor's negligence or failure to comply with this Contract in incorporating material or equipment into the Work, DB Contractor shall remedy such Nonconformance to preserve such Subcontractor warranty.

(f) Except with respect to extended warranties under Section 16.2.1(e) after expiration of the Warranty Period, if RCTC or Department provides Notice of a failure of any of the Work to satisfy any Subcontractor warranty, representation, guarantee, or obligation, DB Contractor shall enforce or perform any such representation, warranty, guaranty, or obligation for the duration of the applicable warranty (including correcting any Nonconformances).

16.3. No Limitation of Liability

(a) The General Warranty and Subcontractor warranties are in addition to all rights and remedies available under this Contract or Governmental Rule or in equity, and, subject to the limitation on punitive, indirect, incidental, or consequential damages in Section 26.2.1, shall not relieve DB Contractor of any liability or responsibility imposed by this Contract or Governmental Rule with respect to the Work, including liability for design defects, latent construction defects, strict liability, breach, negligence, willful misconduct or fraud.

(b) The fact that RCTC may not have discovered any Nonconformance prior to Final Acceptance shall not constitute an acceptance of such Nonconformances.

16.4. Damages for Breach of Warranty and Other Rights at Law / Equity

Subject to Section 26, RCTC and Department may pursue any remedies available at law or in equity against DB Contractor and the DB-Related Entities for (a) Nonconformances, including design defects and latent construction defects; and (b) breach of an express or implied warranty, Subcontractor warranty or the General Warranty, including the cost of performance of such obligations by others.

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SECTION 17
ACCEPTANCE

17.1. Coordination of Work with TSP

17.1.1. General Requirements for Work

(a) DB Contractor shall coordinate the performance of the Work with the TSP in accordance with TP Section 19, and shall allow TSP to install such facilities reasonably in advance of the Substantial Completion Deadline, as specified in this Section 17 and TP Section 19.

(b) DB Contractor shall be liable for Liquidated Damages if in connection with the performance of the Work, the TCS Infrastructure becomes Unavailable as set out in the Project Specific Information (Phase 2).

(c) If DB Contractor performs repairs to elements of the TCS Infrastructure, the repair Work shall be subject to inspection by RCTC and TSP, and acceptance by RCTC.

17.2. Notification of Substantial Completion

(a) DB Contractor shall provide RCTC with at least 45 days' prior Notice of the date DB Contractor determines it will achieve Substantial Completion. During this 45 day period, DB Contractor and RCTC shall meet, confer, and exchange information on a regular and cooperative basis with the goal being RCTC's orderly, timely inspection and review of the Project, Final Design Documents, and Construction Documents, and RCTC's issuance of a Certificate of Substantial Completion.

(b) During this 45 day period, RCTC shall conduct one or more inspections of the Project and its components, a review of the Final Design Documents and Construction Documents and such other investigation as may be necessary to evaluate whether Substantial Completion is achieved. To facilitate RCTC's inspection of the Project, DB Contractor shall provide RCTC marked up copies of the Final Design Documents and Construction Documents to reflect changes made to the Project during construction and reflect the Project's as-built condition (e.g., draft As-Built Documents).

(c) DB Contractor shall provide RCTC a second Notice when DB Contractor determines it has achieved Substantial Completion.

(d) RCTC will then conduct such inspections, surveys and/or testing as it deems desirable. If such inspections, surveys and/or tests disclose that any of the Work does not meet the requirements of this Contract, RCTC, after consultation with Department, will promptly advise DB Contractor as to any Nonconformances in the Work necessary to be corrected as a condition to Substantial Completion and as to any Nonconformances which may be corrected as Punch List items. Upon correction of the Nonconformances identified as a prerequisite to Substantial Completion, DB Contractor shall provide Notice to RCTC, and RCTC will conduct additional inspections, surveys and/or testing as it deems desirable. This procedure shall be repeated until RCTC finds that all prerequisites to Substantial Completion have been met.

(e) Within 14 days after expiration of the 45 day period and RCTC's receipt of the second Notice described in Section 17.2(c), RCTC shall either: (a) issue the Certificate of

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Substantial Completion or (b) provide Notice to DB Contractor setting forth, why the Project has not reached Substantial Completion. If RCTC and DB Contractor cannot agree as to the date of Substantial Completion, such Dispute shall be resolved in accordance with Section 28.

17.3. Punch List

The Administrative Project Plans shall establish procedures and schedules for preparing a Punch List and completing Punch List work for Substantial Completion. Such procedures and schedules shall conform to the following provisions:

(a) For Substantial Completion, the schedule for preparation of the Punch List either shall be consistent and coordinated with the inspections regarding Substantial Completion or shall follow such inspections.

(b) DB Contractor shall prepare and maintain the Punch List and shall deliver to RCTC not less than 14 days' prior Notice stating the date when DB Contractor will commence Punch List field inspections and Punch List preparation. RCTC and the Department will participate in the development of the Punch List. Each participant may add items to the Punch List, and none shall remove any item added by any other without the other's express permission. If DB Contractor objects to the addition of an item by RCTC or Department, the item shall be noted as included under protest, and if the Parties thereafter are unable to reconcile the protest, the Dispute shall be resolved according to the dispute resolution procedures in this Contract. DB Contractor shall deliver to RCTC a true and complete copy of the Punch List, including modifications, as soon as it is prepared.

(c) DB Contractor shall immediately commence work on the Punch List items and diligently prosecute such work to completion, consistent with this Contract, within the time period in the Administrative Project Plans and in any case by the Project Completion Deadline.

17.4. Project Completion

17.4.1. Project Completion

(a) DB Contractor shall provide Notice to RCTC when it considers it has achieved Project Completion. Such Notice shall be accompanied by a certification from DB Contractor's Construction Quality Validation Manager, in form and substance satisfactory to RCTC, certifying conformity of the construction with the Design Documents.

(b) RCTC will issue a Certificate of Project Completion when it finds that (i) all conditions for Project Completion have been satisfied, and (ii) all Nonconformances that are prerequisites to Project Completion have been corrected.

17.4.2. Recordation of Notice of Project Completion

DB Contractor is advised that recordation of a notice of completion meeting the requirements of Civil Code section 8182, within 15 days after completion of all construction Work, has the effect of reducing the period for filing of stop payment notices and claims against the Payment Bond, under Civil Code sections 9356 and 9560. DB Contractor shall prepare a draft notice of completion and deliver it to RCTC at least ten Business Days prior to the scheduled date for completion of construction so that RCTC can record such notice. The notice shall: (a) identify

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RCTC as the Project owner as defined in Civil Code section 8188, (b) state that RCTC has been granted certain rights with respect to the Project in accordance with the Department Cooperative Agreement, (c) provide the names and addresses of the record owners of the improvements constructed under this Contract (i.e., Department, Local Agencies and Utility Owners), and (d) otherwise meet the requirements of Civil Code sections 8182 and 9200 et seq.

17.5. Final Acceptance

17.5.1. Conditions to Final Acceptance

(a) Promptly after Project Completion has occurred, DB Contractor shall perform all Work, if any, that was deferred for purposes of Final Acceptance and shall satisfy its other obligations under this Contract (other than completion of the obligation for Plant Establishment Work), so as to achieve Final Acceptance. When all of the foregoing has occurred, DB Contractor shall provide an executed sworn Affidavit of Final Acceptance to RCTC including the following statement:

> To the best of DB Contractor's knowledge and belief, except for Plant Establishment Work not yet performed, all Work under this Contract has been completed in strict accordance with this Contract, no lawful debts for labor or materials are outstanding and no federal excise tax has been included in the Contract Price; all requests for funds for undisputed work under this Contract, including changes in the Work, and under all billings of whatsoever nature are accurate, complete and final and no additional compensation over and above the final payment will be requested or is due under this Contract or under any adjustment issued thereunder for said undisputed work; there are no outstanding claims, Liens or stop payment notices relating to the Project or the Work, including claims by Utility Owners and Local Agencies, there is no existing default of RCTC's obligations under any Utility Agreement that are DB Contractor's responsibility in accordance with this Contract, and no event has occurred which, with the passing of time or giving of notice or both, would lead to a claim relating to the Work or an event of default under any Utility Agreement; and upon receipt of final payment, DB Contractor and Subcontractors acknowledge that RCTC and any and all employees of RCTC and their authorized representatives will thereby be released, discharged and acquitted from any and all claims or liability for additional sums on account of undisputed work performed under this Contract.

(b) If DB Contractor is unable to provide the affidavit in the above form as it relates to outstanding Claims, Liens or stop payment notices relating to the Project or the Work, the affidavit shall certify that all such outstanding matters are in an attached list which shall describe the outstanding matters in such detail as may be requested by RCTC. The affidavit shall include a representation of DB Contractor that it is diligently and in good faith contesting all such matters by appropriate legal proceedings and shall provide a status report regarding the same including an estimate of the maximum payable with respect to each such matter. RCTC may condition its acceptance of such affidavit in such form by requiring that DB Contractor post security

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or take other actions which, in RCTC's good faith discretion, will adequately protect RCTC and the Project against such outstanding matters.

17.5.2. Inspection and Issuance of Certificate of Final Acceptance

(a) Upon receipt of Notice from DB Contractor that it has met all conditions to Final Acceptance, RCTC and Department will perform the final inspection with the final As-Built Documents in hand.

(b) Based on this final inspection RCTC will either issue a Certificate of Final Acceptance or provide Notice to the DB Contractor regarding any Work that remains to be performed. Final Acceptance is subject to concurrence by Department.

(c) If RCTC fails to issue a Certificate of Final Acceptance, DB Contractor shall promptly remedy the defective and/or uncompleted portions of the Work and shall give RCTC a revised Affidavit of Final Acceptance with a new date based on when the defective and/or uncompleted portions of the Work were corrected. The foregoing procedure shall apply successively thereafter until RCTC has given DB Contractor an executed Certificate of Final Acceptance.

17.5.3. No Relief from Liability

Final Acceptance will not prevent RCTC from correcting any measurement, estimate, or certificate made before or after completion of the applicable Work, nor shall it prevent RCTC from recovering from DB Contractor, any Guarantor, the Surety(ies), or other provider of performance security or any combination of the foregoing, overpayment sustained for failure of DB Contractor to fulfill the obligations under this Contract. A waiver on the part of RCTC of any breach of any part of DB Contractor is not a waiver of any other or subsequent breach. Final Acceptance shall not relieve DB Contractor from any of its continuing or surviving obligations under this Contract, including Warranty obligations.

17.6. Opening Sections of Project to Traffic; Plan for Opening to Traffic

(a) The Project Schedule shall set forth DB Contractor's plan for completing Segments of the Project and opening them to traffic. RCTC may request that DB Contractor expedite certain Segments of the Project, and DB Contractor shall accommodate such requests to the extent that it can do so in consideration of safety to the public and construction personnel and without significant disruption to its schedule or a significant increase in its costs.

(b) Notwithstanding Section 17.6(a), if RCTC orders DB Contractor to open portions of the Project to traffic which cannot be accommodated without significant disruption to DB Contractor's schedule or a significant increase in DB Contractor's costs, such direction shall be considered an RCTC-Directed Change provided that DB Contractor has provided RCTC Notice and otherwise followed the process for RCTC-Directed Changes in Section 21.

17.6.2. Direction to Open Following DB Contractor Failure to Perform

If DB Contractor is delinquent in completing outside tie-in work, drainage structures or other features of the Work, and is not compliant with the applicable traffic opening date(s) set forth in the Project Schedule, RCTC may order all or a portion of the Project opened to traffic notwithstanding such incomplete elements. DB Contractor shall then conduct the remainder of

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the construction operations, minimizing obstruction to traffic. Except as provided in Section 17.6, DB Contractor shall not receive any compensation, time or otherwise make any Claim due to the schedule impacts attributable to the opening of the Project to traffic.

17.6.3. No Waiver

Opening of portions or segments of the Project prior to Final Acceptance does not constitute acceptance of the Work, or constitute Substantial Completion, Project Completion, or Final Acceptance or waive any provisions of or any of RCTC's rights under this Contract.

17.7. Expiration of Plant Establishment Period

Expiration of the Plant Establishment Period shall be deemed to have occurred when DB Contractor has fully satisfied the obligation for the Plant Establishment Work in accordance with the requirements of TP Section 20.4.5.2 and is subject to concurrence by Department.

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SECTION 18
PAYMENT FOR SERVICES

18.1. Payments for Phase 1

RCTC will pay DB Contractor in monthly progressive payments for Work completed as part of Phase 1 as follows:

(a) The Cost of the Work (including amounts charged to the Cost of the Work Contingency), based on the value of the Phase 1 Work which has been carried out during that month, as shown in the Monthly Progress Report; plus

(b) The amount calculated in Section 18.1(a) multiplied by the applicable DB Contractor's Audited Overhead (G&A) Rate; plus

(c) A monthly portion of the DB Contractor's Profit (Phase 1), prorated based on the percentage of the total Cost of the Work for Category C Costs in Phase 1 incurred during that month; plus

(d) Premiums for Bonds and insurance associated with Phase 1 in accordance with Section 18.3; plus

(e) ODCs associated with Phase 1 in accordance with Section 18.4,

provided the sum of the amounts invoiced under this Section 18.1 does not exceed the NTE (Phase 1).

18.2. Payments for Phase 2

If RCTC issues NTP Phase 2, RCTC will pay DB Contractor for completed Phase 2 Work as follows:

(a) Monthly progress payments of the Cost of the Work (including amounts charged to the Cost of the Work Contingency), based on the value of the Phase 2 Work carried out during that month, as shown in the Monthly Progress Report; plus

(b) The monthly portion of the Fixed General Conditions Cost, prorated based on the percentage of the total Cost of the Work for Phase 2 incurred during that month, as described in Section 18.8; plus

(c) The sum of the amounts calculated in Section18.2(a) and 18.2(b) multiplied by the applicable DB Contractor's Audited Overhead (G&A) Rate; plus

(d) The monthly portion of the DB Contractor's Profit (Phase 2), prorated based on the percentage of the total Cost of the Work for Category C Costs in Phase 2 incurred during that month; plus

(e) Premiums for Bonds and insurance and ODCs associated with Phase 2 in accordance with Section 18.3; plus

(f) ODCs associated with Phase 2 in accordance with Section 18.4,

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provided the sum of the amounts invoiced under this Section 18.2 may not exceed the GMP (Phase 2) for Phase 2 Work or a Package.

18.3. Payment for Bonds and Insurance

18.3.1. RCTC shall reimburse DB Contractor for bond and insurance premiums actually paid, without DB Contractor Overhead (G&A) Rate, DB Contractor Profit or other markup, not to exceed the amounts stated in the Contract Particulars. Any additional bond and insurance premiums with respect to Work performed under a Change Order (whether it is a reduction or increase) will be paid on the basis of the amount actually paid, without DB Contractor Overhead (G&A) Rate, DB Contractor Profit or other markup and not to exceed the amount set out in the Contract Particulars.

18.3.2. DB Contractor shall invoice the amounts specified in Section 18.3.1 only in the following (or subsequent) invoices:

(a) The first invoice following NTP Phase 1, for the insurance premiums actually paid, without DB Contractor Overhead (G&A) Rate, DB Contractor Profit or other markups. DB Contractor Profit or other markup for Phase 1, not to exceed the amounts stated in the Contract Particulars; and

(b) The first invoice following NTP Phase 2, for the portion of the insurance premiums actually paid, without DB Contractor Profit or other markup for Phase 2, not to exceed the amounts stated in the Contract Particulars.

18.3.3. With each invoice for payment of bond or insurance premiums, DB Contractor shall submit to RCTC receipts or other documentation required by RCTC as to the amount paid.

18.3.4. DB Contractor shall not be entitled to be paid for any difference between the not-to-exceed amounts stated in the Contract Particulars and the amounts payable under Section 18.3.1.

18.4. Other Direct Costs

18.4.1. RCTC shall reimburse DB Contractor ODCs actually paid, without DB Contractor Overhead (G&A) Rate, DB Contractor Profit or other markups.

18.4.2. Any ODCs with respect to Work performed under a Change Order (whether it is a reduction or increase) will be paid on the basis of the amount actually paid, without DB Contractor Overhead (G&A) Rate, DB Contractor Profit or other markup and not to exceed the amount set out in the Contract Particulars.

18.4.3. With each invoice for payment of ODCs, DB Contractor shall submit to RCTC receipts or other documentation required by RCTC as to the amount paid.

18.4.4. DB Contractor shall not be entitled to be paid for any difference between the not-to-exceed amounts stated in the Contract Particulars and the amounts payable under Section 18.3.1.

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18.5. Allowance Items Allowance Values

18.5.1. The Parties shall:

(a) Collaborate in good faith to review the Allowance Items and Allowance Values based on design information then available to determine Allowance Values that constitute reasonable estimates for the associated Allowance Items; and

(b) Collaborate in good faith during design preparation to develop Construction Documents consistent with the Allowance Values.

18.5.2. For each Allowance Item, the RCTC Representative will give DB Contractor a Notice either deleting that Allowance Item from this Contract or requiring DB Contractor to proceed with the relevant Allowance Item (before DB Contractor may perform and receive compensation for the Allowance Item).

18.5.3. If any Allowance Item is deleted from this Contract:

(a) The applicable NTE (Phase 1) or the GMP (Phase 2) will be reduced by the Allowance Value; and

(b) RCTC may engage an Other RCTC Contractor to carry out the Allowance Item or perform that Allowance Item itself.

18.5.4. All other costs, including design fees and any general conditions or overhead including DB Contractor Audited Overhead (G&A) Rate, are deemed to be included in the applicable NTE (Phase 1) or GMP (Phase 2) or any Package as provided in the Contract Particulars and are not subject to adjustment, regardless of the actual costs of the Allowance Item.

18.5.5. Subject to Section 18.5.6, if an Allowance Item's actual cost differs from the stated Allowance Value, then the applicable NTE (Phase 1) shall be adjusted accordingly by Change Order; provided, however, that DB Contractor shall submit to RCTC Notice of the difference between the actual cost and the Allowance Value.

18.5.6. If an Allowance Item's actual cost is less than the stated Allowance Value, RCTC may (in its sole discretion) authorize DB Contractor by Notice to allocate any unused amount to another existing Allowance Item in the same Phase.

18.6. Lump Sum Amounts

18.6.1. RCTC and DB Contractor may negotiate a Lump Sum amount for specific scopes of the Work ("**Lump Sum Scope of Work**") for incorporation into the Project Specific Information (Phase 2) or documentation through a Change Order.

18.6.2. Any agreement regarding a Lump Sum Scope of Work shall include the following information:

(a) A description of the Lump Sum Scope of Work;

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(b) An updated Schedule of Values that incorporates the Lump Sum amount; and

(c) Any milestone dates or deadlines associated with the Lump Sum Scope of Work.

18.6.3. For each Lump Sum Scope of Work, DB Contractor shall be compensated pursuant to the Schedule of Values based on the percentage of the Lump Sum Scope of Work that has been completed.

18.6.4. DB Contractor shall not request reimbursement for costs subject to the Lump Sum amount, unless those costs are identified in an invoice as being subject to the Lump Sum amount.

18.6.5. The agreed Lump Sum amount for a Lump Sum Scope of Work may only be modified via a Change Order.

18.7. Contingencies in Subcontracted Work

18.7.1. DB Contractor acknowledges and agrees that each Subcontractor engaged to perform Work on a Lump Sum basis:

(a) Is deemed to have included in its Lump Sum all costs for all Work that may be required of such Subcontractor, except for any Change due to a Relief Event or Change Order directed by RCTC; and

(b) Will not be entitled to any increase in the Lump Sum or to make any other Claim against RCTC arising in connection with any Change in the scope of that Subcontractor's portion of the Work from that anticipated by the Subcontractor when it proposed its Lump Sum, except for any additional Work due to a Relief Event or Change Order directed by RCTC.

18.7.2. DB Contractor shall ensure that the foregoing terms are reflected in the terms of each relevant Approved Subcontract Agreement.

18.8. Calculation of Fixed General Conditions Cost

18.8.1. All Fixed General Conditions Costs shall be established in accordance with this Section 18.8 and Exhibit 11 (Cost of the Work).

18.8.2. After issuance of NTP Phase 2, and provided RCTC (in its sole discretion) accepts the Fixed General Conditions Costs proposed in the Phase 2 Proposal:

(a) DB Contractor shall no longer be reimbursed for any portion of the Cost of the Work included in the Fixed General Conditions Costs and Exhibit 11 (Cost of the Work) shall be amended to reflect such change as part of the Phase 2 Amendment;

(b) DB Contractor's sole compensation for the costs identified in Section 2.3 of Exhibit 11 (Cost of the Work) shall be through payment of the Fixed General Conditions Costs;

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(c) The Fixed General Conditions Costs shall not be modified for any reason, except where DB Contractor is entitled to compensation for a RCTC-Caused Delay or Change in Law that qualifies as a Compensable Event in accordance with Section 21.7; and

(d) Any modification to the Fixed General Conditions Costs permitted under Section 18.8.2(c) shall be calculated as provided in Section 21.6.2(a)(ii).

18.9. Cost of the Work Contingency

18.9.1. Contingencies are available during Phase 2 for DB Contractor's exclusive use for the unanticipated costs provided in this Section 18.9, which DB Contractor has incurred, and which are not the basis for a Change Order under this Contract.

18.9.2. Any GMP agreed by the Parties in accordance with this Contract shall include the Cost of the Work Contingency.

18.9.3. The "**Cost of the Work Contingency**" is reimbursed as Cost of the Work and shall include appropriate contingency for all risks allocated to DB Contractor under this Contract. The Cost of the Work Contingency is available to DB Contractor for any items that constitute Cost of the Work, including:

(a) Trade buy-out differentials;

(b) Escalation of materials, labor, or equipment;

(c) Overtime or acceleration;

(d) Costs incurred by DB Contractor in repairing or correcting Nonconformances (excluding any Warranty Work or corrective Work performed after Final Phase 2 Acceptance), provided that such Nonconformance was beyond DB Contractor's reasonable control or caused by the ordinary mistakes or inadvertence, and not the negligence of any DB Contractor-Related Entity or any DB Contractor Fault; and

(e) Subject to Section 18.9.3(d), Subcontractor or other tier defaults (including incorrect or incomplete Work), to the extent not compensated by any surety or bond and provided that Work was beyond DB Contractor's reasonable control or caused by the ordinary mistakes or inadvertence, and not the negligence of any DB Contractor-Related Entity or any DB Contractor Fault.

18.9.4. RCTC may, in its sole discretion, approve other costs that may be reimbursed under a Contingency.

18.9.5. DB Contractor shall be reimbursed for Cost of the Work Contingency in the same manner as the Cost of the Work, provided that:

(a) DB Contractor's compensation for the Cost of the Work Contingency shall not cumulatively exceed the applicable amount in the Contract Particulars without a written Change Order;

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(b) DB Contractor shall not be entitled to any increase in the DB Contractor Audited Overhead (G&A) Rate or DB Contractor Profit (Phase 2) for items reimbursed as part of the Cost of the Work Contingency; and

(c) DB Contractor shall not be entitled to use the Cost of the Work Contingency for payment of Liquidated Damages, Lane Closure Charges or any other damages under this Contract.

18.9.6. Before the final accounting, no Cost of the Work Contingency are available to RCTC for any reason, including changes in scope or any other item which would enable DB Contractor to increase a GMP under this Contract.

18.9.7. DB Contractor shall provide RCTC Notice of all anticipated charges against the Cost of the Work Contingency and shall provide RCTC, as part of the monthly report, an accounting of the Cost of the Work Contingency, including all reasonably foreseen uses or potential uses of the Cost of the Work Contingency in the upcoming three months.

18.9.8. DB Contractor agrees that:

(a) With respect to any expenditure from the Cost of the Work Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, DB Contractor will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company;

(b) If DB Contractor is subsequently reimbursed for any such expenditure from the Cost of the Work Contingency, then such amounts will be credited back to the applicable Cost of the Work Contingency;

(c) DB Contractor may only utilize the Cost of the Work Contingency to cover such costs if both (i) the Cost of the Work Contingency has not already been expended, and (ii) the cost is incurred before Final Acceptance; and

(d) DB Contractor may not use the Cost of the Work Contingency for items or costs that arise as a result of the negligence of any DB Contractor-Related Entity or any DB Contractor Fault or that are covered by the DB Contractor Overhead (G&A) Rate, DB Contractor's Profit or the Fixed General Conditions Cost.

18.10. Unit Prices

Unit prices shall be determined as set out in the Modified Standard Specifications.

18.11. Invoices

18.11.1. Draft Invoice and Progress Schedule Invoice Meeting

(a) On or before the 25th day of each month following the issuance of NTP Phase 1, DB Contractor shall deliver to RCTC a draft invoice for that month ("**Draft Invoice**"), or other RCTC-approved form, including:

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(i) With respect to Phase 1, separate amounts (if any) claimed for Phase 1 on account of:

(1) Cost of the Work (including amounts payable to the Cost of the Work Contingency) payable to:

a. Subcontractor(s); and

b. DB Contractor.

(2) DB Contractor Audited (Overhead (G&A) Rate (Phase 1) applied to the Cost of the Work for Phase 1;

(3) DB Contractor Profit (Phase 1);

(4) Premiums for Bonds and insurance if applicable under Section 18.3; and

(5) ODCs if applicable under Section 18.4;

(6) All other amounts then payable by RCTC to DB Contractor under this Contract.

(7) Premiums for Bonds and insurance, if applicable under Section 18.3 and

(ii) With respect to Phase 2, separate amounts (if any) claimed for Phase 2 on account of:

(1) Cost of the Work (including amounts payable to the Cost of the Work Contingency) payable to:

a. Subcontractor(s); and

b. DB Contractor.

(2) DB Contractor Audited (Overhead (G&A) Rate (Phase 2) applied to the Cost of the Work;

(3) DB Contractor Profit (Phase 2);

(4) Fixed General Conditions Cost;

(5) Lump Sum Scope of Work;

(6) Premiums for Bonds and insurance if applicable under Section 18.3;

(7) ODCs if applicable under Section 18.4; and

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(8) All other amounts then payable by RCTC to DB Contractor under this Contract.

(iii) The Monthly Progress Report described in TP Section 2.5.3;

(iv) An Invoice Certificate certified by DB Contractor, signed and sealed by the DB Contractor Representative, with no additions or deletions other than those approved by RCTC;

(v) In the case of amounts to be paid on a unit price basis, invoices, receipts or other evidence establishing the number of units delivered and any other items required by the Modified Standard Specifications;

(vi) In the case of amounts invoiced for Time and Materials Work or Cost of the Work, all supporting documentation described in Section 21.11;

(vii) The amounts paid to Subcontractors (including Suppliers) from the payments made by RCTC to DB Contractor with respect to the prior month's invoice;

(viii) Affidavits of payment and unconditional waivers of Liens and claims, in the applicable forms required under Civil Code sections 8132 and 8138, executed by DB Contractor and each Subcontractor with respect to all amounts paid in the prior month's invoice;

(ix) In the case of invoices that cover Utility Work, documentation as required by TP Section 7.2.7.2. Such invoices shall also separately identify the total amount due for (a) Utility Betterments, and (b) any other Work for which the Utility Owner has Cost Liability;

(x) Subcontractor payment releases in the form required in Civil Code sections 8132 through 8138;

(xi) Documentation showing that materials being invoiced meet or exceed the applicable requirements of the Quality Management Plan (e.g., sampling/testing frequency, Buy America Certification, etc.);

(xii) A current, up-to-date Project Schedule;

(xiii) A current, up-to-date Schedule of Values for any Lump Sum Scope of Work;

(xiv) Any other Submittals that this Contract requires to be included with invoice packages;

(xv) Any amounts otherwise payable in accordance with this Contract;

(xvi) All materials, reports, schedules, certifications and other submittals identified in TP Sections 2.5.3 and 4.3; and

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(xvii) Sufficient details, calculations, receipts, supporting documentation and other information on an Open Book Basis with respect to all amounts claimed by DB Contractor:

(1) To enable the RCTC Representative to fully and accurately determine (without needing to refer to any other documentation or information) the amounts then payable by RCTC to DB Contractor under this Contract; and

(2) Including any such documentation or information which the RCTC Representative may by written notice from time to time require DB Contractor to set out or attach, whether in relation to a specific invoice or all invoices generally.

(b) Each Progress Schedule Invoice Meeting shall be attended by DB Contractor and RCTC and/or its consultants and may also be attended by Department.

(c) At each Progress Schedule Invoice Meeting, DB Contractor's and the RCTC Representatives shall:

(i) Ascertain the progress of the Work;

(ii) Review the Draft Invoice reflecting the value of Work completed as of the date of the Progress Schedule Invoice Meeting based on:

(1) Quantities and unit prices for unit priced Work;

(2) Time and materials for Time and Materials Work or Cost of the Work; and

(3) For all other Work, based on the percentage completion of Project Schedule activities and the values distributed to such activities.

(iii) Sign the Draft Invoice, indicating the portions of it that have been approved and the proposed total payment amount, which shall be the approved value of the Work then completed, based on the factors in Section 18.11.1(c)(ii), less Retainage and progress payments previously made.

(d) If DB Contractor fails to submit the Monthly Progress Report by the time required under Section 18.11.1(a), RCTC may, in addition to any other withholdings, withhold up to 5% from each progress payment until RCTC receives the Monthly Progress Report.

18.11.2. Delivery of Invoice

(a) Within seven days after each Progress Schedule Invoice Meeting, DB Contractor shall submit to RCTC an electronic copy of an updated Invoice. Each Invoice shall be based upon the Draft Invoice signed under Section 18.11.1(c)(iii) and may not include any amounts not approved by RCTC in the Progress Schedule Invoice Meeting reviewing the Draft Invoice, except for modifications as appropriate to account for unit priced, and for Time and Materials Work completed during the remainder of the Month.

(b) DB Contractor acknowledges that RCTC will obtain funding for portions of the Work from various sources and agrees to segregate billings for all such Work in a format

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reasonably requested by RCTC and with detail and information as reasonably requested by RCTC.

(c) Within 14 days after RCTC's receipt of the Invoice under Section 18.11.2, RCTC:

(i) Will review the Invoice for consistency with the Draft Invoice signed under Section 18.11.1(c)(iii) and compliance with this Contract;

(ii) Shall provide Notice to DB Contractor of the amount approved for payment and specify the reason for disapproval of any remaining amounts in the Invoice; and

(iii) DB Contractor may include any disapproved amounts under Section 18.11.2(c)(iii) in the next month's Draft Invoice and Invoice (as applicable) after correction of the deficiencies noted by RCTC (all such disapproved amounts shall be deemed in dispute unless otherwise agreed).

18.11.3. Payment by RCTC

(a) Within 30 days after RCTC's receipt of a complete Invoice under Section 18.11.2 or Application for Final Payment in accordance with Section 18.13, RCTC shall approve or dispute all or a portion of such Invoice or Application for Final Payment. RCTC shall pay DB Contractor the undisputed amount of the Invoice or Application for Final Payment approved for payment less any applicable Retainage and less any amounts that RCTC is otherwise entitled to withhold or deduct under this Contract.

(b) For Work authorized by NTP Phase 1, RCTC has no obligation to pay DB Contractor any amount that would result in aggregate payments for Work authorized by NTP Phase 1 that exceed the NTE (Phase 1).

(c) For Work authorized by NTP Phase 2, RCTC has no obligation to pay DB Contractor any amount that:

(i) Results in payment for any activity in excess of the value of the activity times the completion percentage of such activity (for non-unit priced Work);

(ii) Was not approved by RCTC under Section 18.11.2(c); or

(iii) Results in aggregate payments under this Contract in excess of the overall completion percentage for the Project multiplied by the GMP (Phase 2) (for non-unit priced Work), plus amounts allowed by Change Orders.

18.12. Deductions, Exclusions and Limitations on Payment

18.12.1. Retainage

(a) RCTC shall withhold funds ("**Retainage**") from each payment to be made to DB Contractor under this Contract as follows:

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(i) during Phase 1 until DB Contractor achieves Phase 2 Approval or any earlier Early Termination Date, the Retainage shall be an amount equal to 5% of the payment amount for the Phase 1 Work; and

(ii) during Phase 2 until the Early Termination Date, the Retainage shall be an amount equal to 5% of the payment amount for the Phase 2 Work.

(b) Except as otherwise provided in Section 20.14.1(d), the earliest dates for release of Retainage are as follows:

(i) Retainage for Phase 1 Work, 30 days after achievement of Phase 2 Approval, or any earlier Early Termination Date; and;

(ii) Retainage for Phase 2 Work, as follows: (A) 50% of the Retainage 30 days after RCTC approves Project Completion; and (B) the remaining 50% of the Retainage 60 days after RCTC approves Final Acceptance.

(c) Except as otherwise provided in Section 18.12.1(d), no portion of the Retainage shall be released until the following conditions have been met:

(i) All Liquidated Damages and Lane Closure Charges have been paid to RCTC in accordance with this Contract;

(ii) DB Contractor has established to RCTC's satisfaction that Liquidated Damages and Lane Closure Charges are not anticipated to be owing to RCTC;

(iii) DB Contractor has provided Notice requesting release or Retainage;

(iv) No Event of Default has occurred or remains uncured, and no event has occurred that, with the passage of time or the giving of notice, would constitute an Event of Default; and

(v) Release of the applicable Retainage has been approved in writing by each Surety.

(d) RCTC shall release Retainage withheld for Work completed by any Subcontractor, once per fiscal quarter upon receipt of a quarterly application from DB Contractor (i) stating the Subcontractor has satisfactorily completed all Work required to be performed under its Subcontract, (ii) stating the amount withheld by DB Contractor under the Subcontract, and (iii) providing all backup information and stop payment notice and Lien releases as may be required by RCTC.

(e) Within seven days after receipt of payment of Retainage from RCTC to DB Contractor for completed subcontracted Work, DB Contractor shall pay to the applicable Subcontractor (i.e., the Subcontractor that completed the subcontracted Work) all moneys withheld as retention from the Subcontractor, even if Work to be performed by DB Contractor or other Subcontractors is not completed and has not been accepted. DB Contractor must show good cause and obtain RCTC's prior written consent for any delay or postponement in payment of retainage over 30 days.

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(f) The amounts to be released under Section 18.12.1(b) shall be reduced by 150% of the sum of (i) any amounts which RCTC is required to retain under Public Contract Code section 7107 or 9203, (ii) amounts applied to the payment of Losses incurred by RCTC for which DB Contractor is responsible, (iii) amounts that RCTC deems advisable, in its good faith discretion, to retain to cover any existing or threatened claims, Liens and stop payment notices from Subcontractors, Suppliers, laborers, Utility Owners, or other third parties relating to the Project, (iv) the estimated cost, as determined by RCTC, in its good faith discretion, of remedying any Nonconformances or otherwise remedying any breach of contract or Event of Default by DB Contractor, (v) amounts RCTC is required to retain under applicable federal law, including 26 U.S.C. § 3402, and (vi) any Liquidated Damages or Lane Closure Charges.

(g) Final payment of Retainage not applied as a result of Section 18.12.1(f) shall be made upon DB Contractor's showing, to RCTC's satisfaction, that all such matters have been resolved, and DB Contractor shall deliver to RCTC a certificate representing that there are no outstanding Claims of DB Contractor or any Claims, Liens or stop payment notices of any Subcontractor, Supplier, laborer, Utility Owner or other third party with respect to the Work.

(h) RCTC shall release payment for Plant Establishment Work in accordance with Section 18.12.6.

(i) DB Contractor may substitute securities or a letter of credit for the Retainage in accordance with the procedures contained in Public Contract Code section 22300. No such substitution shall be accepted until: (i) RCTC approves such securities or letter of credit as qualifying substitutes; (ii) the value of such securities has been established to RCTC's satisfaction; (iii) the Parties have entered into an escrow agreement (if the securities are to be held in escrow) in form substantially similar to that contained in Public Contract Code section 22300; (iv) and all documentation necessary for assignment of the securities to RCTC or to the escrow agent, as appropriate, has been delivered in form and substance satisfactory to RCTC. If DB Contractor has substituted securities for any of the Retainage, then RCTC may request that such securities be revalued from time to time, but not more often than monthly. Such revaluation would be made by the Person designated by RCTC and approved by DB Contractor. If such revaluation results in a determination that such securities have a market value less than the amount of Retainage for which they were substituted, then, notwithstanding anything to the contrary contained in this Contract, the amount of the Retainage required under this Contract shall be increased by such difference in market value. Such increased Retainage shall be withheld from the next progress payment due to DB Contractor under this Contract.

18.12.2. Withholding of Payment

Notwithstanding any other provision of this Contract and in addition to the deductions provided for under Section 18.12.1, RCTC may deduct from any payment owing under this Contract:

(a) Any debt, charge, payment, reimbursement or other moneys due from DB Contractor to RCTC, whether under this Contract, under applicable Governmental Rules or in equity, including Liquidated Damages and Lane Closure Charges that have accrued as of the date of the Invoice or Application for Final Payment, or that are anticipated to accrue based on the Completion Deadlines shown in the Project Schedule;

(b) Any Claim that RCTC or others as specified below may have against DB Contractor including;

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(i) Failure of DB Contractor to make payments of undisputed amounts to a Subcontractor when such payments are due under the Subcontract, which failure is not cured by DB Contractor; and

(ii) Third Party Claims for which DB Contractor is responsible under this Contract.

(c) If a notice to stop payment is filed with RCTC, due to DB Contractor's failure to pay for labor or materials used in the Work, money due for such labor or materials, plus the 25% prescribed by law, will be withheld from payment to DB Contractor. In accordance with Civil Code section 9364, RCTC may accept a bond by a corporate surety in lieu of withholding payment;

(d) Any sums expended by or owing to RCTC as a result of DB Contractor's failure to maintain the As-Built Documents;

(e) Any sums expended by RCTC in performing any of DB Contractor's obligations under this Contract that DB Contractor has failed to perform or that RCTC may elect to undertake itself plus an administrative charge equal to 10% of such costs;

(f) Any sums for a Change Order that decreases, omits, deletes or removes Work;

(g) Any sums for Nonconformances that are not timely remedied by DB Contractor in accordance with the terms of this Contract;

(h) Any sums arising out of DB Contractor's failure to submit a Phase 1 Baseline Schedule or obtain RCTC's approval of the Phase 1 Baseline Schedule, as set forth in Section 8.2.1; and

(i) All legally required sums for, but not limited to stop notices, labor and tax Liens, including any fines or penalties RCTC or Department incurs because of the failure or alleged failure by any DB-Related Entity to comply with the Governmental Approvals or Governmental Rules (including any Environmental Laws).

The failure by RCTC to deduct any of these sums from any payment shall not constitute a waiver of RCTC's rights (i) to such sums or (ii) with respect to any breach or default related thereto. When the reasons for deducting, offsetting or withholding payment are removed, RCTC shall pay DB Contractor for amounts previously deducted as part of the next monthly payment.

18.12.3. Interest

(a) Any amounts that DB Contractor owes to RCTC under this Contract shall earn interest from the date such amounts are due to RCTC at the lesser rate of (i) 10% per annum, and (ii) the maximum rate allowable under applicable Governmental Rules.

(b) Except with respect to Claims under Section 28, if payment of any undisputed amount from RCTC to DB Contractor is made after the 30th day following the proper submission of an undisputed and properly complete Invoice, then the payment shall include

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interest on the amount owing, at the rate in Code of Civil Procedure section 685.010(a), from the 30th day after the payment was due until the date of payment.

(c) Except with respect to any monies held in an escrow account where Retainage is held, interest shall not accrue on Retainage or monies withheld in accordance with stop notices or the final payment.

18.12.4. Unincorporated Materials

RCTC will not pay for materials not yet incorporated in the Work unless the following conditions are met:

(a) Material shall be delivered to the Site or delivered to DB Contractor and promptly stored by DB Contractor in bonded storage at a location approved by RCTC, in its reasonable discretion. DB Contractor shall submit certified bills for such materials with the Invoice, as a condition to payment for such materials. RCTC shall allow and pay only such portion of the amount represented by these bills as in its opinion is consistent with the reasonable cost of such materials. If such materials are stored at any site not approved by RCTC, DB Contractor shall accept responsibility for and pay all personal and property taxes that may be levied against RCTC by any state or subdivision thereof on account of such storage of such material. RCTC will permit DB Contractor, in good faith, to contest the validity of any such tax levied against RCTC in appropriate proceedings and in the event of any judgment or decree of a court, DB Contractor agrees to pay same together with any penalty or other costs, relating thereto.

(b) DB Contractor shall promptly execute, acknowledge and deliver to RCTC proper bills of sale or other instruments in writing in a form acceptable to RCTC conveying and assuring to RCTC title to such material included in any Invoice, free and clear of all Liens, as and when title passes under Section 15.3 for any materials delivered to Site. DB Contractor shall conspicuously mark such material as the property of RCTC, shall not permit such materials to become commingled with non-RCTC-owned property and shall take such other steps, if any, as RCTC may require or regard as necessary to vest title to such material in RCTC free and clear of Liens.

(c) Material included in an Invoice, but which is subsequently lost, damaged or unsatisfactory shall be deducted from succeeding Invoices.

(d) Payment for material provided and delivered as indicated in this Section 18.12.4 will not exceed the amount paid by DB Contractor as evidenced by a bill of sale supported by the paid Invoice. RCTC shall withhold Retainage from such payment as specified in Section 18.12.1.

18.12.5. Payment for As-Built Documents

DB Contractor shall not be entitled to payment for the last 0.50% of the GMP (Phase 2) until As-Built Documents have been delivered to RCTC and approved by RCTC.

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18.12.6. Payment for Plant Establishment Work

RCTC shall retain from payment to DB Contractor an amount equal to $200,000 until the end of the Plant Establishment Period and RCTC's receipt of a certification from DB Contractor representing that there are no outstanding Claims of DB Contractor or any claims, Liens or stop payment notices of any Subcontractor, Supplier, laborer or third party with respect to the Plant Establishment Work.

18.12.7. Payment for Equipment

RCTC shall not pay for direct costs of equipment. Costs of equipment, whether new, used, or rented, shall be allocated to and paid for as part of the activities with which the equipment is associated.

18.12.8. DB Contractor Payment for Department Furnished Materials

DB Contractor shall pay RCTC for all Department furnished materials in accordance with Section 6-1.02 of the Modified Standard Specifications.

18.13. Final Payment for Phase 2 Work

18.13.1. Final Payment for all Phase 2 Work, other than Plant Establishment Work, shall not become due to DB Contractor under this Contract until (i) all conditions to Final Acceptance under this Contract have been satisfied and (ii) DB Contractor submits to RCTC the Application for Final Payment showing the proposed total amount due to DB Contractor, including Retainage.

18.13.2. The Application for Final Payment shall include:

(a) All requirements for Invoices under Section 18.11;

(b) A list of all outstanding or pending DB Contractor Change Requests and all existing or threatened claims, Liens and stop payment notices by Subcontractors, Utility Owners, or other third parties relating to the Project, including any notices filed or to be filed with the Affidavit of Final Acceptance, stating the amount at issue associated with each such notice;

(c) Complete and legally effective releases or waivers of Liens and stop payment notices, in the applicable forms required under Civil Code sections 8132 through 8138, from all Persons legally eligible to file Liens and stop payment notices in connection with the Work; except that, as applicable, DB Contractor may provide release bonds, or other security acceptable to RCTC, in amounts equal to 125% of amounts claimed in any stop payment notices filed in connection with the Project;

(d) Consent of any Guarantors and Surety(ies) to the Final Payment;

(e) An executed release from DB Contractor for any Claims that arise in connection with the Work that survives the Final Payment, including an express and unconditional waiver and release sufficient to waive any rights and benefits DB Contractor may have in accordance with section 1542 of the Civil Code, which shall release and waive any Claims against the Indemnified Parties, excluding only those matters identified in any Change Notices listed as outstanding in the Application for Final Payment and any Claims for unpaid amounts owing under

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this Contract relating to Plant Establishment Work and Warranty Work. The release shall be accompanied by an affidavit from DB Contractor certifying that:

(i) All Work has been performed in accordance with this Contract;

(ii) It has resolved any Claims made by Subcontractors, Utility Owners and others against DB Contractor or the Project;

(iii) It has no reason to believe that any Person has a valid Claim against DB Contractor or the Project which DB Contractor has not provided Notice to RCTC as of the date of the certificate; and

(iv) All guarantees, the General Warranty and Subcontractor warranties are in full force and effect.

(f) Bills of sale or other instruments of title transfer or assignment with respect to Intellectual Property (excluding Proprietary Intellectual Property), as requested by RCTC, free and clear of liens, claims and encumbrances;

(g) Bills of sale or other instruments of title transfer or assignment with respect to the items specified in clause (d) of the definition of Final Acceptance.

(h) Affidavits of prevailing wages paid, signed and submitted by DB Contractor and each Subcontractor required to submit such an affidavit under Labor Code section 1775(b)(4) in the form required under Governmental Rules or Project Standards;

(i) Assignment to RCTC of all right, title and interest in and to all claims and causes of action it might have under section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, equipment, hardware, software or materials in accordance with this Contract or any Subcontract; and

(j) Such other supporting documentation to enable RCTC to fully an accurately determine (without needing to refer to any other documentation or information) the amounts payable by RCTC to DB Contractor, including any information reasonably requested by RCTC.

18.13.3. DB Contractor Change Requests filed concurrently with the Application for Final Payment must otherwise be timely and meet all requirements under Section 21 and are subject to Section 19.

18.13.4. If the Application for Final Payment lists any existing or threatened Claims, Liens and stop payment notices of Subcontractors, Suppliers, laborers, Utility Owners or other third parties against DB Contractor, RCTC or the Project, or if any is thereafter filed, RCTC may withhold from payment such amount as RCTC deems advisable to cover any amounts owing or which may become owing to RCTC by DB Contractor, including costs to complete or remediate uncompleted Work or Nonconformances, and 125% of the amount of any existing or threatened Claims, Liens and stop payment notices of Subcontractors, Suppliers, laborers, Utility Owners, and other third parties against DB Contractor, RCTC or the Project.

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18.13.5. RCTC will review DB Contractor's proposed Application for Final Payment as if it were an Invoice under Section 18.11.2 except that any changes or corrections, including deductions described in Section 18.12.2 or 18.13.4, will be forwarded to DB Contractor for correction within 20 Business Days. Any changes or corrections made in accordance with this Section 18.13.5 will be reflected in an updated monthly payment schedule showing the net amount owed to DB Contractor by month.

18.13.6. DB Contractor's acceptance of Final Payment for the Work shall constitute a waiver of all Claims by DB Contractor, known or unknown, suspected or unsuspected, except those previously made in writing and identified as unsettled at the time of submission of the Application for Final Payment for the Work and Claims which DB Contractor may be entitled to assert against RCTC with respect to indemnities under this Contract or with respect to RCTC's breach of obligations under this Contract to be performed after Final Payment.

18.14. Payment for Subsequent Claims

Except as set out in Section 18.13.6, if, after Final Payment is made, it is determined through the informal or formal Claims or dispute resolution processes in this Contract, that either Party is entitled to payment from the other Party with respect to Claims that (a) were identified as being unsettled in the release and waivers of Claims required in Section 18.13.2(b), (b) DB Contractor may be entitled to assert against RCTC with respect to indemnities under this Contract or with respect to RCTC's breach of obligations under this Contract that may occur after the Final Payment, or (c) RCTC may be entitled to assert against DB Contractor with respect to DB Contractor's continuing obligations under this Contract, such Party shall pay the amounts determined to be owing to the other Party within ten Business Days after such determination.

18.15. Payments Not Acceptance of Work

18.15.1. Any payment of moneys under Section 18.11.3 is not (a) evidence of the value of Work, (b) evidence that the Work has been satisfactorily carried out in accordance with this Contract, (c) an admission of liability by RCTC, (d) an approval by RCTC of DB Contractor's performance or compliance with this Contract, (e) an acknowledgement that RCTC has inspected or accepted the Work or (f) a waiver of any Claim or right that RCTC may then or thereafter have, including among others, warranty and indemnity rights.

18.15.2. All payments made by RCTC shall be subject to correction or adjustment in subsequent progress reviews and payments.

18.16. Payment to Subcontractors

18.16.1. Upon receipt of payment from RCTC, DB Contractor shall pay each Subcontractor within seven days of receipt of payment from RCTC, out of the amount paid to DB Contractor on account of such Subcontractor's portion of the Work, the amount to which such Subcontractor is entitled, less any retainage provided for in the Subcontract.

18.16.2. Any breach of the prompt payment requirements in Section 18.16.1 shall subject DB Contractor to the penalties, sanctions and other remedies specified

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in Business and Professions Code section 7108.5, and may result in the application of appropriate administrative sanctions, including RCTC's right to withhold two percent of the Invoice amount due to DB Contractor as a penalty for every month that full payment is not made to a Subcontractor. This requirement shall not be construed to limit or impair any contractual, administrative, judicial or equitable remedies otherwise available to DB Contractor or any Subcontractor against each other in the event of a dispute involving late payment or nonpayment by DB Contractor or deficient Subcontract performance or noncompliance by a Subcontractor.

18.16.3. RCTC has no obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by applicable Governmental Rules. Within five Business Days after submission of any Notice of Claim (including any Relief Event Notice) or other similar notification under this Contract, in each case, that is based in whole or in part on a request by a Subcontractor for a price increase or time extension under its Subcontract, DB Contractor shall review and analyze the claim, determine in good faith and certify that it is justified under the Subcontract and that DB Contractor is justified in making its request for an increase in compensation and/or time extension. Each such Notice of Claim (or similar notification) involving Subcontractor work shall include a summary of DB Contractor's analysis of the claim. Any Notice of Claim (or similar notification) under this Section 18.16.3 shall be considered incomplete if it involves Subcontractor work and is not accompanied by such analysis and certification.

18.17. Payment of "Claims" under Public Contract Code section 9204

The Parties acknowledge that Public Contract Code section 9204 requires RCTC to make payments to DB Contractor with respect to any portion of a "claim" as that term is defined in Public Contract Code section 9204, which RCTC identifies as undisputed. If any such payments are made, future Invoices shall account for such payments in a manner acceptable to RCTC. A copy of Public Contract Code section 9204 is attached as Exhibit 13-C.

18.18. Disputes

18.18.1. Failure by RCTC to pay any amount in Dispute shall not alleviate, diminish or modify in any respect DB Contractor's obligation to perform the Work in accordance with this Contract, and DB Contractor shall not cease or slow down its performance under this Contract on account of any such amount in Dispute. Any Dispute regarding payment shall be resolved in accordance with Section 28. DB Contractor shall proceed as directed by RCTC pending resolution of the Dispute. If DB Contractor disagrees with directions provided by RCTC and such directions or determination are subject to the dispute resolution process under this Contract, it may provide written notice to RCTC that it is performing such Work under protest, that it has not waived or renounced any rights and retains the right to submit a Claim in accordance with Section 28. Upon resolution of any such Dispute, each Party shall promptly pay to the other any amount owing.

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18.18.2. Pending resolution of a Dispute, DB Contractor shall continue performance of all obligations under this Contract, without diminution of effort, and RCTC shall continue to make all undisputed payments in accordance with this Contract.

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SECTION 19
GENERAL PROVISIONS APPLYING TO RELIEF EVENTS

19.1. Sole Entitlement

To the fullest extent permitted by Governmental Rules, DB Contractor acknowledges and agrees that:

(a) The amounts payable under Section 18 constitute full compensation for performance of the Work; and

(b) DB Contractor's sole right to claim an extension of time, additional compensation, relief from performance of its obligations, or other relief under this Contract or to otherwise make any Claim for any Losses in connection with any Relief Event is as set out in Section 19, Section 20, and Section 21.

19.2. Mitigation

DB Contractor shall take all proper and reasonable steps necessary and within its control both to preclude, and to minimize the occurrence of and consequences of a Relief Event, including by resequencing, reallocating, or redeploying personnel, equipment and resources to other Work, as appropriate.

19.3. Deductions for Relief Events

19.3.1. The compensation payable for relief due to DB Contractor with respect to any Relief Event will be reduced:

(a) By any amount which a DB-Related Entity recovers under any insurance policy in connection with the Relief Event, or would have recovered if it had complied with the requirements of this Contract, and which such amount will not include any excess or deductibles or any amount over the maximum amount insured under any such insurance policy; and

(b) By the amount of any costs avoided or otherwise reduced as a result of the Relief Event.

19.3.2. No compensation will be allowed for any Relief Event to the extent that, the Relief Event arises out of, relates to or was caused or contributed to by:

(a) Any act or omission of a DB-Related Entity or DB Contractor Fault; or

(b) DB's failure to take all proper and commercially reasonable steps necessary and within its control both to preclude and to minimize the occurrence and consequences of the Relief Event, including by resequencing, reallocating, or redeploying personnel, equipment and resources to other Work, as appropriate.

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SECTION 20
RELIEF EVENTS

20.1. General Notice

Any notice or information DB Contractor is required to provide to RCTC with respect to a Relief Event, including a DB Contractor Change Request, is a "**Relief Event Notice**."

20.2. Delay in Notification of Relief Event

20.2.1. If DB Contractor submits to RCTC any Relief Event Notice after the time frame expressly stated under this Contract for the applicable Relief Event, then DB Contractor shall be deemed to have expressly waived:

(a) The right to collect any Costs, in connection with the Relief Event, that DB Contractor incurs prior to the delivery date of the Relief Event Notice; and

(b) The right to an extension of any Completion Deadline for a Critical Path delay in connection with the Relief Event, which accrued prior to the delivery date of the Relief Event Notice.

20.2.2. If DB Contractor fails to provide a Relief Event Notice within the earlier of: (a) the timeframe expressly stated within this Contract with respect to the specific Relief Event; or (b) 10 Business Days after the after DB Contractor has Actual Knowledge of or should have known of the Relief Event through performing its obligations in accordance with Good Industry Practice, DB Contractor shall not be entitled to any relief, and waives all relief, in connection with that Relief Event, unless DB Contractor proves to RCTC, based on clear and convincing evidence, that:

(a) RCTC was not materially prejudiced by the lack of the Relief Event Notice; or

(b) The RCTC Representative had Actual Knowledge of the Relief Event and its impact prior to the due date for the Relief Event Notice.

20.2.3. DB Contractor may be entitled to relief under this Contract for such Relief Event, subject to application of Section 20.2.1 and the other applicable provisions of this Contract.

20.2.4. The following matters (among others) shall be considered in determining whether RCTC has been prejudiced by DB Contractor's failure to provide a timely Relief Event Notice:

(a) The effect of the delay on alternatives available to RCTC (that is, a comparison of alternatives available at the time Relief Event Notice was actually given and alternatives that would have been available if Relief Event Notice were given within the applicable time frame in Section 20.2.2); and

(b) The impact of the delay on RCTC's ability to obtain and review objective information contemporaneously with the applicable Relief Event.

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20.2.5. Notwithstanding Section 20.2.2, DB Contractor's failure to provide a Relief Event Notice within 20 Business Days after the earlier of DB Contractor having Actual Knowledge of or should have known of the Relief Event through performing its obligations in accordance with Good Industry Practice shall preclude DB Contractor from any relief due to the occurrence of the Relief Event, including the right to receive payment for any Costs, receive schedule relief, receive a Change Order or make any Claim for any Losses or Costs in connection with the Relief Event.

20.2.6. DB CONTRACTOR HEREBY EXPRESSLY WAIVES ALL RIGHTS TO ASSERT ANY AND ALL CLAIMS BASED ON ANY CHANGE IN THE WORK, DELAY, SUSPENSION OR ACCELERATION (INCLUDING ANY CONSTRUCTIVE CHANGE IN THE WORK, DELAY, SUSPENSION OR ACCELERATION) FOR WHICH DB CONTRACTOR FAILED TO PROVIDE PROPER AND TIMELY NOTICE OR FAILED TO PROVIDE A TIMELY DB CONTRACTOR CHANGE REQUEST OR RELIEF EVENT NOTICE, AND AGREES THAT IT SHALL BE ENTITLED TO NO COMPENSATION OR DAMAGES OR TIME EXTENSION WHATSOEVER IN CONNECTION WITH THE WORK EXCEPT TO THE EXTENT THAT THE CONTRACT EXPRESSLY SPECIFIES THAT DB CONTRACTOR IS ENTITLED TO A CHANGE ORDER OR OTHER COMPENSATION, DAMAGES OR TIME EXTENSION.

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SECTION 21
CHANGES IN THE WORK

21.1. Change Order and Directive Letters

Subject to Section 19 and Section 20, this Section 21 sets forth the requirements for obtaining Change Orders and Directive Letters.

To the extent that any other provision of this Contract expressly provides for a Change Order or Directive Letter to be issued, such provision is incorporated into and subject to Section 19, Section 20, and this Section 21.1.

21.2. Right of RCTC to Issue Change Orders and Directive Letters

21.2.1. RCTC may, at any time and for any reason, without notice to any Surety or Guarantor, authorize and/or require a change within the general scope of this Contract in accordance with a Change Order or Directive Letter.

21.2.2. DB Contractor shall have no obligation to perform any material change outside the general scope of this Contract, except on terms mutually acceptable to RCTC and DB Contractor.

21.2.3. For the purpose of Sections 21.2.1 and 21.2.2:

(a) Any direction to perform Work shall not be considered a Change and shall be considered within the general scope of this Contract if the direction is related in whole or in part, or directly or indirectly, to the Project; or

(b) Any direction to delete or modify the Work shall be considered within the general scope unless, as a result the change, this Contract would no longer be considered a contract to design and build the Project of the nature described in the RFQ.

21.3. Issuance of Directive Letter

21.3.1. RCTC may, at any time and for any reason, issue a Directive Letter to DB Contractor with respect to a change or in the event of any Dispute regarding the scope of Work.

21.3.2. Any Directive Letter shall state that it is issued under this Section 21.3 and provide a written detailed description of the change, and the proposed basis for compensation or reduction in compensation, if any.

21.3.3. Directive Letters shall be effective upon issuance by RCTC. If RCTC issues a Directive Letter, DB Contractor shall proceed immediately to implement the change in accordance with the Directive Letter, pending execution of a formal Change Order in the event of a Change. If, however, the Directive Letter states that the directed Work is within DB Contractor's original scope of Work and does not constitute a Change, DB Contractor shall proceed with the Work as directed, but may give RCTC Notice, in accordance with process set forth in Section 21.5.1, that it considers the directed Work to constitute a Change and request that RCTC issue a Change Order under Section 21.4.

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21.3.4. In RCTC's sole discretion, a Directive Letter may also be considered a Notice by RCTC in accordance with Section 21.4.2(b)(ii), requiring DB Contractor to provide a Change Response to RCTC, provided the DB Contractor is provided Notice in the Directive Letter to such effect by RCTC.

21.4. RCTC-Directed Change Orders

21.4.1. Change Notice

If RCTC desires to evaluate whether to initiate an RCTC-Directed Change, then RCTC may issue a Change Notice setting out the details of the proposed Change.

21.4.2. Change Notice Consultations

(a) Within five Business Days after delivery of RCTC's Change Notice, or such shorter period as the Parties mutually agree depending upon the complexity of the proposed Change, the Parties shall consult to define the proposed scope of the Change. Within five Business Days after the initial consultation, or such longer period as the Parties mutually agree, the Parties shall consult concerning the estimated cost and time impacts, if any, to complete the Change Work. DB Contractor shall provide data regarding such matters as requested by RCTC.

(b) Within seven Business Days after the second consultation and provision of any data regarding matters RCTC requests, RCTC shall provide Notice to DB Contractor whether RCTC:

(i) Wishes to issue a Change Order or Directive Letter;

(ii) Wishes to request DB Contractor to provide a full Change Response;

(iii) Wishes to request DB Contractor to prepare a modified work plan for the Change and a full Change Response based on the modified work plan; or

(iv) No longer wishes to issue a Change Order.

21.4.3. Change Response

(a) If so requested by RCTC, within ten Business Days after receiving Notice under Section 21.4.2(b)(ii), or such longer period as the Parties mutually agree, DB Contractor shall prepare and deliver to RCTC, for RCTC's review and approval, a Change Response that includes:

(i) A detailed written evaluation of and justification for the proposed Change, including all activities associated with the Change and the specific provision(s) of this Contract which permit a Change Order, including data and documents supporting such evaluation;

(ii) A statement and detailed breakdown of the estimated increase or decrease (as applicable) to the Contract Price and adjustments to any applicable budget within or component of the Contract Price required as a result of the Change including all data and reports required under Section 21.16 and Section 21.18) to support such estimate;

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(iii) A breakdown for labor, materials, equipment and permitted DB Contractor Overhead (G&A) Rate and DB Contractor Profit;

(iv) If the Work will be performed by Subcontractors and if the work is sufficiently defined to obtain Subcontractor quotes, DB Contractor shall obtain and provide quotes (with breakdowns showing cost of labor, materials, equipment, and markups for overhead and profit) on the Subcontractor's stationery and shall include such quotes as back-up for DB Contractor's estimate. No markup shall be allowed in excess of the amounts allowed under Section 21.11;

(v) If DB Contractor believes the Change affects a Critical Path, it shall provide an impacted delay analysis indicating all activities represented or affected by the Change, with activity numbers, durations, predecessor, and successor activities, resources and cost, and with a narrative report, in form satisfactory to RCTC, which compares the proposed new schedule to the Project Schedule or details of any Acceleration Costs. RCTC may at any time require DB Contractor to provide two alternative Cost and Schedule Proposals: alternative A, which shall provide for a time extension and any additional costs permitted under this Contract; and alternative B, which shall show all Acceleration Costs associated with meeting the original Completion Deadlines. If it is not feasible to recover any original Completion Deadline or if DB Contractor believes that the costs associated with such a recovery are prohibitive, then DB Contractor shall recommend a date, subject to RCTC's approval, to be shown in the alternative B Change Response;

(vi) A certification under penalty of perjury according to the laws of the State, in form acceptable to RCTC, executed by DB Contractor and stating that (1) the amount of time and/or compensation requested is justified as to entitlement and amount, (2) the amount of time and/or compensation requested includes all known and anticipated impacts or amounts, direct, indirect and consequential, which may be incurred as a result of the proposed Change, and (3) the cost and pricing data forming the basis for the Change Order is complete, accurate and current, with specific reference to the California False Claims Act (Government Code section 12650 et seq.) and the U.S. False Claims Act (31 U.S.C. § 3729 et seq.);

(vii) A schedule for completing the Change including any estimated adjustments to the Completion Deadlines;

(viii) DB Contractor's proposed plan to mitigate the impacts of the Change and a reasonably detailed breakdown of the expected actual Costs, if any, of such mitigation; and

(ix) Any other information reasonably requested by RCTC.

(b) If it is not practicable, due to the nature and/or timing of the event giving rise to a proposed Change Order, for DB Contractor to provide a complete Change Response within the time in Section 21.4.3(a), DB Contractor shall provide an incomplete Change Response that includes all information capable of being ascertained together with a list of those Change Response requirements that are not fulfilled, and an explanation reasonably satisfactory to RCTC stating why such requirements cannot be met. DB Contractor shall bear the burden of proving that providing the Change Response within the time in Section 21.4.3(a) was not practicable.

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(c) DB Contractor shall provide RCTC with a monthly update to all outstanding or incomplete Change Responses describing the status of all previously unfulfilled requirements and stating any changes in the information previously delivered to RCTC.

(d) DB Contractor shall bear the cost of developing the Change Response, including any modifications requested by RCTC, except that actual and reasonable costs of design and engineering work required for preparation of plans or exhibits necessary to the Change Response, as pre-authorized by RCTC, may be included in the Change Order as reimbursable items. If the Change Order is approved, such actual and reasonable design and engineering costs will be included within the Change Order.

21.4.4. Change Order Determination

(a) Within 20 Business Days after receipt of DB Contractor's Change Response, RCTC shall provide Notice of RCTC's intent to proceed or not to proceed with the Change. If RCTC elects to proceed with the Change and accepts DB Contractor's Change Response, and any proposed adjustments to this Contract, DB Contractor shall prepare a Change Order for execution, unless RCTC, in its sole discretion, elects to prepare the Change Order itself. If RCTC elects to proceed with the Change Order but does not accept the Change Response in total, RCTC shall either: (i) negotiate and agree to a Change Order with DB Contractor; (ii) issue a Time and Materials Change Order, as provided in Section 21.11 for the Change; or (iii) issue a Directive Letter for the Change.

(b) Subject to receipt of any required approvals from Department and FHWA, if RCTC issues or agrees to a Change Order with DB Contractor in accordance with Section 21.4.4(a), RCTC and DB Contractor shall execute a Change Order with respect to the Change.

(c) Upon receipt of a Change Order under Section 21.4.4(b), DB Contractor shall implement the Change in accordance with the Change Order.

21.4.5. Notwithstanding the process in this Section 21.4, the Parties may agree to use a multiple-step process involving issuance of a Change Order which includes an estimated cost and which provides for a revised Change Order to be issued after a certain design level has been reached, to allow refinement and further definition of the estimated cost.

21.5. DB Contractor-Initiated Change Orders for Relief Event

21.5.1. Notice Requirements and DB Contractor Change Requests

(a) Without limiting DB Contractor's obligations under Section 8.5, DB Contractor shall give RCTC a Notice as soon as possible and within ten Business Days after DB Contractor had Actual Knowledge of or should have known of a Relief Event through performing its obligations in accordance with Good Industry Practice:

(i) A Relief Event that occurs after the Effective Date, but before NTP Phase 2, which may materially adversely impact performance of the Phase 1 Work; or

(ii) A Relief Event that occurs after the Effective Date, but before the Completion Deadline for the Work or a Package, which may delay the achievement of

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Completion by the Completion Deadline or may otherwise materially adversely impact performance, the schedule or cost of the Phase 2 Work.

(b) DB Contractor shall, within 20 Business Days after its Notice under Section 21.5.1(a) or such longer period of time as may be allowed in writing by RCTC, provide a DB Contractor Change Request which shall:

(i) Be labeled and numbered sequentially (for example the first DB Contractor Change Request shall be labeled "DB Contractor Change Request No. 1");

(ii) Include, all information required to be submitted by DB Contractor in a Change Response as if the Relief Event was a Change with respect to which RCTC issued a Change Notice;

(iii) Include sufficient details of the Relief Event to enable the RCTC Representative to make an informed decision on whether to grant relief, the circumstances from which the Relief Event arises including its nature, the date of its occurrence, its duration, and the portions of the Project affected;

(iv) Include an itemized estimate of all amounts claimed under Section 21.7 where the Relief Event is a Compensable Event;

(v) State the name, title, and activity of each PCM personnel and RCTC representative with Actual Knowledge of the Relief Event;

(vi) Identify any documents and the substance of any oral communication involved in the facts underlying the Relief Event;

(vii) Provide an estimate of the time within which a response from RCTC to the DB Contractor Change Request is required to minimize cost, delay or disruption of performance; and

(viii) If the DB Contractor Change Request relates to a decision that this Contract leaves to the discretion of a Person or as to which this Contract provides that such Person's decision is final, the DB Contractor Change Request shall set out in detail all facts supporting DB Contractor's objection to the decision, including all facts supporting any contention that the decision was capricious or arbitrary or is not supported by substantial evidence.

(c) DB Contractor's Notice of a Relief Event under Section 21.5.1(a) may also serve as a DB Contractor Change Request provided it meets the requirements for a DB Contractor Change Request under Section 21.5.1(b).

(d) Any adjustments made to the Contract shall not include increased Costs or time extensions for delay resulting from DB Contractor's failure to timely provide requested additional information under this Section 21.5.1.

(e) If DB Contractor requests a time extension as part of a DB Contractor Change Request, then RCTC may require DB Contractor to provide two alternative Requests for Change Order, one of which shall provide for a time extension and any additional Costs permitted under this Contract, and the other of which shall show all Acceleration Costs associated with meeting the original Completion Deadlines, as well as any additional Costs permitted under this

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Contract. If it is not feasible to recover any original Completion Deadline or if DB Contractor believes that the costs associated with such a recovery are prohibitive, then DB Contractor shall recommend a date, subject to RCTC's approval, to be shown in the alternative DB Contractor Change Request.

21.5.2. Incomplete Requests for Change Order

(a) If it is not practicable, due to the nature and/or timing of the event giving rise to a Relief Event, for DB Contractor to provide a complete DB Contractor Change Request meeting all of the requirements of Section 21.5.1, DB Contractor shall provide an incomplete DB Contractor Change Request that includes:

(i) All information capable of being ascertained;

(ii) A list of those DB Contractor Change Request requirements which are not fulfilled, and an explanation reasonably satisfactory to RCTC stating why such requirements cannot be met;

(iii) Such information regarding projected impact of the Relief Event on a Critical Path and Completion Deadlines as requested by RCTC; and

(iv) Sufficient detail to ascertain the basis for the proposed Change Order and for any Contract Price increase or schedule relief associated therewith, to the extent such amount is then ascertainable.

(b) DB Contractor shall furnish, when requested by RCTC or its designee, such further information and details as may be required to determine the facts or contentions involved. DB Contractor shall give RCTC and its designees access to any and all of DB Contractor's books, records, and other materials relating to the Work, and shall cause its Subcontractors to do the same, so that RCTC and its designees can investigate the basis for such proposed Change Order.

(c) DB Contractor shall provide RCTC with a monthly update to all outstanding or incomplete DB Contractor Change Requests describing the status of all previously unfulfilled requirements and stating any changes in the information previously delivered to RCTC.

(d) Once a complete DB Contractor Change Request is provided, RCTC shall, within a period not to exceed 45 days, provide DB Contractor with a written statement identifying what portion of the DB Contractor Change Request is disputed and what portion is undisputed and any undisputed portion shall be considered and processed as a Change Order.

(e) RCTC may reject the DB Contractor Change Request at any point in the process for any reason. Once a complete DB Contractor Change Request is provided, RCTC's failure to respond within 45 days of delivery of the request shall be deemed a rejection of such DB Contractor Change Request. In any such case, either Party may request dispute resolution in accordance with Section 28.

21.5.3. Review of Subcontractor Claims

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(a) Prior to submission by DB Contractor of any DB Contractor Change Request that is based in whole or in part on a request by a Subcontractor to DB Contractor for a price increase or time extension under its Subcontract, DB Contractor shall have: (i) reviewed and analyzed all Claims by the Subcontractor that constitute the basis for the DB Contractor Change Request; and (ii) determined in good faith that each such claim has sufficient justification under this Contract to warrant DB Contractor requesting an increase in the Contract Price and/or change in Completion Deadlines in the amounts specified in the DB Contractor Change Request. DB Contractor shall certify in its DB Contractor Change Request that it has completed such review and that the Claim has justification under this Contract.

(b) Each DB Contractor Change Request involving Subcontractor Work, and each update to an incomplete DB Contractor Change Request involving such Work, shall include a summary of DB Contractor's analysis of all Subcontractor claims components and shall include a certification signed by the DB Contractor Representative stating that DB Contractor has: (i) investigated the basis for the Subcontractor's claims and believes there is sufficient justification under this Contract as to entitlement and the amount of money and/or time requested; (and (iii) no reason to believe and does not believe that the factual basis for the Subcontractor's claim is falsely represented. Any DB Contractor Change Request involving Subcontractor Work which is not accompanied by such analysis and certification shall be considered incomplete.

21.6. Change Order Entitlement for Relief Events

21.6.1. Subject to Section 19 and Section 21.6.2, and so long as DB Contractor complies with the applicable Notice requirements in this Section 21, in the case of a Relief Event that causes or will result in an identifiable and measurable disruption of the Project that impacts an activity on the Critical Path (i.e., consumes all available Float and extends the time required to achieve a Completion Milestone beyond the applicable Completion Deadline), DB Contractor shall be entitled to a Change Order that provides for:

(a) Either (i) an adjustment to the applicable Completion Deadline (based on critical path method analysis) to the extent of the actual delay caused by the Relief Event, or (ii) Acceleration Costs, but only if RCTC elects to order acceleration under Section 21.5.1(e), in which case the Change Order shall not provide for an adjustment in the applicable Completion Deadline and shall expressly indicate the Acceleration Costs that shall be paid;

(b) Subject to Sections 21.6.2(a), 21.6.2(b) and 21.6.2(c), delay and disruption damages for events only within clauses (a), (b), (c), (e), or (f) of the definition of "RCTC-Caused Delays";

(c) Subject to Sections 21.6.2(a), 21.6.2(b) and 21.6.2(c), delay and disruption damages for events only within clause (d) of the definition of RCTC-Caused Delays and within clauses (d), (g), and (h) of the definition of a "Relief Event," in each case, up to a maximum of $5,000 per day (regardless of the number of concurrent Relief Events); and

(d) Compensation for idle time of equipment, but only (i) if the Relief Event is also a Utility Relief Event, and (ii) DB Contractor is also entitled to extension of a Completion Deadline under Section 21.6.1(a).

21.6.2. DB Contractor's entitlement to a Change Order under Section 21.6.1 is subject to the following limitations:

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(a) Where permitted and compensable, delay and disruption damages shall be limited to (i) direct costs solely and directly attributable to the delays described in Section 21.6.1(a) and markups on such direct costs in accordance with Section 21.11, and (ii) any additional field office and jobsite overhead costs that DB Contractor incurs solely and directly attributable to such delays and subject to Section 9-1.11 of Exhibit 5 (Modified Standard Specifications);

(b) DB Contractor shall not be entitled to an extension of a Completion Deadline or delay or disruption damages under Section 21.6.1 if the Relief Event is concurrent with any other unrelated delay to a Critical Path for which any DB-Related Entity is responsible under this Contract.

(c) Where permitted and compensable, delay and disruption damages for the event within clause (j) of the definition of "Relief Event" shall be limited to negligent acts or omissions of any Other RCTC Contractor, which materially and adversely directly affects DB Contractor's obligations under this Contract.

21.7. Change Order Entitlement for Compensable Events

Subject to Section 19, Section 20, and DB Contractor complying with this Section 21, where RCTC issues a Change Order as a result of a Change or a Compensable Event that changes the scope of the Work, DB Contractor (or RCTC, in the case of a deductive change) shall be entitled to an adjustment of the Contract Price as provided in Sections 21.8 through 21.19 (as applicable).

21.8. Change Order Entitlement for Force Majeure Events

21.8.1. Subject to Section 19, Section 20, and DB Contractor complying with this Section 21, if Work or the Project is wholly or substantially destroyed or damaged by:

(a) A Force Majeure Event which is not insured against and is not required to be insured against in accordance with this Contract; and

(b) RCTC requires DB Contractor to repair, replace or rebuild the Work or the Project.

the Parties will use reasonable efforts to negotiate and agree on how the Work or the Project will be repaired, replaced or rebuilt in accordance with this Section 21.

21.8.2. The Parties' attempts to negotiate shall not limit RCTC's right to issue a Directive Letter or terminate the Contract in accordance with this Contract.

21.9. Extension of Time in Approved Subcontract Agreements

No extension of time under a Subcontract shall constitute an extension of time under this Contract unless the circumstances independently entitle DB Contractor an extension of time under this Contract.

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21.10. Change Order Pricing

21.10.1. General Pricing

Except as expressly provided otherwise in this Sections 21.10 through 21.22, the price of a Change Order issued under this Section 21 shall be a negotiated Lump Sum price or unit prices as provided below. The Lump Sum price or unit prices shall be based on the original allocations of the Contract Price to comparable activities, whenever possible and be consistent with Exhibit 2-E (Table of Rates and Prices (Phase 1). If reference to price allocations is inappropriate (as determined by RCTC) and if requested by RCTC, negotiation for Lump Sum or unit price Change Orders shall be on an Open Book Basis and may be based on the pricing contained in the Phase 2 Proposal as well as competitive Subcontractors' bid prices.

21.10.2. Detailed Cost Proposal

DB Contractor may be required to submit to RCTC a detailed cost proposal identifying all categories of costs set out in Section 21.11: (a) showing all impacts on the Contract from Work Changes shown in the Change Order being priced; and (b) setting out the proposed costs in such a way that a fair evaluation can be made. DB Contractor shall identify all conditions with respect to prices or other aspects of the cost proposal, such as pricing contingent on firm orders being made by a certain date or the occurrence or nonoccurrence of an event.

21.10.3. Added Work

When a Change Order adds Work to DB Contractor's scope, the increase in the Contract Price shall be negotiated based on: (a) estimated costs of labor, material, and equipment; (b) unit prices in accordance with Section 21.10.6; or (c) actual costs in accordance with Section 21.11. For negotiated Change Orders, markups for profit and overhead shall not exceed the DB Contractor Audited Overhead (G&A) Rate and the Maximum DB Profit (as applicable) and shall be applied as set out in Section 18.

21.10.4. Deleted Work

When a Change Order deletes Work from DB Contractor's scope, the amount of the reduction in the Contract Price shall be determine on an Open Book Basis, including by reference to the Table of Rates and Prices and information included in the Phase 2 Proposal, including a bill of material, a breakdown of labor, material, and equipment costs, and overhead and profit associated with the deleted Work which shall not exceed the Contractor Audited Overhead (G&A) Rate and Maximum DB Profit (as applicable) and shall be applied as set out in Section 18. The current estimated amount of risk associated with such Work shall be a factor in determining the markup for the deduction. When a deduction is involved, documented cancellation and restocking charges may be included in costs and subtracted from the price deduction.

21.10.5. Change Order Both Adding and Deleting Work

When the Change Order includes both added and deleted Work, DB Contractor shall prepare a statement of the cost of labor, material and equipment for both added and deleted work. If the cost of labor, material and equipment for the Work added and deleted results in a:

(a) Net increase in cost, the Change shall be treated as work added and the provisions of Section 21.10.3 shall be used to determine markups for overhead and profit.

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Markups for overhead and profit will be allowed only for the net increase in cost in order to establish the amount to be added to the Contract Price;

(b) Net decrease in cost, the change shall be treated as Work deleted and the provisions of Section 21.10.4 shall be used on the net decrease in cost in order to establish the amount deducted from the Contract Price; or

(c) Net change of zero, there will be no change in the Contract Price.

21.10.6. Unit Priced Change Orders

Measurement of unit-priced quantities will be in accordance with Section 9-1.02 of the Department Standard Specifications. Unit prices shall be deemed to include all costs for labor, material, overhead and profit, and are not subject to change regardless of any change in the estimated quantities. Unit-priced Change Orders shall initially include an estimated increase in the Contract Price based on estimated quantities. Upon final determination of the quantities, RCTC will issue a modified Change Order setting forth the final adjustment to the Contract Price. DB Contractor shall keep detailed records of the quantities for unit priced Work and shall submit supporting documentation of such quantities with its Invoices.

21.11. Time and Materials Change Orders

21.11.1. Issuance

RCTC may issue a Time and Materials Change Order. The Time and Materials Change Order shall instruct DB Contractor to perform the Work, indicating expressly the intention to treat the items as changes in the Work, and setting forth the kind, character, and limits of the Work as far as they can be ascertained, the terms under which changes to the Contract Price will be determined and the estimated total change in the Contract Price. Upon final determination of the allowable costs, RCTC shall issue a modified Change Order setting forth the final adjustment to the Contract Price.

21.11.2. Pricing and Payment

(a) Time and Materials Change Orders shall be issued in accordance with Section 9-1.04 of Exhibit 5 (Modified Standards Specifications). DB Contractor shall comply with all recordkeeping and other obligations in Section 9-1.04D(6) of Exhibit 5 (Modified Standards Specifications) when performing Time and Materials Work or Cost of the Work items.

(b) Payments for Time and Materials Work shall be invoiced with the regular monthly Invoice, based on the Extra Work reports provided by DB Contractor for each period. Costs evidenced by daily Extra Work reports provided less than five Business Days prior to preparation of the Invoice shall be included in the subsequent month's Invoice.

21.12. Main or Trunkline Utilities

21.12.1. Inaccuracy Resulting in Additional Costs or Time

(a) The amount of any Change Order as a result of a Utility Relief Event shall be determined in accordance with Section 21.10.3.

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(b) DB Contractor shall not be entitled to any increase in the Contract Price or extension of time for any of the following:

(i) Increased costs of the Work or time attributable to unidentified or misidentified Utilities, to the extent that the existence of the Utility was known to DB Contractor, as follows:

(1) In the case of Work performed prior to the Phase 2 Approval Deadline, by undertaking Reasonable Investigation prior to the SOQ Step 2 Submittal Date; and

(2) In the case of Work performed after the Phase 2 Approval Deadline, by performing a Phase 1 Site Investigation as required under the Technical Provisions (Phase 1), such other investigations undertaken by DB Contractor during Phase 1 and/or such other investigations required in accordance with Good Industry Practice prior to the date of submitting the Phase 2 Proposal;

(ii) Increased costs of the Work or time attributable to unidentified or misidentified Utilities, to the extent they could have been inferred from the presence of other facilities, such as buildings, meters, junction boxes, manholes or identifying markers, visible during a surface inspection of the area conducted prior to the Utility Strip Map Deadline;

(iii) Non-Dig Alert Mapped Utilities; and

(iv) Except as provided in Section 21.12.1(a) for unidentified Utilities, increased costs of the Work or time attributable to misidentified or unidentified Utilities, to the extent such costs could have been avoided if DB Contractor had fully and accurately identified the Utility and addressed the actual field conditions in the Utility Strip Map;

(v) Delay and disruption damages or extensions of time, except that DB Contractor shall be entitled to compensation for idle time of equipment in Section 21.6.1(d) on account of such delay.

21.12.2. "Reasonable Accuracy" Defined

(a) For purposes of the definition of Utility Relief Event, a Main or Trunkline Utility is not identified with "reasonable accuracy" only if:

(i) The Utility's actual centerline location is located more than five feet distant from the horizontal centerline location indicated therefor in the Utility Information (without regard to vertical location);

(ii) The Utility Information shows the Utility as abandoned (i.e., nonexistent except "on paper", or existent but no longer active) when in fact the Utility exists and is active, or the Utility Information shows the Utility as active when in fact the Utility is abandoned;

(iii) The Utility has an actual nominal diameter (excluding casings and any other appurtenances) greater than 12 inches, and its actual nominal diameter is either greater than or less than the outside diameter shown in the Utility Information by 25% or more of the diameter shown in the Utility Information; or

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(iv) The encasement material or encasement status of the Utility differs materially from what is shown in the Utility Strip Map.

(b) Any other inaccuracies in the Utility Information have no impact on "reasonable accuracy" and shall not result in a determination that the Utility was not identified with "reasonable accuracy." If there is any discrepancy between any of the components of the Utility Information (e.g., Preliminary Utility Matrix and Utility Maps contain conflicting information), only the most accurate information shall be relevant for purposes of this Section 21.12.

21.13. Differing Site Conditions

21.13.1. DB Contractor shall bear the burden of proving that a Differing Site Condition exists, and that DB Contractor could not have reasonably worked around the Differing Site Condition so as to avoid additional cost or time impact.

21.13.2. Each DB Contractor Change Request relating to a Differing Site Condition shall be accompanied by a statement signed by a Qualified Professional including all relevant assumptions made by DB Contractor with respect to the condition at the relevant portion of the Site, justifying the basis for such assumptions, explaining exactly how the existing conditions differ from those assumptions, and stating the efforts DB Contractor took to find alternative design or construction solutions to eliminate or minimize the problem and the associated costs. If the request is based on clause (a) of the definition of Differing Site Condition, the statement shall also include detailed information regarding the alleged Error in the Boring Data provided by RCTC forming the basis for the request and shall explain how DB Contractor's assumptions would have changed had the Boring Data been accurate.

21.13.3. No additional compensation, time extension or other Claim will be allowed in connection with any Work stoppage in affected areas during periods within which DB Contractor prepares the DB Change Order Request under this Section 21.13.

21.14. Changes in Project Standards

(a) If a change to a Project Standard occurs after the Setting Date, DB Contractor shall give Notice to RCTC of such change within 10 Business Days of the change. If, after such Notice, RCTC directs DB Contractor to comply with the changed Project Standard (rather than with the Project Standard applicable at the Setting Date), then DB Contactor shall comply with the Project Standard as changed. To the extent such compliance directly and materially impacts the Work and would not have otherwise been taken into account by compliance with the Governmental Approvals or Good Industry Practice, DB Contractor shall be entitled to a Change Order, subject to Section 19, Section 20, and compliance with this Section 21.

(b) If RCTC directs DB Contractor not to comply with the changed Project Standard (which direction may only be given where DB Contractor is not otherwise legally obliged to comply with the changed Project Standard), then DB Contractor shall continue to comply with the Project Standard applicable at the Setting Date without entitlement to a Change Order.

(c) This Section 21.14 shall not apply to Changes in Law.

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21.15. Hazardous Materials Management

Subject to the limitations in this Section 21.15 and Section 19, DB Contractor shall be entitled to a Change Order for certain costs of Hazardous Materials Management for Compensable Events that fall within clause (f) of the definition of Relief Event:

(a) Any Costs payable under this Section 21.15 shall be limited to Costs of Work performed in accordance with the approved plans required to be provided under TP Section 6.3, excluding DB Contractor Profit;

(b) No Contract Price increase or time extension shall be allowed with respect to:

(i) Removal, disposal and/or remediation of (A) asbestos or asbestos-containing materials (other than mineral asbestos naturally occurring in the ground) on or in the Site, removed in accordance with TP Sections 6.3 and 6.4 and the approved Environmental Management Plan, or (B) any other materials not falling within the definition of Hazardous Waste that are encountered during or in connection with the demolition of buildings, fixtures or other improvements on any parcels within the Site;

(ii) Release(s) of Hazardous Materials or threatened Release(s) of Hazardous Materials for which DB Contractor is responsible under Section 27.1.1(g);

(iii) Less than "material quantities" (e.g., quantities that trigger a reporting requirement as defined in Section 10.8.1) of Hazardous Materials;

(iv) Any Hazardous Materials that could have been avoided by reasonable design modifications or construction techniques; or

(v) Any Hazardous Materials on or affecting property outside of the RCTC-Provided Property, except that compensation will be allowed for environmental remediation work on such property to the extent that it is legally required to be taken with Hazardous Materials Management required within the RCTC-Provided Property;

(c) The amount of the Change Order for Hazardous Materials Management shall either be a negotiated amount acceptable to the Parties, or an amount determined in accordance with Section 21.11 and this Section 21.15 for the work in question;

(d) DB Contractor shall be deemed to have waived the right to collect any and all costs incurred in connection with any Hazardous Materials Management and any right to obtain an extension of a Completion Deadline if RCTC and Department are not provided Notice of the discovery of Hazardous Materials delivered under Section 10.7.1(a), and afforded the opportunity to inspect sites containing Hazardous Materials before any action is taken which would inhibit the ability of RCTC or Department to ascertain, based on a Site inspection, the nature and extent of the materials. In the event of an emergency involving Hazardous Materials, DB Contractor may take such limited actions as are required by Governmental Rules without advance notice to RCTC and Department, but shall provide Notice immediately thereafter (which in no event shall be more than two hours after the incident by phone and 24 hours after the incident by Notice);

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(e) In cases involving reimbursement for Hazardous Materials Management under this Section 21.15, allowable costs shall be limited to the incremental direct costs but excluding both delay and disruption damages and DB Contractor Profit (except to the extent any delay qualifies as an RCTC-Caused Delay under clause (g) of the definition of that term in Exhibit 1 (Abbreviations and Definitions), in which case delay and disruption damages calculated in accordance with Section 21.6.2(a) shall be allowed during the period of the RCTC-Caused Delay) incurred after completion of the testing process to determine whether Hazardous Materials are present, associated with the Hazardous Materials at issue (deducting any avoided costs such as the cost of disposal that would have been incurred had Hazardous Materials not been present). Investigating and characterizing Hazardous Materials are included in the Work and in the Contract Price and DB Contractor is not entitled to additional compensation therefor. DB Contractor shall take all reasonable steps to minimize any such costs. Compensation shall be allowed only to the extent that DB Contractor demonstrates to RCTC's satisfaction that (i) the Hazardous Materials Management could not have been avoided by reasonable design modifications or construction techniques, and (ii) DB Contractor's plan for the Hazardous Materials Management represents the approach which is most beneficial to the Project and the public. DB Contractor shall provide RCTC with such information, analyses and certificates as may be requested by RCTC in order to enable a determination regarding eligibility for payment;

(f) If DB Contractor encounters Hazardous Materials within the RCTC-Provided Property which, due to no act or omission of any DB-Related Entity or any DB Contractor Fault, results in delays to a Critical Path, then RCTC shall bear the risk of such delay (excluding those conditions for which DB Contractor has agreed to be responsible as described in Section 27.1.1(g)), and subject to the limitations in this Section 21.15;

(g) Section 21.15(f) shall not apply to any delays associated with Department's investigation and Hazardous Materials Management of HM-1 located within the Existing Department ROW, which delays shall be treated as an RCTC-Caused Delays under this Contract; and

(h) Notwithstanding any contrary provision of this Contract, DB Contractor has no right to receive (a) any compensation for delay and disruption damages (except to the extent any delay qualifies as a RCTC-Caused Delay under clause (g) of the definition of that term in Exhibit 1 (Abbreviations and Definitions), in which case delay and disruption damages calculated in accordance with Section 21.6.2(a) shall be allowed during the period of the RCTC-Caused Delay) or DB Contractor Profit related to Hazardous Materials Management, (b) any compensation for any Hazardous Materials Management resulting from a situation described in Section 27.1.1(g), or (c) any compensation, time extension or otherwise make any Claim in connection with any work stoppage in affected areas during the investigation periods described in Sections 10.7.1, 10.7.2, or 10.8.3. DB Contractor shall also not be entitled to receive any compensation, time extension or otherwise make any Claim for (1) immaterial quantities of Hazardous Materials, (2) any Hazardous Materials that could have been avoided by reasonable design modifications or construction techniques, (3) any costs that could have been avoided, (4) Hazardous Materials on any Available Properties or any Additional Properties, temporary real property interests or other property of DB Contractor, or (5) any Hazardous Materials encountered during or in connection with the demolition of buildings, fixtures or other improvements on any parcels within the Site. Such limitations shall apply to all Change Orders related to Hazardous Materials Management.

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21.16. Change Order Records

DB Contractor shall maintain its records in such a manner as to provide a clear distinction between the direct costs of Work for which it is entitled (or for which it believes it is entitled) to an increase in the Contract Price and the costs of other operations. DB Contractor shall collect, record in writing, segregate and preserve: (a) separate daily occurrence logs as required under TP Section 5.4.2.6 and Section 9-1.04(D)(6) of Exhibit 5 (Modified Standards Specifications), together with all other data necessary to determine the costs of all Work which is the subject of a Directive Letter, Change Order or a requested Change Order, specifically including costs associated with design Work as well as Relocations; and (b) all data necessary to show the actual impact (if any) of the change on each Critical Path and Completion Deadline with respect to all Work which is the subject of a Directive Letter, Change Order or a proposed Change Order. Such data shall be provided to the Disputes Review Board (if a Change Order or requested Change Order is under dispute), RCTC and its representatives as directed by RCTC, on forms approved by RCTC.

21.17. Daily Work Reports and Data Collection

DB Contractor shall provide RCTC completed daily work reports for each day's Work which is to be paid for on a Time and Material or Cost of the Work basis. The daily Time and Material Work and Cost of the Work reports shall be detailed as follows:

(a) Name, classification, date, daily hours, total hours, rate and extension for each worker (including both construction and non-construction personnel) for whom reimbursement is requested;

(b) Designation, dates, daily hours, total hours, rental rate and extension for each unit of machinery and equipment;

(c) Quantities of materials, prices, and extensions;

(d) Transportation of materials; and

(e) The total costs to date for the Work performed under the Time and Materials Change Order or as Cost of the Work.

All such records and reports shall be made immediately available to RCTC upon its request. DB Contractor cost accounting records, payroll reports, paid invoices, and other actual cost records shall be provided to RCTC upon request to support hourly labor rates and other submitted costs included in the daily cost reports.

All reports prepared under this Section 21.11 shall be signed by DB Contractor and certified as true, accurate, and complete. RCTC will compare its records with DB Contractor's reports, make the necessary adjustments, and compile the costs of Work completed under a Time and Materials Change Order or performed as Cost of the Work. When such reports are agreed upon and signed by both Parties, they will become the basis of payment. If the Parties cannot agree on the data contained in the reports then only the amounts agreed to by RCTC will be processed for payment and DB Contractor and DB Contractor may submit the amount of such price deduction to dispute resolution in accordance with Section 28.

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21.18. Supplier's Invoices

Materials charges shall be substantiated by valid copies of Supplier's invoices. Such invoices shall be submitted with the daily Time and Materials Work and Cost of the Work reports, or if not available, they shall be submitted with subsequent daily Time and Materials Work and Cost of the Work reports. Should said Supplier's invoices not be submitted within 60 days after the date of delivery of the materials, RCTC may establish the cost of such materials at the lowest current wholesale prices at which such materials are available, in the quantities concerned, delivered to the location of Work, less any discounts available.

21.19. Execution of Reports

RCTC will compare its records with the completed daily Time and Materials Work and Cost of the Work reports provided by DB Contractor and make any necessary adjustments. When these daily Time and Materials Work and Cost of the Work reports are agreed upon and signed by both Parties, said reports shall become the basis of payment for the Work performed, but shall not preclude subsequent adjustment based on a later audit. DB Contractor's cost records pertaining to Change Order Work or other work paid for on a time and materials basis shall be open, during all regular business hours, to inspection or audit by representatives of RCTC during the term of the Contract and for a period of not less than five years after the Final Acceptance Date, and DB Contractor shall retain such records for that period. Where payment for materials or labor is based on the cost thereof to any Person other than DB Contractor and not covered by the Table of Rates and Prices, DB Contractor shall make every reasonable effort to insure that the cost records of each such other Person will be open to inspection and audit by representatives of RCTC on the same terms and conditions as the cost records of DB Contractor. Payment for such costs may be deleted if the records of such third parties are not made available to the RCTC Representative.

21.20. Disputes

The failure of RCTC and DB Contractor to agree to any Change Order under this Section 21.21 (including agreement as to the amount of compensation allowed under a Time and Materials Change Order and the disputed amount of the increase in the Contract Price and/or extension of a Completion Deadline in connection with a Change Order as described above) shall be a Dispute to be resolved in accordance with Section 28.

Except as otherwise specified in the Change Order, execution of a Change Order by both Parties shall be deemed accord and satisfaction of all claims by DB Contractor of any nature arising from or relating to the Work covered by the Change Order and DB Contractor shall be deemed to have expressly released, waived, and disclaimed any right to receive compensation, time extension or make any Claim related thereto. DB Contractor's Claim and any award by the dispute resolver shall be limited to the incremental costs incurred by DB Contractor with respect to the disputed matter (crediting RCTC for any corresponding reduction in DB Contractor's other costs) and shall in no event exceed the amounts allowed by Section 21.11 with respect thereto.

21.21. Work Performed Without Direction or Authority

If DB Contractor undertakes any work or efforts: (a) outside of the scope of the Work; (b) upon any request, order, or other authorization issued by a Person in excess of that Person's authority as provided in this Contract, (c) included in any oral request or directive or (d) unrelated to the Project, DB Contractor shall be deemed to have undertaken such efforts voluntarily, at its sole cost and risk, and shall not be entitled to a Change unless DB Contractor has received a Directive

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Letter or Change Order signed by RCTC. In addition, RCTC may require DB Contractor to remove or otherwise undo the results of any such work efforts without any entitlement to a Claim.

21.22. Changes Not Requiring Change Order

Subject to Section 21.12, Deviations from technical standards specified in this Contract which have a neutral net cost effect and do not affect a Critical Path or Completion Deadline shall not require a Change Order provided such Deviations are approved by RCTC and Department in accordance with TP Section 1.3.1. However, written documentation of the request and approval of the deviation must be maintained by the DB Contractor. Any other change in the requirements of this Contract shall require either a Directive Letter, a Change Order or an executed amendment to this Contract.

21.23. No Release or Waiver; Course of Dealings

21.23.1. The grant of an extension of time beyond the date fixed for the completion of any part of the Work, the performance and acceptance of any part of the Work or materials specified by the Contract after a Completion Deadline, and making of payments to DB Contractor after a Completion Deadline shall not, in any case:

(a) Be deemed to be a waiver by RCTC of any of its rights and remedies under this Contract, at law or in equity, including its right to terminate the Contract for abandonment or failure to complete within the time specified (as it may have been extended) or to impose and deduct damages as may be provided; or

(b) Release DB Contractor's Surety(ies) or any Guarantor from its obligations and Work shall continue and be carried on in accordance with all the provisions of this Contract and this Contract shall be and shall remain in full force and effect unless formally suspended or terminated by RCTC in accordance with the terms of this Contract.

21.23.2. No Claim, Change Order or DB Contractor Change Request shall be based on any course of conduct or dealings between the Parties, any express or implied acceptance of alterations or additions to the Work, or any claim that RCTC has been unjustly enriched.

21.24. Deviations

21.24.1. Following the Phase 2 Amendment, DB Contractor must provide Notice to RCTC seeking approval of Deviations regarding the design or construction of the Project. Where DB Contractor requests a Deviation as part of any Submittal (including a component plan withing any Administrative Project Plans or Design Document), DB Contractor shall specifically identify and label the proposed Deviation. RCTC may consider Deviations requested by DB Contractor. Deviations may only be used with respect to technical issues, the Technical Provisions and Project Standards.

21.24.2. DB Contractor shall bear the burden of persuading RCTC that the Deviation sought is (i) consistent with Governmental Approvals, Governmental Rules and Good Industry Practice, (ii) achieves RCTC's applicable safety standards and

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criteria and, (iii) but for the specific item(s) expressly included in the Deviation, is otherwise in accordance with this Contract.

21.24.3. No Deviation shall be deemed approved or be effective unless stated in a signed Notice by the RCTC Representative. RCTC's failure to provide Notice of a Deviation within 14 days after DB Contractor's Notice shall be deemed a disapproval of such application.

21.24.4. RCTC's affirmative approval Notice of any part of the Administrative Project Plans shall constitute:

(a) Approval of any Deviations expressly identified and labeled as Deviations in the Administrative Project Plans, unless RCTC takes exception to any such Deviation in which case the identified Deviation is not approved (and DB Contractor shall deliver revisions to such part of the Administrative Project Plans for RCTC approval in accordance with Section 5); and

(b) Disapproval of any Deviation is not expressly identified and labeled as Deviations in the Administrative Project Plans.

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SECTION 22
SUSPENSION

22.1. Suspensions for Convenience

22.1.1. RCTC may, at any time and for any reason, by Notice, order DB Contractor to suspend all or any part of the Work for its convenience, for the period of time RCTC deems appropriate.

22.1.2. DB Contractor shall promptly comply with any Notice under Section 22.1.1.

22.1.3. DB Contractor shall promptly recommence the Work upon receipt of Notice from RCTC directing DB Contractor to resume Work.

22.2. Suspensions for Cause

22.2.1. RCTC may, by Notice to DB Contractor, order DB Contractor to suspend the whole or any part of the Work for DB Contractor or any Subcontractors failure to:

(a) Correct conditions unsafe for the Project personnel, RCTC personnel, Other RCTC Contractor personnel or the general public;

(b) Comply with any Governmental Approval, Governmental Rule or this Contract;

(c) Carry out orders or directions of RCTC in accordance with this Contract, Change Orders or Directive Letters;

(d) Comply with requirements to develop and implement the Quality Management Plan;

(e) Remove any Person as required under Section 6.4.3 or if DB Contractor or its Subcontractor fails to ensure employment of an alternative skilled and experienced Person;

(f) Provide proof of required insurance coverage as provided in Section 14;

(g) Reopen lanes closed to public traffic as part of a Permitted Lane Closures by the times specified in the approved closure requests in TP Section 18.3.3;

(h) Comply with environmental requirements;

(i) Pay in full when due undisputed amounts owing to RCTC under this Contract; or

(j) Remove from the Work and dismiss from the Project any Subcontractor that is determined disqualified, suspended, debarred or otherwise excluded from bidding, proposing or contracting with a federal or a State department or agency.

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22.2.2. DB Contractor shall promptly comply with any Notice under Section 22.2.1 to suspend the Work in whole or in part.

22.2.3. DB Contractor shall promptly recommence the suspended Work upon receipt of Notice from RCTC directing DB Contractor to resume the Work.

22.2.4. RCTC has no liability to DB Contractor and DB Contractor is not entitled to make any Claim in connection with any suspension under Section 22.2.1.

22.2.5. If RCTC orders suspension of any Work under Section 22.2.1, but it is finally determined under the dispute resolution procedures of this Contract that such grounds did not exist, it shall be treated as a suspension for RCTC's convenience under Section 22.1.

22.3. Department Suspensions

22.3.1. DB Contractor acknowledges that Department has the authority to issue an order suspending Work wholly or in part and to take appropriate action when public safety is jeopardized as authorized under Streets and Highways Code section 91.2(b) and otherwise in accordance with the Department Cooperative Agreement. DB Contractor shall promptly comply with any such written suspension order. DB Contractor shall promptly recommence the Work upon receipt of Notice from Department directing DB Contractor to resume the suspended Work. Neither RCTC nor Department shall have any liability to DB Contractor related to such suspension and DB Contractor shall have no right to Claim in connection with any such suspension.

22.4. Responsibilities of DB Contractor during Suspension Periods

Where the Work is suspended in whole or in part:

22.4.1. DB Contractor remains responsible for the Work and shall prevent damage, loss or injury to the Project, provide for drainage and shall erect necessary temporary structures, signs or other facilities required to maintain the Project;

22.4.2. DB Contractor shall maintain in a growing condition all newly established plantings, seedings and soddings provided under this Contract, and shall protect new tree growth and other vegetative growth against injury, replacing all dead plants requiring replacement during the suspension period; and

22.4.3. DB Contractor shall continue other Work not subject to the suspension in accordance with this Contract.

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SECTION 23
TERMINATION FOR CONVENIENCE

23.1. Notice of Termination for Convenience

23.1.1. RCTC may, at any time, terminate this Contract in whole or in part, at its convenience, by Notice to DB Contractor specifying the extent of termination and its effective date ("**Notice of Termination for Convenience**").

23.1.2. Termination (or partial termination) of this Contract shall not relieve any Surety or Guarantor of its obligation for any Claims arising out of the Work performed.

23.1.3. DB Contractor acknowledges and agrees that unless and until NTP Phase 2 is issued, RCTC has no liability to DB Contractor for a Termination for Convenience under this Contract.

23.2. Transition Plan

23.2.1. Within three days after receipt of a Notice of Termination for Convenience, DB Contractor shall meet and confer with RCTC to develop an interim transition plan for the orderly transition of the terminated Work, demobilization and transfer of the Project to RCTC.

23.2.2. The Parties shall use diligent efforts to:

(a) Complete preparation of the interim transition plan within 15 days after DB Contractor receives Notice of Termination for Convenience; and

(b) Complete preparation of a final transition plan within 30 days after DB Contractor receives Notice of Termination for Convenience.

23.2.3. The transition plan shall be in form and substance acceptable to RCTC in its good faith discretion and shall include and be consistent with the other provisions and procedures in Section 23.3.

23.3. DB Contractor's Responsibilities after Receipt of Notice of Termination

After receipt of a Notice of Termination for Convenience, and except as otherwise directed by RCTC, DB Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this Section 23 or acceptance of the transition plan:

(a) Stop Work as specified in the Notice of Termination for Convenience;

(b) Notify all affected Subcontractors that this Contract is being terminated, and that such Subcontractors stop performance under their Subcontracts (including orders for materials, services or facilities), unless otherwise authorized by Notice from RCTC;

(c) Place no further (i) Subcontracts (including orders for materials, services. equipment or facilities) or (ii) orders for Department furnished materials in accordance

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with Section 6-1.02 of Exhibit 5 (Modified Standard Specifications), except as necessary to complete the continued portion of the Work, if any, or for mitigation of damages;

(d) Unless instructed otherwise by RCTC, terminate all Subcontracts to the extent they relate to the Work terminated;

(e) To the extent directed by RCTC, execute and deliver to RCTC written assignments, in form and substance acceptable to RCTC, acting reasonably, of all of DB Contractor's right, title, and interest in and to (i) Subcontracts that relate to the terminated Work, provided that RCTC assumes by Notice all of DB Contractor's obligations thereunder that arise after the effective date of the termination, and (ii) all warranties (excluding those that DB Contractor is unable to secure assignment of despite performing its obligations under Section 16.2.1(c)), claims, and causes of action held by DB Contractor against Subcontractors and other third parties in connection with the terminated Work, to the extent such Work is adversely affected by any Subcontractor or other third party breach of warranty, contract or other legal obligation;

(f) Subject to the prior written approval of RCTC, settle all outstanding Claims and all termination settlement proposals arising from termination of Subcontracts;

(g) No later than 30 days from the effective Termination Date, unless extended by Notice from RCTC responding to any request from DB Contractor within this 30-day period, provide RCTC with an inventory list of all materials and equipment previously produced, purchased or ordered from (i) Suppliers and (ii) Department (for Department furnished materials as described in Section 6-1.02 of Exhibit 5 (Modified Standard Specifications) for use in the Work but not yet used in the Work, including its storage location, as well as any documentation or other property required to be delivered under this Contract that is either in the process of development or previously completed but not yet delivered to RCTC, and such other information as RCTC may request; and transfer title and deliver to RCTC through bills of sale or other documents of title, as directed by RCTC, (1) the Work in process, completed Work, supplies and other material produced or acquired for the Work terminated, and (2) the Design Documents, Construction Documents, and all other completed or partially completed drawings (including plans, elevations, sections, details and diagrams), specifications, records, samples, information and other property that would have been required to be provided to RCTC if the Work had been completed;

(h) Complete performance in accordance with this Contract of all Work not terminated;

(i) Take all action that may be necessary, or that RCTC may direct, for the safety, protection and preservation of: (i) the public, including public and private vehicular movement, (ii) the Work; (iii) the property and facilities of Department and Local Agencies; and (iv) equipment, machinery, materials and property related to the Project that is in the possession, care, custody or control of DB Contractor and in which RCTC has or may acquire an interest;

(j) As authorized by Notice from RCTC, use its best efforts to sell at reasonable prices any property of the types referred to in Section 23.3(g); except that DB Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire the property under the conditions prescribed and at prices approved by RCTC. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by RCTC under this Contract or paid in any other manner directed by RCTC;

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(k) If requested by RCTC, withdraw from the portions of the Site designated by RCTC and remove such materials, equipment, tools and instruments used by, and any debris or waste materials generated by, DB Contractor and any Subcontractor in the performance of the Work as RCTC may direct; and

(l) Take other actions directed by RCTC.

23.4. Acceptance

23.4.1. DB Contractor shall remain responsible for damage and loss to materials after issuance of the Notice of Termination for Convenience, except as follows:

(a) DB Contractor's responsibility for damage to materials for which partial payment has been made, as provided in this Contract, shall terminate when the RCTC Representative certifies that those materials have been stored in the manner and at the locations directed by RCTC; and

(b) DB Contractor's responsibility for damage to materials purchased by RCTC after the issuance of the Notice of Termination for Convenience shall terminate when RCTC takes title and delivery of those materials.

23.4.2. When the RCTC Representative determines that DB Contractor has completed the Work directed to be completed prior to termination and such other work as may have been ordered to secure the Project for termination, the RCTC Representative will recommend that RCTC formally accept such Work, and immediately upon and after RCTC's acceptance, DB Contractor shall not be required to perform any further work thereon (except for such work that otherwise would have been required with respect to the terminated Work after Final Acceptance) and shall be relieved of maintenance responsibility for such terminated Work after RCTC formally accepts such Work.

23.5. Payment for Termination for Convenience

23.5.1. If RCTC terminates this Contract for convenience under Section 23.1, DB Contractor shall be entitled to payment of the following amounts (collectively, the "**Termination for Convenience Amount**"):

(a) DB Contractor's documented Costs, without profit, and including equipment costs only to the extent permitted by Section 18.12.7, for all Work performed, including mobilization, demobilization, and work done to secure the Project for termination, including reasonable overhead which shall not exceed the DB Contractor Audited Overhead (G&A) Rate and accounting for any refunds payable with respect to insurance premiums, deposits, or similar items, as established to RCTC's satisfaction. In determining the reasonable Cost, deductions will be made for the Cost of materials to be retained by DB Contractor, amounts realized by the sale of materials, and for other appropriate credits against the Contract Price. Deductions will also be made, when the Contract is terminated as the result of a Force Majeure Event, for the cost of materials damaged by the "occurrence." When, in the opinion of the RCTC Representative, the Cost of a contract item of Work is excessively high due to costs incurred to remedy or replace Nonconformances, the reasonable Cost to be allowed will be the estimated reasonable Cost of performing that Work in compliance with the requirements of this Contract.

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(b) As profit on Section 23.5.1(a), a percentage of the DB Contractor's Profit (Phase 1) or DB Contractor's Profit (Phase 2) equal to the percentage of completed Work under the Contract in the applicable Phase, less previous payments for such profit determined by RCTC to be fair and reasonable not to exceed the applicable DB Contractor's Profit (Phase 1) or DB Contractor's Profit (Phase 2; except that if it appears DB Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this Section 23.5.1(b), and an appropriate adjustment shall be made by reducing the amount of the settlement to reflect the indicated rate of loss.

(c) The cost of settling and paying Claims arising out of the termination of Work under Subcontracts, as provided in Section 23.3(f), excluding the amounts paid or payable on account of supplies or materials delivered or services provided by the Subcontractor prior to the effective date of the Notice of Termination for Convenience, which amounts shall be included in the Cost on account of which payment is made under Section 23.5.1(a).

(d) The reasonable out-of-pocket cost (including the DB Contractor Audited Overhead (G&A) Rate) of the preservation and protection of property incurred in accordance with Section 23.3(i) and any other reasonable out-of-pocket cost (including the DB Contractor Audited Overhead (G&A) Rate) incidental to termination of Work under this Contract, including the reasonable cost to DB Contractor of handling material returned to a Supplier, delivered to RCTC or otherwise disposed of as directed by RCTC, and including a reasonable allowance for DB Contractor's administrative costs in determining the amount payable due to termination of the Contract.

23.5.2. DB Contractor acknowledges and agrees that the Termination for Convenience Amount shall not exceed:

(a) In the case of a Termination for Convenience during Phase 1, the NTE (Phase 1), less the number of payments previously made during Phase 1;

(b) In the case of a Termination for Convenience during Phase 2, the total of the NTE (Phase 1) plus the GMP (Phase 2), less the amount of payments previously made during Phase 1 and Phase 2; or

(c) The value of the terminated Work performed plus its settlement costs, and that items such as lost or anticipated profits, unabsorbed overhead, opportunity costs, and consequential damages shall not be recoverable in the Termination for Convenience Amount.

23.5.3. The Termination for Convenience Amount excludes the fair value, as determined by RCTC, of equipment, machinery, and materials that are destroyed, lost, stolen or damaged so as to become undeliverable to RCTC.

23.5.4. Upon determination of the Termination for Convenience Amount, this Contract shall be amended to reflect the terminated Work and the agreed termination payment, DB Contractor shall be paid the agreed amount, and the Contract Price shall be reduced to reflect the reduced scope of the Work.

23.5.5. If a partial termination occurs, DB Contractor may file a proposal with RCTC for an equitable adjustment of the Contract Price for the continued portion of this Contract. Any proposal by DB Contractor for an equitable adjustment under this Section 23.5.5 shall be requested within 90 days from the

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Termination Date unless extended by Notice from RCTC. The amount of any such adjustment as may be agreed upon shall be set forth in an amendment to this Contract.

23.6. Settlement Proposal

No later than 90 days from the Notice of Termination for Convenience, DB Contractor shall submit a final termination settlement proposal (including the proposed Termination for Convenience Amount) in a form reasonably acceptable to RCTC and with such certifications requested by RCTC. DB Contractor's termination settlement proposal shall be reviewed by RCTC and acted upon, returned with comments, or rejected. If RCTC returns the termination settlement proposal with comments, DB Contractor shall address such comments and resubmit the termination settlement proposal within 30 days after receiving RCTC's comments. If DB Contractor fails to submit the proposal within the time allowed, RCTC may determine the Termination for Convenience Amount and DB Contractor shall be bound by RCTC's determination.

23.7. Amount of Negotiated Termination Settlement

23.7.1. DB Contractor and RCTC may agree upon the Termination for Convenience Amount, as provided and subject to the limitations in Section 23.5, by reason of any Termination for Convenience. Such negotiated settlement shall be documented in a settlement agreement, executed and delivered by the Parties, and subject to Section 23.5.1(b) may include a reasonable allowance for profit solely on Work that has been completed as of the Termination Date and subsequently inspected and accepted by RCTC.

23.7.2. Upon determination of the settlement amount, this Contract will be amended accordingly, and DB Contractor will, subject to Section 23.9 and following execution of such settlement agreement, be paid the agreed amount as described in this Section 23.7. RCTC's execution and delivery of any settlement agreement shall not affect any of its rights under this Contract with respect to completed Work, relieve DB Contractor from its obligations under this Contract, including the General Warranty, or affect the right and obligations of RCTC or DB Contractor under any Bond and/or Guaranty as to such completed or non-terminated Work.

23.8. No Agreement as to Amount of Termination Settlement for Work

If DB Contractor and RCTC fail to agree upon any amount payable to DB Contractor because of RCTC's termination of this Contract for convenience, RCTC shall pay to DB Contractor the Termination for Convenience Amount described in Section 23.5.1 (excluding interest charges and any amounts deducted in accordance with Section 23.9) as calculated by RCTC (and without duplication of any items or of any amounts agreed upon in accordance with Sections 23.5 and 23.7) within 30 days after RCTC's calculation of the Termination for Convenience Amount described in Section 23.5.1.

23.9. Conditions to Payment; Reduction in Amount of Claim

23.9.1. As a condition to its obligation to pay DB Contractor amounts due under this Section 23, but not as a condition to termination, DB Contractor shall provide RCTC the following:

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(a) A list of all outstanding or pending DB Contractor Change Requests and all existing or threatened claims, Liens, and stop payment notices by Subcontractors, Utility Owners or other third parties relating to the Project;

(b) Complete and legally effective releases or waivers of Liens and stop payment notices satisfactory to RCTC, from all Persons legally eligible to file Liens and stop payment notices in connection with the Work;

(c) Consent of any Guarantors and Surety(ies);

(d) Executed release(s) meeting the requirements of Section 18.13.2(e) and otherwise satisfactory in form and content to RCTC;

(e) An affidavit from DB Contractor meeting the requirements of Section 18.13.2(e); and

(f) Such other documentation as RCTC may reasonably require.

23.10. Payment upon Termination

23.10.1. Subject to Sections 18.12.2, 23.8 and 23.9, RCTC shall pay the Termination for Convenience Amount within 30 days after receipt of an Invoice from DB Contractor. If DB Contractor and RCTC fail to agree upon the Termination for Convenience Amount under Section 23.8, RCTC shall pay the Termination for Convenience Amount within 30 days after RCTC's calculation as to the Termination for Convenience Amount described in Section 23.5.1.

23.10.2. RCTC may from time to time, under such terms and conditions as it may prescribe and in its good faith discretion, make partial payments on account against Costs incurred by DB Contractor in connection with the terminated portion of this Contract, whenever in the opinion of RCTC the aggregate of such payments shall be within the amount to which DB Contractor will be entitled under this Contract. If the total of such payments is in excess of the Termination for Convenience Amount, such excess shall be payable by DB Contractor to RCTC upon demand together with interest at the rate of the lesser of: (a) 10% per annum; and (b) the maximum rate allowable under applicable Governmental Rules.

23.11. Allowability of Costs

All Costs claimed by DB Contractor under this Section 23 shall be allowable, allocable, and reasonable in accordance with the cost principles and procedures of 48 CFR Part 31.

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SECTION 24
DEFAULT

24.1. Default of DB Contractor

24.1.1. Events and Conditions Constituting DB Contractor Default

DB Contractor shall be in default under this Contract upon the occurrence of any one or more of the following events or conditions (each a "**DB Contractor Default**"):

(a) DB Contractor fails to: (i) promptly begin the Work under this Contract following issuance of any Notice to Proceed; or (ii) resume performance of Work that has been suspended or stopped within a reasonable time after receipt of Notice from RCTC to do so or (if applicable) after cessation of the event preventing performance;

(b) DB Contractor fails to achieve Completion of the Work or a Package under this Contract by 180 days after the applicable Completion Deadline;

(c) DB Contractor fails to perform the Work in accordance with this Contract, including DB Contractor's failure to comply with applicable standards in this Contract with respect to the Work, and refusing to remedy Nonconformances;

(d) DB Contractor suspends, ceases, stops or abandons the Work, or fails to continuously and diligently prosecute the Work excluding Work stoppages due to: (i) termination by RCTC; (ii) the occurrence and continuance of a Force Majeure Event or suspension by RCTC; or (iii) RCTC's failure to make undisputed payments to DB Contractor, in accordance with Section 24.3;

(e) DB Contractor fails to obtain, provide or maintain in full force and effect any insurance, Bonds, guarantees or other performance security as and when required under this Contract and for the benefit of relevant parties, or fails to comply with any requirement of this Contract pertaining to the amount, terms, or coverage of the same;

(f) DB Contractor makes or attempts to make, or suffers a voluntary or involuntary assignment or transfer of this Contract or any right or interest in this Contract, except as expressly permitted under Section 30.4;

(g) DB Contractor fails, absent a valid dispute, to make payment when due for labor, equipment or materials in accordance with its agreements with Subcontractors and Governmental Rules, or fails to comply with any Governmental Rule or reasonably comply with the instructions of RCTC consistent with this Contract;

(h) DB Contractor fails to (i) make payment when due to RCTC of any amounts owing to RCTC under this Contract, including Liquidated Damages or Lane Closure Charges or (ii) deposit funds to any custodial account, trust account or other reserve or account in the amount and within the time period required by this Contract;

(i) DB Contractor fails to timely observe or perform, or fails to cause to be timely observed or performed, any other agreement or covenant that DB Contractor is required to perform under this Contract;

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(j) Any Guarantor revokes or attempts to revoke its obligations under its Guaranty, or otherwise takes the position that such instrument is no longer in full force and effect;

(k) Issuance of any final judgment holding DB Contractor or any of its equity members liable for an amount in excess of $100,000 based on a finding of intentional or reckless misconduct or violation of a state or federal false claims act;

(l) Any representation or warranty made by DB Contractor or any Guarantor in this Contract (including the Proposer Questionnaire included in the SOQ Step 1 Submittal), or any certificate, schedule, instrument or other document delivered by DB Contractor in accordance with this Contract was false or materially misleading when made;

(m) DB Contractor commences a voluntary case seeking liquidation, reorganization or other relief with respect to DB Contractor or DB Contractor's debts under any U.S. or foreign bankruptcy, insolvency or other similar Governmental Rule; seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of its, or any substantial part of its, assets; becomes insolvent, or generally does not pay its debts as they become due; provides notice of its inability to pay its debts; makes an assignment for the benefit of creditors; or takes any action to authorize any of the foregoing;

(n) An involuntary case is commenced against DB Contractor seeking liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts or other relief with respect to such DB Contractor or DB Contractor's debts under any U.S. or foreign bankruptcy, insolvency or other similar Governmental Rule; seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets; seeking the issuance of a writ of attachment, execution, or similar process; or seeking like relief, and such involuntary case shall not be contested by it in good faith or shall remain undismissed and unstayed for a period of 60 days;

(o) In any voluntary or involuntary case seeking liquidation, reorganization or other relief with respect to DB Contractor or its debts under any U.S. or foreign bankruptcy, insolvency or other similar Governmental Rule, this Contract, is rejected, including a rejection under 11 U.S.C. section 365 or any successor statute;

(p) Any voluntary or involuntary case or other act or event described in Sections 24.1.1(m) through (o) shall occur (and in the case of an involuntary case shall not be contested in good faith or shall remain undismissed and unstayed for a period of 60 days) with respect to (i) any member, partner or joint venture member of DB Contractor (unless said Person has fully met all financial obligations owing to DB Contractor investment and payments or transfers of money or property previously made to or for the benefit of DB Contractor are not subject to sections 544, 547, 548, or 550 of the Bankruptcy Code or any similar applicable state or federal Governmental Rule respecting the avoidance or recovery of preferences or fraudulent transfers, including any applicable enactment of the Uniform Fraudulent Transfer Act), (ii) any member, partner or joint venture member of DB Contractor for whom transfer of ownership or management authority would constitute a prohibited assignment under Section 30.4 or impermissible Change of Control, or (iii) any Guarantor of DB Contractor obligations to RCTC under this Contract, unless another Guarantor of the same obligations then exists, is solvent, is not and has not been the debtor in any such voluntary or involuntary case, has not repudiated its guaranty and is not in breach of its guaranty; and

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(q) After any rights of appeal have been exhausted, DB Contractor, any Affiliate or any Subcontractor (i) is determined disqualified, suspended or debarred, or otherwise excluded from bidding, proposing or contracting with a federal or a State department or agency, or (ii) has not dismissed any Subcontractor whose work is not substantially complete and who is determined disqualified, suspended or debarred, or otherwise excluded from bidding, or proposing or contracting with a federal or a State department or agency.

24.1.2. Notice and Opportunity to Cure

(a) Except with respect to the DB Contractor Defaults described in Sections 24.1.1(d), (e), (f), (h), (j), (m) through (p), and (q), DB Contractor and Surety shall be entitled to 15 days' Notice and opportunity to cure any DB Contractor Default before an Event of Default is declared.

(b) No notice and opportunity to cure is required for any DB Contractor Default that by its nature cannot be cured. Failure to provide notice to Surety or any Guarantor shall not preclude RCTC from exercising its remedies against DB Contractor.

(c) If a DB Contractor Default (other than the DB Contractor Defaults described in Sections 24.1.1(d), (e), (f), (h), (j), (m) through (p), and (q) is capable of cure but, by its nature, cannot be cured within 15 days, as determined by RCTC, such additional period of time shall be allowed as may be reasonably necessary to cure the DB Contractor Default, so long as DB Contractor commences such cure within such 15-day period and thereafter diligently prosecutes such cure to completion; except that, in no event shall such cure period exceed 60 days in total.

(d) In the event of a DB Contractor Default under Section 24.1.1(e) or (h), DB Contractor shall be entitled to seven days' Notice and opportunity to cure.

(e) DB Contractor acknowledges and agrees that the DB Contractor Defaults described in Sections 24.1.1(d), (f), (j), (m) through (p), and (q) are not curable and no notice or cure period shall apply; except that, if a DB Contractor Default under Section 24.1.1(p) arises due solely to the specified acts or events of a Guarantor, then DB Contractor shall have an opportunity to cure such DB Contractor Default, within two Business Days after the occurrence thereof (without any requirement of notice from RCTC), by providing RCTC with alternative security, which security must be in a form satisfactory to RCTC, in its sole discretion.

(f) Notwithstanding the foregoing, RCTC may, without Notice and without awaiting lapse of the period to cure any DB Contractor Default, in the event of existence of a condition on or affecting the Project which RCTC believes poses an immediate and imminent danger to revenues or public health or safety, rectify the dangerous condition at DB Contractor's cost, and so long as RCTC undertakes such action in good faith, even if under a mistaken belief in the occurrence of such DB Contractor Default, such action shall not expose RCTC to any liability to DB Contractor and shall not entitle DB Contractor to any other remedy, it being acknowledged that RCTC has a paramount public interest in providing and maintaining safe public use of and access to the Project. RCTC's good faith determination of the existence of such danger shall be deemed conclusive in the absence of clear and convincing evidence to the contrary.

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24.2. Remedies

24.2.1. If any DB Contractor Default is not subject to cure or is not cured within the applicable cure period (if any) specified in Section 24.1.2, RCTC may provide Notice to DB Contractor that an "Event of Default" has occurred and may exercise all rights and remedies available at law or in equity and such other rights available under this Contract, the Performance Bond, the Warranty Bond and the Guaranty. In addition to such rights and remedies, RCTC may without further notice and without waiving or releasing DB Contractor from any obligations, and DB Contractor shall have the following obligations (as applicable):

(a) RCTC may terminate this Contract in whole or part, including DB Contractor's rights of entry upon the Site and possession, control and operation of the Project, in which case, the provisions of Sections 23.3 and 23.4 shall apply;

(b) If and as directed by RCTC, DB Contractor shall discontinue the Work, withdraw from the Site, and shall remove materials, equipment, tools, and instruments used by, and any debris or waste materials generated by, any DB-Related Entity in the performance of the Work;

(c) DB Contractor shall deliver to RCTC possession of any or all Design Documents, Construction Documents, and all other completed or partially completed drawings (including plans, elevations, sections, details and diagrams), specifications, records, information, schedules, samples, shop drawings, electronic files and other documents and facilities related to the Project that RCTC deems necessary to complete the Work;

(d) DB Contractor shall confirm the assignment to RCTC of the Subcontracts requested by RCTC, and DB Contractor shall terminate all other Subcontracts;

(e) RCTC may deduct from any amounts payable by RCTC to DB Contractor such amounts payable by DB Contractor to RCTC, including: (i) the aggregate of reimbursements owing; (ii) Liquidated Damages; (iii) Lane Closure Charges; (iv) 125% of the amounts RCTC deems advisable to cover any existing or threatened claims, Liens, and stop payment notices of Subcontractors, laborers, or other Persons; (vi) amounts of any Losses or Third Party Claims that have accrued (vii) the cost to complete or remediate uncompleted Work or Nonconformances, plus an administrative charge equal to 10% of such costs; and (viii) other damages or amounts that RCTC has determined are or may be payable to RCTC under this Contract;

(f) RCTC may pay such amounts and/or perform such act as may then be required from DB Contractor under this Contract or Subcontracts;

(g) RCTC may appropriate any or all materials and equipment on the Site as may be suitable and acceptable and may direct the Surety to complete the Project or may enter into an agreement to complete the Project according to the terms and provisions hereof with another contractor or the Surety, or use such other methods as may be required to complete the Project, including completion of the Project by RCTC; and/or

(h) If RCTC exercises any right to perform any obligations of DB Contractor, in the exercise of such right RCTC may: (i) perform or attempt to perform, or cause to

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be performed, such work; (ii) spend such sums as RCTC deems necessary and reasonable to employ and pay such architects, engineers, consultants and contractors, and obtain materials and equipment as may be required to complete such work; (iii) execute all applications, certificates and other documents as may be required to complete the work; (iv) modify or terminate any contractual arrangements; (v) take any other actions that RCTC may consider necessary to complete the Work; and (vi) prosecute and defend any action or proceeding incident to the Work.

24.2.2. If an Event of Default occurs, DB Contractor, any Guarantor and Surety shall be jointly and severally liable to RCTC for all Losses incurred by RCTC or any party acting on RCTC's behalf to complete the Work, or to have the Work completed by another Person (including any re-procurement costs, throw-away costs for unused portions of the completed Work, and increased financing costs). Upon occurrence of an Event of Default and for so long as the Event of Default continues, RCTC may withhold all or any portion of further payments to DB Contractor until the Final Acceptance Date or the date on which RCTC otherwise accepts the Project as complete or determines that it will not proceed with completion, at which time RCTC will determine whether DB Contractor is entitled to further payments. Promptly following the Final Acceptance Date or the date on which RCTC otherwise accepts the Project as complete or determines that it will not proceed with completion, the total cost of all completed Work shall be determined, and RCTC shall provide Notice to DB Contractor, Surety and each Guarantor of the amount, if any, that DB Contractor, each Guarantor, and the Surety shall pay RCTC or RCTC shall pay DB Contractor or its Surety with respect thereto. RCTC will deduct, from any moneys due or which will become due DB Contractor or its Surety, all costs and charges incurred by RCTC, including attorneys', accountants' and expert witness fees and costs; together with: (a) the cost of completing the Work (which shall include all Plant Establishment Work) under this Contract together with an administrative charge of 10% of such costs; (b) any reimbursements owing to RCTC; (c) any Liquidated Damages and Lane Closure Charges (d) 125% of the amounts RCTC deems advisable to cover any existing or threatened claims, Liens and stop payment notices of Subcontractors, laborers or other Persons; (e) the amounts of any Losses or Third Party Claims that have accrued; and (f) other damages or amounts that RCTC has determined are or may be payable to RCTC under this Contract. If such expense exceeds the sum which would have been payable under the Contract, then DB Contractor, each Guarantor and its Surety(ies) shall be liable and shall pay to RCTC the amount of such excess. If any Guarantor or the Surety fails to pay such amount immediately upon RCTC's demand, then RCTC may collect interest from the Surety and/or such Guarantors on the amounts DB Contractor is required to pay in excess of the remaining balance of the Contract Price. The interest rate which the Surety and/or such Guarantors shall pay shall be the lesser of (i) 10% per annum or (ii) the maximum rate allowable under applicable Governmental Rules. The interest rate shall accrue on all amounts RCTC has had to pay in excess of the remaining balance of the Contract Price from the date of RCTC payment.

24.2.3. DB Contractor acknowledges that if a DB Contractor Default under Section 24.1.1(m) through 24.1.1(p) occurs, such event could impair or frustrate DB Contractor's performance of the Work. Accordingly, DB

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Contractor agrees that upon the occurrence of any such DB Contractor Default, RCTC may request that DB Contractor, or its successor in interest, provide adequate assurance of future performance in accordance with the terms and conditions hereof. Failure to comply with such request within ten days of delivery of the request shall entitle RCTC to terminate the Contract and to the accompanying rights set forth above. Pending receipt of adequate assurance of performance and actual performance in accordance therewith, RCTC may proceed with the Work with its own forces or with other contractors on a time and material or other appropriate basis, the cost of which (plus an administrative charge of 10% of such cost) will be credited against and deducted from RCTC's payment obligations under this Contract. The foregoing shall be in addition to all other rights and remedies provided by law or equity and such rights and remedies as are otherwise available under this Contract, the Performance Bond and the Guaranty.

24.2.4. In lieu of the provisions of this Section 24.2 for terminating the Contract and completing the Work, RCTC may pay DB Contractor for the Work already done according to the provisions of this Contract (including RCTC's right to deduct certain amounts therefrom) and may treat the Work remaining undone as if they had never been included or contemplated by this Contract. No claim under this provision will be allowed for prospective profits on, or any other compensation relating to, Work uncompleted by DB Contractor.

24.2.5. In the event that the Contract is terminated for grounds which are later determined not to justify a termination for default, such termination shall be deemed to constitute a termination for convenience in accordance with Section 23.

24.2.6. The exercise or beginning of the exercise by RCTC of any one or more rights or remedies under this Section 24.2 shall not preclude the simultaneous or later exercise by RCTC of any or all other such rights or remedies, each of which shall be cumulative.

24.2.7. DB Contractor, each Guarantor and Surety shall not be relieved of liability for continuing Liquidated Damages or Lane Closure Charges on account of a DB Contractor Default by DB Contractor under this Contract or by RCTC's declaration of an Event of Default, or by actions taken by RCTC under this Section 24.2.

24.2.8. In the event RCTC suffers Losses as a result of any act or omission of any DB-Related Entity or any DB Contractor Fault, then, subject to the limitation on liability contained in Section 26, RCTC may recover such Losses from DB Contractor regardless of whether the breach or failure that gives rise to the damages ripens into an Event of Default.

24.2.9. RCTC's remedies associated with any false statement contained in the Proposer Questionnaire included in the SOQ Step 1 Submittal shall include the right to rescind the Contract.

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24.3. Right to Stop Work for Failure by RCTC to Make Undisputed Payment

DB Contractor may stop Work if RCTC fails to make an undisputed payment due under this Contract within 30 days after receipt of Notice of nonpayment. Any such Work stoppage shall be considered a suspension for convenience under Section 23. DB Contractor shall not have the right to terminate the Contract for default as the result of any failure by RCTC to make an undisputed payment due under this Contract. However, if such nonpayment continues for more than 180 days, upon Notice from DB Contractor to RCTC, DB Contractor may declare a Termination for Convenience under Section 23 by delivering to RCTC a Notice of termination specifying its effective date. Upon such termination, the Parties' rights and obligations shall be as provided in Section 23.

24.4. Event of Default Due Solely to DB Contractor's Failure to Achieve Completion Deadlines

24.4.1. If an Event of Default consists solely of DB Contractor's failure to achieve Substantial Completion, Project Completion, or Final Acceptance by the applicable Completion Deadline, RCTC's sole monetary remedy for such Event of Default shall be the right to assess Liquidated Damages under Section 25.1; provided, however, that: (a) such Event of Default does not delay Substantial Completion, Project Completion, or Final Acceptance beyond 180-days of the applicable Completion Deadline; and (b) DB Contractor continues to diligently perform the Work despite such Event of Default. Nothing in this Section 24.4 shall prejudice any other rights or remedies that RCTC may have due to any other Event of Default during such 180-day period.

24.4.2. If any Completion Milestone has not occurred within 180-days of the applicable Completion Deadline, RCTC may: (a) terminate this Contract; (b) continue to assess Liquidated Damages subject only to the limitations in Section 25.1; and/or (c) exercise any other right or remedy under this Contract, at law or in equity.

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SECTION 25
LIQUIDATED DAMAGES

25.1. Liquidated Damages for Delay in Completion

25.1.1. DB Contractor shall be liable for and pay to RCTC Liquidated Damages set out in the Contract Particulars with respect to any failure to achieve a Completion Milestone by the applicable Completion Deadline. This liability shall apply to DB Contractor whether a cure period remains available to DB Contractor, or a cure occurs.

25.1.2. The Liquidated Damages under this Section 25.1 shall commence on the applicable Completion Deadline and shall continue to accrue until 365 days after the date of the applicable Completion Deadline, or until termination of this Contract. Such Liquidated Damages shall constitute RCTC's sole right to monetary damages for Completion Deadline delay for 180 days after the date of Completion, after which RCTC may exercise other rights and remedies under the Contract, at law or in equity.

25.1.3. The application of Liquidated Damages under this Section 25.1, shall not: (a) liquidate DB Contractor's liability under the indemnification provisions of Section 27, even though Third Party Claims against Indemnified Parties may arise out of the same event, breach, or failure that gives rise to the Liquidated Damages; or (b) limit RCTC's rights to terminate this Contract under Section 23 or Section 24.

25.2. Lane Closure Charges for Lane Closures on General Purpose Lanes and 91 Eastbound Corridor

25.2.1. DB Contractor shall perform the Work in a manner that will reasonably minimize impacts to the operations of the GP Lanes, 91 Eastbound Corridor, including minimizing Lane Closures.

25.2.2. For Lane Closures between NTP Phase 1 and the end of the Warranty Period (or as otherwise expressly stated in Exhibit 6 (Lane Closures) – Chart 6-1), DB Contractor shall be liable for and pay the following fees and/or charges to RCTC.

(a) Permitted GP Lane Closures at the locations and during the periods approved by RCTC and the Department, shall be at no charge to DB Contractor, so long as the Lane Closure complies with the requirements for Lane Closures in this Contract. Where a Permitted GP Lane Closure goes beyond or outside the duration approved by RCTC or does not comply with the requirements for Lane Closures in this Contract, it is an Unpermitted GP Lane Closure and Section 25.2.2(b) shall apply.

(b) For an Unpermitted GP Lane Closure, DB Contractor shall pay GP Lane Closure Charges for each affected GP Lane as set forth in Exhibit 6 (Lane Closures) – Chart 6-1 for Phase 1 or Exhibit 6 (Lane Closures) – Chart 6-2 for Phase 2.

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(c) For Permitted 91 EL Closures, DB Contractor shall pay 91 EL Closure Charges as set forth in Exhibit 6 (Lane Closures) – Chart 6-3 for Phase 1 or Exhibit 6 (Lane Closures) – Chart 6-7 for Phase 2.

(d) For Unpermitted 91 EL Closures, DB Contractor shall pay 91 EL Closure Charges as set forth in Exhibit 6 (Lane Closures) – Chart 6-4 for Phase 1 or Exhibit 6 (Lane Closures) – Chart 6-8 for Phase 2 (as applicable).

(e) For Permitted 91 OCTA EL Closures, DB Contractor shall pay 91 EL Closure Charges as set forth in Exhibit 6 (Lane Closures) – Chart 6-5 for Phase 1 or Exhibit 6 (Lane Closures) – Chart 6-9 for Phase 2 (as applicable).

(f) For Unpermitted 91 OCTA EL Closures, DB Contractor shall pay 91 EL Closure Charges as set forth in Exhibit 6 (Lane Closures) – Chart 6-6 for Phase 1 or Exhibit 6 (Lane Closures) – Chart 6-10 for Phase 2 (as applicable).

25.2.3. DB Contractor shall pay the Lane Closure Charges owing under this Contract to RCTC on a quarterly basis, within 30 days from receipt of RCTC's invoice.

25.2.4. Without limiting Section 25.5, if DB Contractor fails to timely make any timely payment of Lane Closure Charges, then:

(a) RCTC may prohibit DB Contractor from pursuing or implementing any further Permitted Lane Closures, until such past due payments are made; and

(b) DB Contractor shall not be entitled to any compensation, time extension or otherwise make any Claim arising out of any inability to pursue or implement such Permitted Lane Closures.

25.2.5. When RCTC permits or requires DB Contractor to proceed with a Permitted Lane Closure after DB Contractor has failed to timely pay Lane Closure Charges, as provided in this Contract, this shall not waive RCTC's right to receive damages under this Contract or any rights or remedies otherwise available to RCTC, as applicable.

25.3. Liquidated Damages for Failure to Comply with Requests for Lane Closures of General Purpose Lanes

DB Contractor shall be subject to Liquidated Damages under this Section 25.3 for failure to comply with requests for GP Lane Closures (including failure to timely cancel). Subject to the monthly threshold in TP Section 18.3.3.1.1, the amount of Liquidated Damages owing from DB Contractor to RCTC for each failure shall be listed in Exhibit 6. These Liquidated Damages are in addition to any fees or costs associated with the Construction Zone Enhanced Enforcement Program ("**COZEEP**"), which DB Contractor shall reimburse RCTC for in accordance with TP Section 18.4.1.2. RCTC will invoice DB Contractor on a quarterly basis for all Liquidated Damages accrued. DB Contractor shall remit payment within 30 days from the receipt of the invoice.

25.4. Liquidated Damages for Unavailability of Key Personnel

DB Contractor shall be subject to Liquidated Damages for unavailability of Key Personnel to work on the Project, in accordance with Section 6.5.

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25.5. Acknowledgements Regarding Liquidated Damages or Lane Closure Charges

25.5.1. The Parties acknowledge and agree that if DB Contractor fails to comply with certain obligations under this Contract, DB Contractor shall be liable to RCTC for liquidated damages. Liquidated damages (collectively, "**Liquidated Damages**") and Lane Closure Charges shall apply and be payable in accordance with Sections 25.1, 21.2, 25.3, and 25.4.

25.5.2. The Parties acknowledge and agree:

(a) That RCTC shall incur damages that are incapable of accurate measurement, because of, among other things, the unique nature of the Project and the unavailability of a substitute for it. Such damages include loss of use, enjoyment and benefit of the Project, and connecting RCTC transportation facilities by the general public, injury to the credibility and reputation of RCTC's transportation improvement program with policy makers and with the general public who depend on and expect availability of service on the Project and the SR-91 which injury to credibility and reputation may directly result in loss of ridership on the Project, SR-91, and additional costs of administering this Contract (including engineering, legal, accounting, overhead and other administrative costs);

(b) To fix the Liquidated Damages and Lane Closure Charges payable by DB Contractor to RCTC in the event of the Liquidated Damages Events and Lane Closure Charges (as applicable) and avoid later Disputes over what amounts of damages are properly chargeable to DB Contractor for such Liquidated Damages Events given the difficulties of the proof of loss, and the inconvenience or infeasibility of otherwise obtaining an adequate remedy;

(c) That the Liquidated Damages and Lane Closure Charges are reasonable and represent good faith estimates and evaluations by the Parties as to the actual, potential damages or harm RCTC would incur as a result of the applicable Liquidated Damages Event or Lane Closure Charges (as applicable);

(d) That the Parties intend for the Liquidated Damages in Section 25.1 to constitute "liquidated damages" as such term is used in Government Code section 53069.85 to the extent said statute may apply, and to constitute "stipulated damages" to the extent that said statute is not applicable; and

(e) The Liquidated Damages and Lane Closure Charges (as applicable) do not constitute a penalty.

25.6. Payment; Offset; Reduction; Waiver; Non-Exclusive Remedy

25.6.1. Except for the Liquidated Damages set out in Section 25.2.3, DB Contractor shall pay any Liquidated Damages and Lane Closure Charges owing, within 30 Days after DB Contractor's receipt of RCTC's invoice or demand therefor.

25.6.2. RCTC may deduct and offset any unpaid Liquidated Damages and Lane Closure Charges from any amounts owed by RCTC to DB Contractor, including any Retainage which may be payable by RCTC to DB Contractor in accordance with Section 18.12.1. RCTC also may draw on any bond, certificate of deposit, letter of credit or other security provided by DB Contractor

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in accordance with this Contract to satisfy Liquidated Damages and Lane Closure Charges not paid when due.

25.6.3. Permitting or requiring DB Contractor to continue and finish the Work or any part thereof after a Completion Deadline as applicable shall not act as a waiver of RCTC's right to receive Liquidated Damages and Lane Closure Charges under this Contract or any rights or remedies otherwise available to RCTC.

25.6.4. Subject to Section 24.4, RCTC's right to, and imposition of, Liquidated Damages and Lane Closure Charges are in addition, and without prejudice, to any other rights and remedies available to RCTC under this Contract, at law or in equity respecting the breach, failure to perform or DB Contractor Default, except for recovery of the monetary damage that the Liquidated Damages and Lane Closure Charges are intended to compensate.

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SECTION 26
LIMITATION OF DB CONTRACTOR'S LIABILITY

26.1. Limitation of Liability

26.1.1. Subject to Section 26.1.2, during Phase 1, DB Contractor's aggregate liability under this Contract to RCTC whether arising in contract, negligence or other tort, or any other theory of law shall not exceed 100% of the NTE (Phase 1). Subject to Section 26.1.2, during Phase 2, DB Contractor's aggregate liability under this Contract to RCTC with respect to Phase 2 whether arising in contract, negligence or other tort, or any other theory of law shall not exceed an amount equal to the sum of 100% of the NTE (Phase 1) and 50% of the GMP (Phase 2).

26.1.2. The limitations on DB Contractor's liability under Section 26.1.1 shall not apply to, and DB Contractor shall remain liable for:

(a) All those costs reasonably incurred by RCTC or any party acting on RCTC's behalf to complete or correct the Work, or to have the Work completed or corrected by another Person, including costs as described in Section 28; plus

(b) Any Losses incurred where DB Contractor abandons the Project Assets in whole or part; plus

(c) Any Losses, to the extent they are covered by insurance required to be carried under this Contract or for which DB Contractor was required to provide under this Contract if coverage is not in force; plus

(d) Any fines or penalties levied or imposed by any Governmental Entity to the extent arising out of any DB Contractor Fault; plus

(e) Subject to Section 27.1.4(e), DB Contractor's liability for its indemnity obligations as provided in this Contract; plus

(f) Any Losses incurred by any Indemnified Party in connection with, relating to or arising out of any gross negligence, fraud, bad faith, recklessness, criminal conduct, intentional misconduct, or breach of Governmental Rule by any DB Contractor-Related Entity; plus

(g) DB Contractor's obligation to pay Lane Closure Charges or Liquidated Damages under this Contract (excluding Liquidated Damages under Section 25.1); and plus

(h) Any Losses arising out of any DB Contractor Hazardous Materials Release.

26.2. Consequential Damages

26.2.1. Except as otherwise expressly specified in this Contract, including this Section 26, to the extent permitted by applicable Governmental Rules, neither Party shall be liable to the other for punitive, indirect, incidental or consequential damages, whether arising out of breach of this Contract, tort

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(including negligence), or any other theory of liability, and each Party releases the other Party from any such liability.

26.2.2. The limitations on DB Contractor's liability under this Section 26.2 shall not apply to or limit any right of recovery RCTC may have with respect to the following (and DB Contractor agrees that it shall not assert the application of Section 26.2.1 against any such item, obligation, liability or Losses):

(a) Any amounts paid or payable by or on behalf of DB Contractor which are covered by (i) in the case of a project-specific insurance policy, insurance proceeds required to be carried under this Contract, or for which DB Contractor was required to provide insurance if coverage is not in force; and (ii) in the case of a corporate insurance policy, insurance proceeds required to be carried under this Contract, or for which DB Contractor was required to provide insurance if coverage is not in force, only up to the required limits of such policy;

(b) Losses in connection with any illegal activities, fraud, recklessness, criminal conduct, intentional misconduct, bad faith, or gross negligence on the part of any DB-Related Entity;

(c) Subject to Section 27.1.4(e), DB Contractor's indemnities under Section 27 or elsewhere in this Contract;

(d) DB Contractor's obligation to pay Lane Closure Charges or Liquidated Damages under this Contract; and

(e) Losses arising out of DB Contractor Release of Hazardous Materials.

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SECTION 27
INDEMNIFICATION

27.1. Indemnifications by DB Contractor

27.1.1. Subject to Section 27.1.2, DB Contractor shall release, defend, indemnify and hold harmless the Indemnified Parties from and against any and all Claims and Losses in connection with the following (each an "**Indemnified Claim**"):

(a) The breach or alleged breach of this Contract by any DB-Related Entity;

(b) The failure or alleged failure by any DB-Related Entity to comply with the Governmental Approvals or Governmental Rules (including any Environmental Laws);

(c) Any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions in connection with the Project, this Contract and the Work and/or the system of methods, processes, designs, information or other items provided or communicated to RCTC or another Indemnified Party in accordance with this Contract; provided that if infringement can be avoided by modification to the allegedly infringing article, RCTC agrees to allow such modification unless the form, fit, or function of the allegedly infringing article or the system is, in RCTC's sole determination, adversely affected; and further provided that this indemnity shall not apply to any infringement to the extent directly and solely resulting from: (i) RCTC's material failure to comply with a material specific prior written instruction regarding use provided to RCTC by DB Contractor; (ii) compliance with written specifications prescribed by RCTC with respect to which: (1) DB Contractor has complied in full; (2) the reason for the infringement solely and directly arises out of RCTC's specifications; and (3) DB Contractor has notified RCTC in writing in advance of potential infringement and RCTC has directed DB Contractor to proceed and disregard the potential infringement; or (iii) material modifications to the deliverables directed by RCTC and not made by a DB-Related Entity;

(d) The actual or alleged negligent act, error or omission, illegal activities, fraud, recklessness, criminal conduct, intentional misconduct, bad faith or gross negligence or of any DB-Related Entity or any DB Contractor Fault in or associated with performance of the Work and/or this Contract;

(e) Any and all Claims by any Governmental Entity or taxing authority claiming taxes based on gross receipts, purchases or sales, the use of any property or income of any DB-Related Entity or any of their respective agents, officers or employees with respect to any payment for the Work made to or earned by any DB-Related Entity;

(f) Any and all stop payment notices and/or Liens filed in connection with the Work, including all reasonable expenses and attorneys', accountants' and expert witness fees and costs incurred in discharging any stop payment notice or Lien and any other liability to Subcontractors for failure to pay sums due for their work or services; provided that RCTC is not in default in undisputed payments owing to DB Contractor with respect to such Work;

(g) Any DB Contractor Release of Hazardous Materials;

(h) To the extent of the negligence of any DB-Related Entity or failure to comply with DB Contractor's obligations under Section 4 or Section 25; the claim or assertion by

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any other contractor (excluding Other RCTC Contractors) that any DB-Related Entity (i) interfered with or hindered the progress or completion of work being performed by such other contractor, so as to cause inconvenience disruption, delay, or loss, except where the DB-Related Entity was not in any manner engaged in performance of the Work, or (ii) failed to cooperate reasonably with other contractors in accordance therewith;

(i) DB Contractor's performance of, or failure to perform, the obligations under any Utility Agreement(s) which are DB Contractor's responsibility in accordance with this Contract, or any dispute between DB Contractor and a Utility Owner as to whether work relating to a Relocation constitutes a Betterment;

(j) Any DB-Related Entity's breach of or failure to perform an obligation that RCTC owes to a third Person, including Governmental Entities and Utility Owners, under law or under any agreement between RCTC and a third Person, where (i) RCTC has delegated performance of the obligation to DB Contractor under this Contract, or (ii) the acts or omissions of any DB-Related Entity which render RCTC unable to perform an obligation that RCTC owes to a third Person, including Governmental Entities and Utility Owners, under any agreement between RCTC and a third Person, where the agreement was expressly disclosed to DB Contractor;

(k) Inverse condemnation, trespass, nuisance, or similar taking of or harm to real property by reason of (i) the failure of any DB-Related Entity to comply with Good Industry Practices, requirements of this Contract, Administrative Project Plans or Governmental Approvals, (ii) the fraud, criminal conduct, bad faith, intentional misconduct, recklessness or negligence of any DB-Related Entity, or (iii) the actual physical entry onto or encroachment upon another's property by any DB-Related Entity not permitted under this Contract;

(l) Any failure to pay any Liquidated Damages or Lane Closure Charges under this Contract; and/or.

(m) Subject to Section 27.1.2, Errors in the Design Documents provided by DB Contractor (including those pertaining to Relocations), regardless of whether such Errors were also included in the Reference Documents. DB Contractor agrees that, because the concepts in the Reference Documents are subject to review and modification by DB Contractor, (i) it is appropriate for DB Contractor to assume liability for Errors in the completed Project even though they may be related to Errors in the Reference Documents, and (ii) such documents shall not be deemed "design furnished" by RCTC or any of the other Indemnified Parties, as the term "design furnished" is used in Civil Code section 2782 and as it pertains to Section 27.1.4(a). DB Contractor agrees to waive the benefit (if any) of Civil Code section 2782 and agrees that this Section 27.1.1(m) constitutes an agreement governed by Civil Code section 2782.5.

27.1.2. Subject to the releases and disclaimers under this Contract, DB Contractor's indemnity under this Section 27 shall not extend to any Claim or Losses to the extent that such Claim or Losses were directly caused by:

(a) Without limiting Section 27.1.4(a) the active negligence, gross negligence, reckless or willful misconduct, bad faith or fraud of such Indemnified Party;

(b) RCTC's material breach of any of its obligations under this Contract; or

(c) An Indemnified Parties material violation of any applicable Governmental Rules or Governmental Approvals.

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27.1.3. With respect to Claims by an employee of DB Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 27 shall not be limited by any limitations under workers' compensation, disability benefit or other employee benefits laws, including limitations on the amount or type of damages, compensation or benefits payable by or for DB Contractor or a Subcontractor.

27.1.4. The following restrictions shall apply to the indemnities in Sections 27.1.1:

(a) Except as permitted by Civil Code sections 2782.1, 2782.2 and 2782.5, such indemnities shall not inure to the benefit of an Indemnified Party so as to impose liability on DB Contractor for the active negligence of RCTC, or to relieve RCTC of liability for such active negligence.

(b) With respect to Work performed by a design professional as defined in California Civil Code section 2782.8, such indemnities shall apply only to the extent permitted by said section 2782.8.

(c) In Claims by an employee of DB Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 27 is not limited by a limitation on the amount or type of damages, compensation or benefits payable by or for DB Contractor or a Subcontractor under workers' compensation, disability benefit or other employee benefits laws.

(d) DB Contractor is advised that Utility Agreements may include certain agreements by RCTC to indemnify, defend and hold harmless the Utility Owners with respect to certain matters. DB Contractor's obligations under this Section 27 shall automatically apply to require DB Contractor, subject to Section 27.1.2, to release, indemnify, defend and hold harmless the Utility Owners and their employees and agents, in addition to the Indemnified Parties, with respect to all such matters. If any Utility Agreements contain provisions requiring RCTC's contractor(s) to indemnify, save and hold harmless the Utility Owner with respect to any matters, then, subject to Section 27.1.2, DB Contractor agrees to and shall perform and comply with such provisions of the Utility Agreements for the benefit of the Utility Owners, their employees and agents.

(e) The requirement to provide an indemnity for breach or alleged breach of this Contract as provided in Section 27.1.1(a) is intended to provide protection to RCTC with respect to third-party claims associated with such breach or alleged breach. It is not intended to provide RCTC with an alternative cause of action for damages incurred by RCTC with respect to such breach or alleged breach.

27.2. Defense and Indemnification Procedures

27.2.1. If an Indemnified Party receives notice of a Claim or other item covered under this Section 27, or otherwise has Actual Knowledge of an Indemnified Claim that it believes is within the scope of the indemnities provided under this Section 27, then, as soon as practicable after receipt of the Indemnified Claim, RCTC shall by Notice:

(a) Inform DB Contractor of the Indemnified Claim;

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(b) Send to DB Contractor a copy of all written materials RCTC has received asserting such Indemnified Claim; and

(c) Notify DB Contractor that if no insurer accepts defense of the Indemnified Claim, the Indemnified Party will conduct its own defense unless DB Contractor accepts the tender of the Indemnified Claim in accordance with Section 27.2.4.

27.2.2. As soon as practicable after DB Contractor receives Notice of an Indemnified Claim or otherwise has Actual Knowledge of an Indemnified Claim, it shall tender the Indemnified Claim by Notice to the insurers under all potentially applicable insurance policies. RCTC and other Indemnified Parties also may tender such Indemnified Claims directly to such insurers.

27.2.3. If the insurer under any applicable insurance policy accepts the tender of defense, RCTC and DB Contractor shall cooperate in the defense as required by the insurance policy. If no insurer under potentially applicable insurance policies provides defense, then Section 27.2.4 shall apply.

27.2.4. If the defense is tendered to DB Contractor, then within 30 days after receipt of the tender, DB Contractor shall notify the Indemnified Party whether it has tendered the matter to an insurer and (if not tendered to an insurer or if the insurer has rejected the tender) shall deliver a Notice stating that DB Contractor:

(a) Accepts the tender of defense and confirms that the Indemnified Claim is subject to full indemnification under this Contract without any "reservation of rights" to deny or disclaim full indemnification thereafter;

(b) Accepts the tender of defense but with a "reservation of rights" in whole or in part; or

(c) Rejects the tender of defense based on a determination that it is not required to indemnify against the Indemnified Claim under the terms of this Contract.

27.2.5. If DB Contractor accepts the tender of defense under Section 27.2.4(a), DB Contractor may select legal counsel for the Indemnified Party, subject to reasonable approval by the Indemnified Party, and DB Contractor shall otherwise control the defense of such Indemnified Claim, including settlement, and bear the fees and costs of defending and settling such Indemnified Claim; except that RCTC has the right of prior approval of any settlement that waives any defenses or rights of RCTC, increases RCTC's risk, including Project risk, or relates to or may impact the Work or the design, construction, operations, maintenance, financing, or revenues of the Project. During such defense:

(a) DB Contractor shall fully and regularly inform the Indemnified Party in writing of the progress of the defense and of any settlement discussions; and

(b) The Indemnified Party shall fully cooperate in said defense, provide to DB Contractor all materials and access to personnel that DB Contractor requests as necessary for defense, preparation and trial, and which or who are under the control of or reasonably

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available to the Indemnified Party, and use reasonable efforts to maintain the confidentiality of all communications between it and DB Contractor concerning such defense.

27.2.6. If DB Contractor responds to the tender of defense as specified in Section 27.2.4(b) or 27.2.4(c), the Indemnified Party may select its own legal counsel and otherwise control the defense of such Indemnified Claim, including settlement.

27.2.7. Notwithstanding DB Contractor's acceptance of a tender of defense under Section 27.2.4(a) or 27.2.4(b), the Indemnified Party may assume its own defense by delivering to DB Contractor Notice of such election and the reasons therefore, if the Indemnified Party, at the time it gives Notice of the Indemnified Claim or at any time thereafter, reasonably determines that:

(a) A conflict exists between the Indemnified Party and DB Contractor which prevents or potentially prevents DB Contractor from presenting a full and effective defense;

(b) DB Contractor is otherwise not providing an effective defense in connection with the Indemnified Claim; or

(c) DB Contractor lacks the financial capacity to satisfy potential liability or to provide an effective defense.

27.2.8. If the Indemnified Party is entitled to and elects to conduct its own defense of an Indemnified Claim for which it is entitled to indemnification under this Contract, DB Contractor shall reimburse on a current basis all reasonable Costs and expenses the Indemnified Party incurs in investigating and defending. If the Indemnified Party is entitled to and elects to conduct its own defense, then:

(a) In the case of a defense that otherwise would be conducted under Section 27.2.4(a), the Indemnified Party may settle or compromise the Indemnified Claim with DB Contractor's prior written consent, which shall not be unreasonably withheld or delayed;

(b) In the case of a defense that otherwise would be conducted under Section 27.2.4(b), the Indemnified Party may settle or compromise the Indemnified Claim with DB Contractor's prior written consent, which shall not be unreasonably withheld or delayed, or with approval of the court or arbitrator following reasonable notice to DB Contractor and opportunity to be heard and without prejudice to the Indemnified Party's rights to be indemnified by DB Contractor; and

(c) In the case of a defense conducted under Section 27.2.4(c), the Indemnified Party shall have the right to settle or compromise the Indemnified Claim without DB Contractor's prior written consent and without prejudice to its rights to be indemnified by DB Contractor.

27.2.9. A refusal of, or failure to accept, a tender of defense, as well as any Dispute over whether an Indemnified Party that has assumed control of defense is entitled to do so under Section 27.2.6 shall be resolved in accordance with Section 28, but the foregoing shall not preclude an Indemnified Party from preserving its rights or defending the claim pending such resolution.

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27.2.10. The Parties acknowledge that while this Section 27 contemplates that DB Contractor will have responsibility for certain Indemnified Claims, circumstances may arise where the Parties may share liability with respect to such Indemnified Claims and liabilities. In such cases, where either Party believes that an Indemnified Claim or liability may entail shared responsibility, and that principles of comparative negligence and indemnity are applicable, the Party shall confer with the other Party on management of the Indemnified Claim or liability in question. If the Parties cannot agree on an approach to representation in the matter in question, each Party shall arrange to represent itself and to bear its own costs in connection therewith pending the outcome of the matter. Within 30 days after the final, non-appealable resolution of the matter in question (whether by settlement, arbitration or by judicial proceedings), the Parties shall adjust the costs of defense, including reimbursement of reasonable attorneys' fees, and other litigation and defense costs, in accordance with the indemnification arrangements of this Section 27.2, and consistent with the outcome of such proceedings concerning the respective liabilities of the Parties on the Indemnified Claim.

27.2.11. In determining responsibilities and obligations for defending Indemnified Claims under to this Section 27.2, specific consideration shall be given to the following factors:

(a) The party performing the activity in question;

(b) The location of the activity and incident;

(c) Contractual arrangements then governing the performance of the activity; and

(d) Allegations of respective fault contained in the Indemnified Claim.

27.3. Responsibility of RCTC for Certain Hazardous Materials

The Parties acknowledge and agree that:

27.3.1. RCTC may assert that certain third persons or parties may rightfully bear the ultimate legal responsibility for any and all Hazardous Materials that may currently be present on the Site; and

27.3.2. Certain State and federal statutes provide that individuals and firms may be held liable for damages and claims related to Hazardous Materials under such doctrines as joint and several liability and/or strict liability. It is not the intention of the Parties that DB Contractor be exposed to any such liability to the extent arising out of (a) proper Hazardous Materials Management activities in connection with pre-existing Site contamination, whether known or unknown, and/or (b) the activities of any Persons other than DB-Related Entities.

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27.4. No Effect on Other Rights

The obligations in Sections 27.1 through 27.3 shall not be construed to negate, abridge or reduce other rights or obligations which would otherwise exist in favor of an Indemnified Party under this Contract.

27.5. CERCLA Agreement

The indemnities in Section 27.1.1(g) are intended to operate as agreements in accordance with section 9607(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9607(e), and Health and Safety Code section 25364, to defend, indemnify and hold harmless the Indemnified Parties.

27.6. Notification of Third-Party Claim

RCTC and DB Contractor shall each provide timely notification to the other party of the receipt of any third party claim relating to this Contract.

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SECTION 28
PARTNERING AND DISPUTE RESOLUTION

28.1. Partnering; Informal Process and Mediation for Resolution of Claims

The Parties acknowledge that Public Contract Code section 9204 applies to Claims (as defined thereunder) made by DB Contractor or its Subcontractors under this Contract, and that this Section 28, and as pertains to "claims" under Public Contract Code section 9204, complies in substance and procedure with Public Contract Code section 9204. To the extent that any provision in this Section 28 conflicts with Public Contract Code section 9204, solely with respect to "claims" thereunder, the procedures in Public Contract Code section 9204 shall control.

28.1.1. Partnering

(a) RCTC encourages partnering among DB Contractor, its Subcontractors, TSP, RCTC, PCM, Department, FHWA and other stakeholders. Partnering is intended to identify potential problem areas early in the progress of the Project. The parties shall commence partnering sessions to address and establish a process for resolving potential problems in order to prevent them from becoming Claims or Disputes. Early in the progress of the Project, specific interface issues, definition of the scope of Work, division of responsibilities, communication channels, and application of alternative resolution principles shall guide partnering sessions so as to prevent problems from becoming Claims or Disputes. The issues addressed in subsequent partnering sessions will be determined by the parties to the partnering sessions as needed.

(b) The facilitator for the partnering sessions will be the individual identified in the Contract Particulars (Phase 1), or another facilitator acceptable to DB Contractor, TSP and RCTC. RCTC will issue a Change Order for any required partnering sessions and DB Contractor will invoice their portion of the partnering sessions against the Change Order. The cost of the partnering facilitator shall be shared equally among DB Contractor, TSP and RCTC. Partnering sessions shall be conducted at the offices of RCTC, PCM or at such location as otherwise agreed upon. An initial partnering session will be conducted with DB Contractor, TSP, RCTC, PCM, Department and FHWA as soon as possible after the Effective Date, but no later than the first 90 days. Follow up partnering sessions shall be held quarterly throughout the Term. Persons who must attend partnering sessions include key personnel and senior management officials of the Parties and Department.

28.1.2. Informal Process and Mediation for Resolution of Claims

(a) Notices requesting dispute resolution, whether from DB Contractor or RCTC, shall: (i) identify the issues in dispute; (ii) state the position of the requester; (iii) state the dollar amount and/or duration of Critical Path and Completion Deadline impact; and (iv) state the Contract Document provisions pursuant to which the claim is made. The Notice shall include all documentation required to support the Claim with respect to merit, including details of the claim, cause, effect and entitlement and, for claims seeking an extension of a Contract Deadline, a time-impact analysis. RCTC may request additional information from the DB Contractor pertaining to the Claim.

(b) RCTC will provide a written statement identifying what portion of any Claim is disputed and what portion is undisputed, if any, within 30 days (or, if any determination requires approval from RCTC's governing body, three days after the next duly publicly noticed

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meeting of such governing body after such 45-day period). If RCTC fails to respond to a Claim within the time periods described herein, the Claim is deemed rejected in its entirety ("deemed response").

(c) If DB Contractor disputes RCTC's written response (or deemed response) to a Notice of Claim, DB Contractor shall provide Notice to RCTC in writing, within ten Business Days of receipt of RCTC's written or deemed response, that DB Contractor wishes to proceed with an informal meet and confer with RCTC regarding the Claim. In the request for an informal meet and confer, DB Contractor shall identify, in writing, that portion of the Claim which is still in dispute. Upon receipt of such notification, RCTC shall schedule a meet and confer conference within ten Business Days.

(d) Within ten Business Days following the conclusion of the meet and confer conference, if the Claim, or any portion of the Claim remains unresolved, RCTC shall provide DB Contractor with a written statement identifying the portion of the Claim that remains unresolved and the portion that is resolved. If RCTC fails to respond to a Claim within the time periods described herein, the Claim is deemed rejected in its entirety.

(e) Any unresolved portion of the Claim may be submitted to nonbinding mediation by either party in writing to the other party within 10 Business Days of RCTC's response or deemed response under Section 30.1.2(d). Failure of either party to request mediation under this Section 28.1.2(e) If mediation is elected, the parties shall mutually agree to a mediator. The parties shall share mediation costs equally. If mediation is unsuccessful, the parts of the Claim remaining unresolved shall be subject to further dispute resolution as specified in Section 30.2, below.

(f) Failure by RCTC to respond to a Claim from DB Contractor within the time periods described in this Section 28.1.2 (including failure to schedule a meet and confer within the timeframe in Section 28.1.2(c)) or to otherwise meet the time requirements of Public Contract Code section 9204 shall result in the Claim being deemed rejected in its entirety.

28.2. Commencement of Dispute Resolution Process

All Disputes between DB Contractor and RCTC that arise under this Contract shall be resolved in accordance with this Section 28, except for those matters identified in Section 28.2.1. All Disputes shall be decided strictly in accordance with the terms and conditions of this Contract and general principles of contract law of the State. Before DB Contractor may submit any Dispute to dispute resolution under Sections 28.5, or 28.6, it must first obtain a final RCTC Decision in accordance with this Section 28.2.

28.2.1. Matters not Eligible for Dispute Resolution

The dispute resolution procedures in this Section 28 shall not apply to the following:

(a) Any matters this Contract expressly states are final, binding, or not subject to dispute resolution or are subject to the sole discretion of RCTC;

(b) Disputes regarding compliance with Governmental Rules, the rights of RCTC to terminate this Contract, liability or indemnification;

(c) Any claim for injunctive relief;

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(d) Any claim against an insurance company, including any Subcontractor Dispute that is covered by insurance;

(e) Disputes regarding matters under the jurisdiction of Cal-OSHA;

(f) Issues related to Subcontractor substitutions governed by Public Contract Code section 4100 et seq.;

(g) Any claim for, or Dispute based on, remedies expressly created by statute;

(h) Any Dispute that is actionable only against a Surety;

(i) Any claim arising out of or relating to the Work where a third party is a necessary or appropriate party (excluding any DB-Related Entity, TSP, the ELP DB Contractor, Pavement Contractor, RCTC, PCM, Department, FHWA); and

(j) Any claim or dispute that does not arise under the Contract.

The Parties acknowledge and agree that the items above are not "claims" within the meaning of Public Contract Code section 9204.

28.2.2. Request for Dispute Resolution

(a) DB Contractor may file with RCTC a Notice requesting dispute resolution if the Parties did not resolve the Claim during the informal process set forth in Section 28.1.2. Such Notice shall be filed within ten Business Days of either Party declaring the mediation that occurred in accordance with Section 28.1.2 unsuccessful. Without limiting the foregoing restriction, in no event shall any such Notice be filed later than ten Business Days after Project Completion (except to the extent that the decision, action, order, or position relates to warranties or other post-Final Acceptance obligations of DB Contractor).

(b) Notices requesting dispute resolution, whether from DB Contractor or RCTC, shall: (i) identify the issues in dispute; (ii) state the position of the requester; and (iii) state the dollar amount and/or duration of Critical Path and Completion Deadline impact or interference involved in the Dispute.

28.2.3. Executive Level Negotiation

(a) RCTC's Executive Director and DB Contractor's Chief Executive Officer (or other officer of either Party with authority to make final decisions subject only to board approval and any required third party approvals) shall meet within ten Business Days following the submission of a Notice under Section 28.2.2 in an effort to resolve the Dispute. There shall be at least one meeting between RCTC's Executive Director and DB Contractor's Chief Executive Officer (or such other officer described above).

(b) If RCTC's Executive Director or DB Contractor's Chief Executive Officer (or such other officer described above) is not in the United States during the time period he or she needs to participate in any dispute resolution procedure, the person authorized to perform any or all of such officer's duties during his or her absence may participate in said dispute resolution procedure instead.

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(c) RCTC will issue a final RCTC Decision to DB Contractor within ten Business Days after the meeting between RCTC's Executive Director and DB Contractor's Chief Executive Officer (or such other officer described in Section 28.2.3(a)); except that if no RCTC Decision is issued, RCTC shall be deemed to have denied DB Contractor's Dispute and a final RCTC Decision to that effect shall be deemed received by DB Contractor at the end of such ten Business Day period.

28.2.4. Effect of Final RCTC Decision

The final RCTC Decision shall be final and conclusive and subject to further dispute resolution under Section 28.4 or 28.6, as applicable, based on the value of the Dispute, and in any event only after providing a Notice within ten Business Days after receipt of the final RCTC Decision, stating in general terms the factual and legal objections to the determination. DB Contractor's failure to object in writing within the above-specified time limit shall constitute acceptance of the final RCTC Decision. Thereafter, either Party may, at its option, submit the Dispute through the dispute resolution procedure set forth in Section 28.3 within 30 days of the RCTC Decision. If the appealing Party does not elect to submit the Dispute to Section 28.3 within 30 days of the RCTC Decision, then the Parties may submit the Dispute to further dispute resolution under Section 28.5 or 28.6.

28.3. Disputes Review Board

If either Party elects to send a Dispute to the Disputes Review Board, the Parties shall comply with this Section 28.3, which describes the purpose, procedure, functions, and key features of the Disputes Review Board.

28.3.1. Membership

The Disputes Review Board shall consist of one member selected by RCTC, one member selected by DB Contractor, and a third member selected by the two members selected by RCTC and DB Contractor. Normally, the third member will act as chairman for all Disputes Review Board activities. All members of the Disputes Review Board shall be both experienced with the type of design and construction involved in the Project and experienced in the interpretation of contract documents. The third member shall be a lawyer, licensed in the State and experienced with design and construction disputes.

(a) The criteria and limitations for Disputes Review Board membership shall be as follows:

(i) No member of the Disputes Review Board shall have an ownership interest in any DB-Related Entity, Affiliate, or PCM, or any financial interest in this Contract or the Project, except for payment for serving on the Disputes Review Board;

(ii) Except for fee-based consulting services on other projects, no member of the Disputes Review Board or member's employer has been employed by RCTC, Department, any DB-Related Entity, Affiliate or PCM within a period of two years prior to the Effective Date;

(iii) No member of the Disputes Review Board shall have had substantial prior involvement in the Project or with RCTC, Department, any DB-Related Entity, any Affiliate or PCM within a period of two years prior to the Effective Date;

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(iv) No member of the Disputes Review Board shall be employed by RCTC, Department, any DB-Related Entity, any Affiliate or PCM during the term of the Contract and for as long thereafter as any Dispute submitted to the Disputes Review Board remains outstanding under this Contract, except as a member of other disputes boards; and

(v) During the term of the Contract and for as long thereafter as any obligations remain outstanding under this Contract, no discussion or agreement shall be made between any member of the Disputes Review Board and RCTC, Department, any DB-Related Entity, any Affiliate or PCM regarding employment of a member of the Disputes Review Board.

(b) Within 30 days after either Party indicates in writing that it has elected to submit a Dispute to the Disputes Review Board, each Party shall select its member of the Disputes Review Board and enter into a three-party agreement between the member, RCTC and DB Contractor with such member in accordance with which such person shall serve on the Disputes Review Board. The first two members shall immediately commence selection of a third member who shall meet all the criteria listed above. The third member shall be selected within 30 days after both of the first two members have been selected and sign a three-party agreement. All parties shall enter into an agreement in the form attached as Exhibit 10 (Disputes Review Board Agreement).

(c) Before their appointments are made, the first two prospective members shall submit complete disclosure statements for approval by both RCTC and DB Contractor. Each statement shall include a resume of experience, a disclosure of any circumstances likely to prevent prompt hearings and decisions or to create any appearance of bias and a declaration describing all past, present, anticipated, or planned future relationships to the Project and with all parties involved in this Contract. The third member of the Disputes Review Board shall submit complete disclosure statements for approval by both RCTC and DB Contractor before his/her appointment is finalized.

(d) Disputes about an appointment to the Disputes Review Board (including Disputes resulting from an objection by either Party to any member on the grounds that the qualifications in this Contract are not met and disputes resulting from the inability of the two selected members to agree on a third member) shall be subject to judicial reference in accordance with Section 28.5.

(e) Prior to hearing any Dispute under this Contract, and upon request by either Party thereafter, each member of the Disputes Review Board shall supply RCTC and DB Contractor a declaration under penalty of perjury affirming that such member meets the above qualifications and agrees to be bound by the terms of this Contract. If at any time a member of the Disputes Review Board fails to meet such qualifications, such member shall be removed and replaced in accordance with the procedures for appointment of members set forth above.

(f) Either Party may require that a new Disputes Review Board be appointed to resolve future Disputes, which right shall be exercised by delivery of Notice to such effect to the other Party. The procedures and requirements for appointment shall be identical with those in this Section 28.3.1, except that the members selected by the Parties shall be selected within 30 days after the date of delivery of the Notice requesting a new Disputes Review Board. In such event, a new agreement, in the same form as Exhibit 10 (Disputes Review Board Agreement), shall be executed establishing a new Disputes Review Board. All Disputes submitted to the Disputes Review Board after delivery of Notice requiring appointment of a new Disputes Review Board shall be heard and decided by the new Disputes Review Board. All

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Disputes submitted prior to such date shall be heard by the old Disputes Review Board unless the Parties agree otherwise.

28.3.2. Operation

The Disputes Review Board shall adopt rules of procedure subject to approval by RCTC and DB Contractor. The Parties may agree in writing to any new or different procedures and the Disputes Review Board will follow such changes. The Disputes Review Board may schedule regular meetings and visits to the Site, subject to permission of the Parties. If a field inspection is undertaken, the Disputes Review Board shall be accompanied by representatives of both RCTC and DB Contractor. Seeking the Disputes Review Board member(s)' advice or consultation, ex parte, is expressly prohibited.

28.3.3. Procedure and Schedule for Dispute Resolution

(a) Disputes shall be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation.

(b) DB Contractor and RCTC shall each be afforded an opportunity to be heard by the Disputes Review Board and to offer evidence. The Parties agree that discovery shall be permitted to the full extent provided by Code of Civil Procedure sections 1283.05(a) through (d). The Recommendation of the Disputes Review Board will be given in writing to both RCTC and DB Contractor within ten Business Days of completion of the hearings, if possible.

28.3.4. Hearing and Recommendation

Each hearing before the Disputes Review Board shall be conducted at facilities provided by RCTC. RCTC and DB Contractor may have representatives at all hearings. All deliberations of the Disputes Review Board shall be conducted in private, with all individual views kept strictly confidential, except as may be reflected in the Recommendation. The Recommendation shall be made in accordance with such procedures as are approved by the Parties. The Disputes Review Board shall make every effort to reach a unanimous Recommendation. If the Recommendation is not unanimous, then the dissenting member may prepare a minority recommendation.

28.3.5. Right to Litigate Disputes; Admissibility of Disputes Review Board Findings

(a) If the parties engaged the Disputes Review Board, the written findings and Recommendations of the Disputes Review Board, together with its reasons, including any minority reports or dissenting recommendations or opinions shall not be admissible in any subsequent arbitration, mediation, or litigation concerning the same Dispute or Claim. Any settlement negotiations between the Parties during the Disputes Review Board process, whether voluntary or at the direction of the Disputes Review Board, shall be considered confidential, and no evidence of anything said, nor any admission made in such settlement negotiations, nor any document prepared for the purpose of the settlement negotiations, shall be admissible in evidence, nor shall disclosure of such evidence be compelled at a later date, unless such evidence is otherwise admissible or subject to discovery, except that any settlement executed by the Parties shall not be considered confidential and may be disclosed.

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(b) RCTC and DB Contractor shall not call any individual who served as a member of the Disputes Review Board as a witness in any litigation proceedings in connection with this Contract.

28.4. Disputes Review Board Recommendations

The Parties agree that all statutes of limitations shall be tolled from the date of submission of a Dispute to the Disputes Review Board until the date of receipt of the Recommendation.

28.4.1. Within 30 days after receiving the Recommendation, or such other time specified by the Disputes Review Board, both RCTC and DB Contractor shall respond to each other and to the Disputes Review Board by Notice, signifying either acceptance or rejection of the Recommendation. Failure of either Party to respond within the specified period shall be deemed a rejection of the Recommendation. The Parties agree that all statutes of limitations shall be tolled from the date of submission of a Dispute to the Disputes Review Board until the date of receipt of the Recommendation.

28.4.2. If the Dispute remains unresolved during the 120 days following issuance of the Recommendation, either Party may submit the Dispute to judicial reference under Section 28.5. If the Dispute is not submitted to judicial reference within such 120-day period, then the applicable Recommendation shall stand as final and binding, and the Parties shall be deemed to have conclusively agreed to accept that Recommendation.

28.5. Resolution of Disputes Exceeding $375,000 by Litigation

RCTC and DB Contractor may submit Disputes to litigation only when: (a) the amount in controversy exceeds $375,000; (b) the Parties undertook mediation and executive level negotiations with respect to the Claim/Dispute; and (d) the Dispute is submitted to judicial reference within timeframe in Section 28.4.2 or within 120-days following issuance of the final RCTC Decision in accordance with Section 30.2.4. All Disputes submitted to judicial reference shall be heard and determined by a referee in accordance with Code of Civil Procedure section 638, subsection 1. The venue of any proceeding under this Contract shall be in Riverside County, California, unless changed by the judicial officer. The right to trial by jury is not waived by either Party.

28.6. Resolution of Disputes Involving $375,000 or Less by Arbitration

28.6.1. RCTC and DB Contractor may submit to arbitration Disputes that arise prior to the expiration of the applicable Warranty Period only when (a) the Parties undertook mediation and executive level negotiations, and (b) the amount in controversy is equal to or less than $375,000.

28.6.2. Disputes submitted by DB Contractor to arbitration under this Section 28.6 must be based on a final RCTC Decision or Recommendation from the Dispute Review Board, and a demand for arbitration must be submitted within 30 days after the date the RCTC Decision becomes final or within the timeframe in Section 28.4.3. RCTC may submit a demand for arbitration under this Section 28.6 at any time.

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28.6.3. As permitted by Public Contract Code section 20104(a)(2), each Dispute involving $375,000 or less shall be heard and determined by an arbitrator or arbitrators selected in accordance with Public Contract Code sections 10240 et seq. (the "**State Arbitration Act**"), and in accordance with the procedures in California Code of Regulations, title 1, sections 300 et seq. (the "**Regulations**").

28.6.4. RCTC and DB Contractor agree to mutually appoint one neutral as the arbitrator, which may not be a member of the Disputes Review Board.

28.6.5. Discovery shall be permitted to the full extent provided by Code of Civil Procedure sections 1283.05(a) through (d).

28.7. Cooperation

The Parties shall diligently cooperate with one another and with the person(s) appointed to resolve Disputes and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of Disputes. If either Party refuses to diligently cooperate, and the other Party, after first giving Notice of its intent to rely on the provisions of this Section 28.7, incurs additional expenses or attorneys' fees solely as a result of such failure to diligently cooperate, then the individual(s) resolving the Dispute may award such additional expenses and attorneys' fees to the Party giving such Notice, even if such Party is not the prevailing Party in the Dispute.

28.8. Costs

The Parties shall share equally in all Costs for the Disputes Review Board and for resolution of Disputes in accordance with the dispute resolution procedures under this Contract, including any costs associated with a reference of a Dispute to a judicial referee in accordance with Section 28.5; except that the Party against whom an award of additional attorneys' fees or expenses is made in accordance with Section 28.7 shall make such payments to the other Party and is not entitled to recover (or offset) the amount paid. The person(s) resolving the Dispute shall include such costs in his/her/their judgment or award. Except as otherwise provided in Section 28.7, each Party shall pay its own attorneys' fees and expert witness fees.

28.9. Provisional Remedies

No party shall be precluded from initiating a proceeding in a court of competent jurisdiction for the purpose of obtaining any emergency or provisional remedy which may be necessary, and which is not otherwise available under this Section 28, to protect its rights, including temporary and preliminary injunctive relief, attachment, claim and delivery, receivership and any extraordinary writ.

28.10. Continuing Performance

During any dispute resolution proceedings, DB Contractor shall carry on its duties under this Contract, and RCTC shall continue to make undisputed payments in accordance with this Contract.

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28.11. Participation in Proceedings; Joinder

DB Contractor agrees that: (a) at RCTC's request, DB Contractor shall take appropriate action to join TSP or any third parties, including Subcontractors, involved in the design or construction of any part of the Project as parties in dispute resolution proceedings under this Section 28; and (b) DB Contractor will allow itself to be joined as a participant in any Dispute, arbitration or other proceeding that involves RCTC and any other Person relating to the Project, including those relating to TSP, and agrees to be bound by the procedures and decisions rendered in such proceeding. This provision is for the benefit of RCTC and not for the benefit of any other party.

28.12. Effect on Surety and Guarantor

Decisions made in accordance with this Section 28 that are binding on DB Contractor shall also be binding on the Surety under the Performance Bond and any Guarantor; except that, unless the Surety or Guarantor, as applicable, is a party to such proceedings, such decisions shall not affect any defenses that are special to the Surety or Guarantor, as applicable (i.e. defenses available to the Surety or Guarantor, as applicable, which could not have been asserted by DB Contractor in the underlying proceeding). In the event that the Surety or Guarantor, as applicable, is a party to any proceedings, it may, and must, assert any such special defenses therein or else such defenses are deemed waived.

28.13. Time Limitation

DB Contractor acknowledges and agrees that RCTC is subject to substantial constraints that have resulted in limitations on its ability to increase the Contract Price or extend a Completion Deadline. DB Contractor acknowledges and agrees that, due to limitations on funding for the Project, prompt resolution of Disputes is of vital importance to RCTC. DB Contractor agrees that the time limitations stated in the Contract for the filing of Claims and/or complaints with the Disputes Review Board are necessary and reasonable. DB Contractor expressly waives any longer statute of limitations contained in any statute, including Government Code section 900 et seq. that would otherwise be applicable.

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SECTION 29
DOCUMENTS AND RECORDS

29.1. Financial Reporting Requirements

29.1.1. DB Contractor shall provide, or cause to be provided, to RCTC such information, statements, financial and narrative reports, budgets and information required under this Contract and as RCTC may otherwise reasonably request from time to time for any purpose related to the Project or this Contract.

29.1.2. DB Contractor shall deliver to RCTC, at the times specified below, the following financial statements, stated in United States Dollars and prepared in accordance with U.S. GAAP as set forth in Section 29.1.2(b) for DB Contractor and each Guarantor:

(a) Within 60 days after the end of each fiscal year, duplicate copies of the balance sheet and a consolidated statement of earnings of DB Contractor and each Guarantor and its consolidated subsidiaries for such fiscal year, setting forth in comparative form the figures for the previous fiscal year, all in reasonable detail and certified as complete and correct, subject to changes resulting from year-end adjustments, by the chief financial officer of DB Contractor and each Guarantor, respectively;

(b) Within 120 days after the end of each fiscal year, (i) any financial ratings obtained, and (ii) duplicate copies of the financial statements (which shall include a balance sheet and a consolidated statement of financial condition of DB Contractor and each Guarantor and their respective consolidated subsidiaries at the end of such year, and statements of earnings, changes in financial position of DB Contractor and each Guarantor and their respective consolidated subsidiaries for such year, and all related notes to the financial statements, setting forth in each case in comparative form the figures for the previous fiscal year), all in reasonable detail and accompanied by an opinion thereon of an independent public accountant of recognized national standing selected by DB Contractor and each Guarantor, as applicable, which opinion shall state that such financial statements have been prepared in accordance with U.S. GAAP consistently applied, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and accordingly, included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances. If financial statements are prepared in accordance with principles other than U.S. GAAP, a letter from the certified public accountant of the applicable entity, discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP is required and an estimate of changes required to recalculate in accordance with U.S. GAAP. Provision of financial statements and information for a parent company or other affiliate will not be sufficient to satisfy the requirement to provide financial statements; and

(c) Upon request of RCTC for particular fiscal quarters, and without request where documents are provided under Section 29.6.2(b), copies of all other financial statements and information reported by DB Contractor and each Guarantor to its shareholders generally and of all reports filed by DB Contractor and each Guarantor with the United States Securities Exchange Commission under sections 13, 14 or 15(d) of the Securities Exchange Act, to be provided to RCTC as soon as practicable after providing such information to the

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shareholders of DB Contractor and each Guarantor, as applicable, or filing such reports with the Securities and Exchange Commission, as the case may be.

29.1.3. DB Contractor shall cooperate and provide and shall cause each Guarantor and the Subcontractors to cooperate and provide, such information as determined necessary or desirable by RCTC in connection with any Project funding or financing. Without limiting the generality of the foregoing, DB Contractor shall provide such information deemed necessary or desirable by RCTC for inclusion in RCTC's securities disclosure documents and in order to comply with Securities and Exchange Commission Rule 15c2-12 regarding certain periodic information and notice of material events as well as summary financial information detailing DB Contractor's financial capacity to perform the Work. DB Contractor shall provide customary representations and warranties to RCTC and the capital markets as to the correctness, completeness and accuracy of any information provided.

29.1.4. All reports and information delivered by DB Contractor under Section 29.1.3 shall also be delivered electronically, to the extent electronic files exist, and be suitable for website posting.

29.2. Maintenance of, Access to and Audit of Records

29.2.1. DB Contractor shall maintain at its Project administration office in Riverside County, California a complete set of all Books and Records, including copies of all original documents delivered to RCTC and Department. DB Contractor shall provide Notice to RCTC where such records and documents are kept.

29.2.2. DB Contractor shall keep and maintain all the documents required under Section 29.2.1 in accordance with applicable provisions of this Contract and of the Administrative Project Plans, and otherwise in accordance with Good Industry Practice until five years after the Final Acceptance Date or the termination of this Contract (as applicable).

29.2.3. Notwithstanding Section 29.2.2, all Books and Records which relate to Claims being processed or Disputes brought under the dispute resolution procedures of this Contract shall be retained and made available until such Disputes and Claims have been finally resolved.

29.2.4. RCTC may:

(a) Review and audit DB Contractor, its Subcontractors and their respective Books and Records as and when RCTC deems necessary from time to time:

(i) For the purposes of verifying compliance with this Contract, the Governmental Approvals and applicable Governmental Rules; and

(ii) In connection with the issuance of Change Orders and Contract amendments, the resolution of Disputes and Claims.

(b) Audit DB Contractor's Administrative Project Plans and compliance therewith, including the right to inspect Work and/or activities and to verify the accuracy and

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adequacy of the Administrative Project Plans and its component parts, plans and other documentation.

29.2.5. DB Contractor agrees to grant to RCTC and its representatives and legal counsel, Department, and FHWA the audit and inspection rights under Section 29.2.4 without charge and allow such Persons such access to such Books and Records and the Work. RCTC may conduct any such audit of Books and Records or inspection of the Work upon 48 hours' prior Notice, or unannounced and without prior notice where there is good faith suspicion of fraud or other criminal activity. The right of audit and inspection includes the right to make copies and extracts and take notes.

29.2.6. Where the payment method for any Work is on a time and materials or Cost of the Work basis, such examination and audit rights shall include all Books and Records and other evidence and accounting principles and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of such Work. If an audit indicates DB Contractor has been over credited under a previous progress report or progress payment, that over credit will, at RCTC's sole option, be credited against current progress reports or payments or reimbursed to RCTC by DB Contractor upon demand therefor.

29.2.7. For cost and pricing data submitted in connection with pricing Change Orders or Contract amendments, unless such pricing is based on adequate price competition (as determined by RCTC), established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by Governmental Rule, such Persons and their representatives have the right to examine all Books and Records related to the negotiation of or performance of Work under such Change Orders and Contract amendments for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. The right of examination shall extend to all documents deemed necessary by such Persons to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

29.2.8. All Claims or Disputes filed against RCTC shall be subject to audit at any time following the filing of the Claim or Dispute. The audit may be performed by employees of RCTC or by an auditor under contract with RCTC. No notice is required before commencing any audit before 60 days after the Final Acceptance Date. Thereafter, RCTC shall provide 14 days of notice to DB Contractor, any Subcontractors or their respective agents before commencing an audit of any Claim or Dispute. DB Contractor, Subcontractors or their agents shall provide adequate facilities, acceptable to RCTC, for the audit during normal business hours. DB Contractor, Subcontractors or their agents shall cooperate with the auditors. Failure of DB Contractor, Subcontractors or their agents to maintain and retain sufficient Books and Records to allow the auditors to verify all or a portion of the Claim or Dispute or to permit the auditor access to the Books and Records of DB Contractor, Subcontractors or their agents shall constitute a waiver of the Claim or Dispute and shall bar any recovery thereunder.

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29.2.9. Full compliance by DB Contractor with the provisions of this Section 29.2 is a contractual condition precedent to DB Contractor's right to seek relief under Section 28.

29.2.10. DB Contractor represents and warrants the completeness and accuracy of all information (including Books and Records) it or its agents provide in connection with the audits identified in this Contract, and shall cause all Subcontractors to warrant the completeness and accuracy of all information (including Books and Records such Subcontractors or their agents provide in connection with this Section 29.2.

29.2.11. DB Contractor's internal and third-party quality and compliance auditing responsibilities shall be set forth in the Administrative Project Plans, consistent with the audit requirements in TP Sections 2.1, 5.2.3, 5.3.2, 5.4.2, and 5.4.3.

29.2.12. DB Contractor shall collect and preserve each of the following types of data in written form contemporaneously during DB Contractor's performance of the Work, which shall be in form approved by RCTC and in conformance with the requirements of the Department Cooperative Agreement, and index filed in accordance with Section 5-102 "Organization of Project Documents" of the Department Construction Manual:

(a) Monthly report of labor by classification of management, supervision, engineering and other technical personnel used on the job;

(b) Daily labor and equipment report from DB Contractor and each Subcontractor for construction related activities;

(c) Quality Control documentation as required by TP Section 5;

(d) A daily occurrence log (in the form of a bound book with entries in ink) for construction related activities which shall be maintained by the DB Contractor Representative or his designee(s), in which shall be recorded daily in a narrative form all significant occurrences on the Project, including permit problems, unusual weather, asserted Force Majeure Events, events and conditions causing or threatening to cause delay or disruption or interference with the progress of any of the Work, known injuries to person or property, a listing of each activity depicted on the Project Schedule which is being actively prosecuted; notifications given and received, and significant Project related meetings; and

(e) A daily record in the format required by Section 9-1.04D(6) of Exhibit 5 (Modified Standard Specification), recording all labor, materials and equipment expenses which are being incurred by reason of any event, condition or circumstance which DB Contractor believes is or may become the subject of a Claim against RCTC. Any initialed or signed concurrence by PCM (or designees) will be for purposes of verifying physical labor, material and equipment count rather than validating DB Contractor's Claims.

29.2.13. To the extent requested by RCTC, DB Contractor shall provide RCTC with access to and a copy of each item described in Section 29.2.12, provided, however, that the provision of such information shall not constitute a Notice under Section 29.2.1.

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29.2.14. In accordance with Government Code section 8546.7, this Contract, and DB Contractor and RCTC as the contracting parties, are subject to the examination and audit of the California State Auditor, at the request of RCTC or as part of any audit of RCTC, for a period of three years after the final payment under the Contract.

29.3. Public Records Act

29.3.1. DB Contractor acknowledges and agrees that all records, documents, drawings, plans, specifications and other materials in RCTC's possession, including materials submitted by DB Contractor, are subject to the provisions of the California Public Records Act (Government Code section 6250 et seq.) (the "**Public Records Act**").

29.3.2. If DB Contractor believes information or materials submitted to RCTC constitute trade secrets, proprietary information or other information that is not subject to or excepted from disclosure under the Public Records Act, DB Contractor shall be solely responsible for specifically and conspicuously designating that information by placing "CONFIDENTIAL" in the center header of each such page affected, as it determines to be appropriate. Any specific proprietary information, trade secrets or confidential commercial and financial information shall be clearly identified as such and shall be accompanied by a concise statement of reasons supporting the claim. Nothing contained in this Section 29.3 shall modify or amend requirements and obligations imposed on RCTC by the Public Records Act or other applicable Governmental Rule, and the provisions of the Public Records Act or other Governmental Rules shall control in the event of a conflict between the procedures described above and the applicable Governmental Rules. DB Contractor is advised to contact legal counsel concerning such Governmental Rules and its application to DB Contractor.

29.3.3. If RCTC receives a request for public disclosure of materials marked "CONFIDENTIAL" RCTC will use reasonable efforts to provide Notice to DB Contractor of the request and give DB Contractor an opportunity to assert, by Notice, a claimed exception under the Public Records Act or other applicable Governmental Rules within the time period specified in the notice issued by RCTC and allowed under the Public Records Act. Under no circumstances, however, will RCTC be responsible or liable to DB Contractor or any other Person for the disclosure of any such labeled materials, whether the disclosure is required by Governmental Rules, or court order, or occurs through inadvertence, mistake or negligence on the part of RCTC or its officers, employees, contractors or consultants.

29.3.4. In the event of any proceeding or litigation concerning the disclosure of any material submitted by DB Contractor to RCTC, RCTC's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court or such other authority having jurisdiction with respect to the material, and DB Contractor shall be fully responsible for otherwise prosecuting or defending any action concerning the materials; provided, however, that RCTC reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. Except in the case of RCTC's

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voluntary intervention or participation in litigation, DB Contractor shall pay and reimburse RCTC within 30 days after receipt of written demand and reasonable supporting documentation for all costs and fees, including attorneys' fees and costs RCTC incurs in connection with any litigation, proceeding or request for disclosure.

29.4. Ownership of Documents

Subject to Sections 29.3 and 29.5, all data, sketches, charts, calculations, plans, specifications, electronic files, correspondence, reports, analyses, studies and other documents and materials created or collected under the terms of this Contract shall be considered "works made for hire" for which RCTC owns the copyright. Design Documents shall become RCTC's property upon preparation; Construction Documents shall become RCTC's property upon delivery to RCTC; and other documents prepared or obtained by DB Contractor in connection with the performance of its obligations under this Contract, including studies, manuals, As-Built Documents, technical and other reports and the like, shall become the property of RCTC upon DB Contractor's preparation or receipt thereof. Copies of all Design Documents and Construction Documents shall be provided to RCTC upon preparation or receipt thereof by DB Contractor. DB Contractor shall maintain all other documents described in this Section 29.4 in accordance with the requirements of Section 29.2 and shall deliver copies to RCTC as required by this Contract or upon request if not otherwise required to be delivered, with an indexed set delivered to RCTC as a condition to Final Acceptance.

29.5. Intellectual Property, Ownership and Licenses

29.5.1. Project IP

(a) DB Contractor acknowledges and agrees that all Project IP, in any medium, is specially ordered or commissioned by RCTC, including works-made-for-hire in accordance with 17 U.S.C. § 101 (the U.S. Copyright Act of 1976). If any Project IP is not the proper subject matter or is determined not to be a work-made-for-hire in accordance with the U.S. Copyright Act, DB Contractor hereby assigns and shall cause all DB-Related Entities to assign to RCTC all rights, title and interest in and to the Project IP including any Submittal or other material or document. DB Contractor agrees to execute and shall cause all DB-Related Entities to execute such further documents and to do such further acts as may be necessary to perfect, register, or enforce RCTC's ownership of such rights, in whole or in part.

(b) All Submittals or other materials or documents authored, created or developed under or for the purpose of the Contract or the Project shall be owned by RCTC immediately upon creation or generation, physically or digitally, and whether or not such Submittal or other material or document have been delivered to RCTC under the terms of the Contract.

(c) DB Contractor shall deliver to RCTC an indexed set of all Submittals or other materials or documents authored, created or developed under or for the purpose of the Contract (i) at time(s)/dates(s) in accordance with the Contract, or (ii) as soon as reasonably practicable after such creation or generation, but in no event later than 10 days after the effective date of any termination or expiration of this Contact.

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29.5.2. DB Contractor IP

(a) DB Contractor hereby grants and shall cause each DB-Related Entity to grant, to RCTC an irrevocable, perpetual, non-exclusive, transferable, fully paid-up right and license to use, execute, perform, sublicense, exploit, manufacture, distribute, reproduce, adapt, display, transfer, and prepare derivative works ("**Base License Rights**") of DB Contractor IP, including Software, in connection with the Project. DB Contractor acknowledges and agrees that all rights, title or license(s) granted under this Section 29.5.2 will survive any expiration or earlier termination of this Contract without regard to convenience, default or other causation.

(b) DB Contractor shall identify and disclose to RCTC all DB Contractor IP required by, incorporated in, or combined with the Project.

29.5.3. Third Party IP

DB Contractor shall secure license(s) in the name of RCTC for the Base License Rights of Third Party IP, in connection with the Project, including a representation and warranty that Third Party IP does not infringe the rights, including Intellectual Property rights, of any Person. To the extent that the foregoing license rights, or representation and warranty are refused by any owner of Third Party IP, DB Contractor shall secure RCTC's prior written approval, in its sole discretion, for any license, the terms of which are acceptable to such owner of Third Party IP. For the avoidance of doubt, in no event shall DB Contractor incorporate Third Party IP into the Project without first securing such licenses.

29.5.4. RCTC IP and RCTC Data

(a) RCTC hereby grants to the DB-Related Entities a limited, non-exclusive license to use, exploit, manufacture, distribute, reproduce, adapt and display the Project IP, RCTC IP, and RCTC Data, and any material or document incorporating such Intellectual Property, solely in connection with and limited to the Allowed Uses. **"Allowed Uses"** are (a) incorporation into the Project; and (b) performance, provision, furnishing and discharge of the Work under the Contract. All rights not specifically granted in this Section 29.5.4 are reserved to RCTC. For the avoidance of doubt, no rights to trademarks of RCTC, whether registered or not, (the **"RCTC Marks"**) are granted to the DB Contractor and the DB Contractor may not incorporate, refer to, or otherwise use RCTC Marks for any marketing, promotional or advertising purposes.

(b) In addition to the DB Contractor's obligations and restrictions related to RCTC Data, documents and information in this Contract, the DB Contractor acknowledges and agrees that all RCTC Data, including the results or creation of any anonymization, de-identification, aggregation or other analysis of such RCTC Data, whether physical or digital, are owned by RCTC. Except as specifically provided in this Contract, no DB-Related Entity shall make use of RCTC Data even if such use is for such DB-Related Entity's internal use or analysis, whether or not commercial value is available or received, and/or such information or data is available in other, separate or cumulative sources.

(c) Notwithstanding any other term or condition of this Contract, the rights and permissions granted under this Section 29.5.4 shall terminate (i) upon the effective date of expiration or earlier termination of this Contract or (ii) upon 24-hour written notice by RCTC to the DB Contractor, whichever is earlier.

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29.5.5. Payment Inclusive

DB Contractor acknowledges and agrees that the sum of all payments made in accordance with the Contract shall include all royalties, fees, costs and expenses arising from or related to DB Contractor Software, DB Contractor Software Customizations, any and all license(s) to Third Party IP, or any other licenses granted under this Section 29.5 (Intellectual Property, Ownership and Licenses).

29.5.6. DB-Related Entities

DB Contractor acknowledges and agrees that it shall direct, and be responsible for, the compliance of all DB-Related Entities with the obligations and restrictions of this Section 29.5 (Intellectual Property, Ownership and Licenses) and shall incorporate the provisions of this Section 29.5 into each agreement involving development, provision or acquisition of Intellectual Property or the creation or generation of any Submittal or other material or document, Work, the Project or this Contract.

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SECTION 30
MISCELLANEOUS PROVISIONS

30.1. Amendments

Except to the extent expressly provided otherwise in this Contract, this Contract may be amended only by a written instrument duly executed by the Parties or their respective successors or assigns.

30.2. Waiver

30.2.1. No waiver of any term, covenant or condition of this Contract shall be valid unless in writing and signed by the obligee Party.

30.2.2. The exercise by a Party of any right provided under this Contract shall not waive or preclude any other or further exercise thereof or the exercise of any other right. No waiver by any Party of any right under this Contract shall be deemed to be a waiver of any other or subsequent right under this Contract. The consent by one Party to any act by the other Party requiring such consent shall not create a course of conduct or be deemed to render unnecessary the obtaining of consent to any subsequent act for which consent is required, regardless of whether similar to the act for which consent is given.

30.2.3. Except as expressly provided otherwise in this Contract, no act, delay or omission done, suffered or permitted by one Party or its agents shall be deemed to create a course of conduct or waive, exhaust or impair any right, remedy or power of such Party under this Contract, or to relieve the other Party from the full performance of its obligations under this Contract.

30.2.4. Either Party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of this Contract at any time shall not in any way create a course of conduct or limit or waive that Party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision, any course of dealing or custom of the trade notwithstanding. Furthermore, if the Parties make and implement any interpretation of this Contract without documenting such interpretation by an instrument in writing signed by both Parties, such interpretation and implementation thereof will not be binding in the event of any future Disputes.

30.3. Independent Contractor

30.3.1. DB Contractor is an independent contractor, and nothing contained in this Contract shall be construed as constituting any relationship with RCTC other than that of Project developer and independent contractor.

30.3.2. Both Parties, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. Nothing in this Contract is intended or shall be construed to create any partnership, joint venture or similar relationship between RCTC and DB Contractor; and in no event shall either Party take a position in any tax

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return or other writing of any kind that a partnership, joint venture or similar relationship exists.

30.3.3. In no event shall the relationship between RCTC and DB Contractor be construed as creating any relationship whatsoever between RCTC and DB Contractor's employees. Neither DB Contractor nor any of the employees of any DB-Related Entity is or shall be deemed to be an employee of RCTC. Except as otherwise specified in this Contract, DB Contractor has sole authority and responsibility to employ, discharge and otherwise control its employees and has complete and sole responsibility as a principal for its agents, for all Subcontractors and for all other Persons that DB Contractor or any Subcontractor hires to perform or assist in performing the Work.

30.4. Successors and Assigns

30.4.1. This Contract shall be binding upon and inure to the benefit of RCTC and DB Contractor and their permitted successors, assigns and legal representatives.

30.4.2. Upon providing ten Business Days' prior Notice to DB Contractor, RCTC may assign all or part of its right, title and interest in and to any part of this Contract and performance security, including rights with respect to the Payment Bonds and Performance Bonds, the Warranty Bond and the Guaranty, to any other Person.

30.4.3. DB Contractor shall not voluntarily or involuntarily sell, assign, convey, transfer, pledge, mortgage, or otherwise encumber DB Contractor's interest in and to this Contract or any portion thereof without RCTC's prior written approval, except to any entity in which the organizations signing this Contract for DB Contractor, or the shareholder(s), general partner(s) or member(s) that exercise management control over such organizations, hold and exercise effective management control and hold the same percent of equity interest in DB Contractor that exists as of the SOQ Step 2 Submittal Date. DB Contractor shall not sublease or grant any other special occupancy or use of the Project to any other Person, without RCTC's prior written approval. Any sale, assignment, conveyance, transfer, pledge, mortgage, encumbrance, sublease or grant of other special occupancy or use in violation of this provision shall be null and void ab initio and RCTC, at its option, may declare any such attempted action to be a material DB Contractor Default.

30.4.4. DB Contractor shall not voluntarily or involuntarily cause, permit or suffer any Change of Control prior to Final Acceptance without RCTC's prior written approval. If there occurs any voluntary or involuntary Change of Control without RCTC's prior written approval, RCTC, at its option, may declare it to be a material DB Contractor Default.

30.4.5. Where RCTC's prior approval is required for a proposed sale, assignment, conveyance, transfer, pledge, mortgage, encumbrance, sublease or grant of other special occupancy or use, or for any proposed Change of Control prior to Final Acceptance, RCTC may withhold or condition its approval in its sole discretion. Any such decision of RCTC to withhold consent shall be final, binding and not subject to the dispute resolution procedures in this Contract.

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If for any reason RCTC does not act within 30 days after receiving all required information, or any extension thereof by mutual agreement of the Parties, the proposed sale, assignment, conveyance, transfer, pledge, mortgage, encumbrance, sublease or grant of other special occupancy or use, or for any proposed Change of Control is not permitted.

30.4.6. Assignments and transfers of DB Contractor's interest permitted under this Section 30.4 or otherwise approved by Notice from RCTC shall be effective only upon RCTC's receipt of Notice of the assignment or transfer and a written recordable instrument executed by the transferee (and any Guarantor and any Surety), in form and substance acceptable to RCTC, in which the transferee, without condition or reservation, assumes all of DB Contractor's obligations, duties and liabilities under this Contract then in effect and agrees to perform and observe all provisions thereof applicable to DB Contractor. Each transferee shall take DB Contractor's interest subject to, and shall be bound by, the Administrative Project Plans, the Major Subcontracts, the Utility Agreements, all RCTC-Provided Approvals, all agreements between the transferor and railroads, the Governmental Approvals, and all agreements between the transferor and Governmental Entities with jurisdiction over the Project, except to the extent otherwise approved by Notice from RCTC, in its sole discretion.

30.4.7. No assignment, conveyance, transfer, pledge, mortgage, encumbrance, sublease or grant by DB Contractor or any permitted successor and assign thereto shall release DB Contractor, any Guarantor, any Surety or the assignor from any liabilities or obligations under this Contract and each of such entities shall remain liable and obligated therefor.

30.4.8. DB Contractor shall not change the legal form of its organization without the prior written approval of RCTC, which RCTC may grant or withhold.

30.4.9. Any permitted assignment of DB Contractor's interest shall not take effect until replacement Bonds and Guarantees are provided without lapse in coverage. This requirement may be met if the Surety(ies) and Guarantor(s) amend existing Bonds and Guarantees to name DB Contractor's assignee as the Principal (under the Bonds) and "DB Contractor" (under the Guarantees).

30.5. Gratuities and Conflicts of Interest

30.5.1. DB Contractor shall not permit any officer, official or employee of RCTC to have any financial interest in the Contract prohibited by sections 1090 et seq. and 87100 et seq. of the Government Code. In addition, DB Contractor or its employees shall not enter into any contract involving services or property with a Person or business prohibited from transacting such business with RCTC, in accordance with sections 1090 et seq. and 87100 et seq. of the Government Code. Except to the extent explicitly disclosed in DB Contractor's SOQ, DB Contractor affirms that no RCTC officer, official or employee has any interest (whether contractual, non-contractual, financial, or otherwise) in this transaction or in the business of DB Contractor. If any such interest becomes known to DB Contractor at any time, DB Contractor shall submit a full and complete disclosure of such information by Notice to RCTC, even if such

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interest would not be considered a conflict under sections 1090 et seq. and 87100 et seq. of the Government Code.

30.5.2. Neither DB Contractor nor any of its employees, agents and representatives shall offer or give to an officer, official or employee of RCTC or Department gifts, entertainment, payments, loans, or gratuities. RCTC may, by Notice to DB Contractor, terminate the right of DB Contractor to proceed under the Contract if it is found that gratuities (in the form of gifts, entertainment, or otherwise) were offered or given by DB Contractor, or any agent of DB Contractor, to any member of the Commission or any officer, agent and/or employee of RCTC or Department.

30.5.3. The rights and remedies of RCTC specified in this Section 30.5 are not exclusive and are in addition to any other rights and remedies allowed by law.

30.5.4. Employment (whether as an employee, consultant, or independent contractor) of personnel on RCTC's payroll by any DB-Related Entity is not permitted in the performance of the Contract, even though such employment may be outside RCTC's employee's regular working hours or on Saturdays, Sundays, Holidays or vacation time; further, employment by any DB-Related Entity of personnel who have been on RCTC's payroll within one year prior to the date of Contract award is also prohibited, if such employment is caused by and/or dependent upon DB Contractor securing this or a related Contract with RCTC.

30.6. Survival

DB Contractor's representations and warranties, the dispute resolution provisions contained in Section 28, the warranties contained in Section 16, the indemnifications and releases contained in Section 27, and elsewhere in this Contract, the rights and obligations of the Parties following termination of this Contract under Section 23, Section 24, and Section 26, the provisions regarding invoicing and payment under Section 18, the obligations regarding Application for Final Payment under Section 18.13, and payment for subsequent Claims under Section 18.14, and all other provisions which by their express terms or their inherent character or express terms should survive termination of the Contract and/or Final Acceptance, shall survive the termination of the Contract and the Final Acceptance Date.

30.7. Limitation on Third Party Beneficiaries

Department is an intended third party beneficiary to this Contract and the Indemnified Parties are intended third party beneficiaries of the indemnity and insurance provisions of this Contract. Except as expressly provided in this Contract (such as warranty and indemnity provisions), it is not intended by any of the provisions of this Contract to create any other third party beneficiary under this Contract or to authorize anyone not a Party to maintain a suit for personal injury or property damage in accordance with the terms or provisions hereof. Except as otherwise provided in this Section 30.7, the duties, obligations and responsibilities of the Parties in accordance with this Contract with respect to third parties shall remain as imposed by law. This Contract does not create a contractual relationship of any kind between RCTC and a Subcontractor or any Person other than DB Contractor.

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30.8. Tort Liability, Personal Liability of RCTC Employees

30.8.1. The RCTC Representatives are acting solely as agents and representatives of RCTC when carrying out the provisions of or exercising any right under this Contract. They shall not be liable either personally or as employees of RCTC for actions in their ordinary course of employment.

30.8.2. The Parties agree to provide to each other's Representative(s) Notice of any Claim that either Party receives from any third party relating in any way to the matters addressed in this Contract and shall otherwise provide Notice in such form and within such period as is required by Governmental Rules.

30.8.3. No agent, consultant, officer, or authorized employee of RCTC nor any member of the Commission, shall be personally responsible for any liability arising under this Contract.

30.9. Governing Law; Venue

This Contract shall be governed by and construed in accordance with the law of the State, without regard to conflict of law principles. The venue of any court, judicial, or referee proceeding under this Contract shall be in Riverside County, California, unless changed by the judicial officer.

30.10. Notices and Communications

30.10.1. All notices, requests, demands, instructions, certificates, consents, explanations, agreements, approvals and other communications (each being a "**Notice**") required or permitted under this Contract shall be in writing and (a) delivered personally, (b) sent by certified mail, return receipt requested, (c) sent by a recognized overnight mail or courier service, with delivery receipt requested, or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone, to the following addresses (or to such other address as may from time to time be specified in writing by such Person):

All correspondence with DB Contractor shall be sent to the DB Contractor Representative or as otherwise directed by the DB Contractor Representative to the address specified in the Contract Particulars.

All communications to RCTC shall be marked as regarding the SR-91 Eastbound Corridor Operations Project and shall be delivered as directed by RCTC's Toll Project Delivery Director, to the address in the Contract Particulars. In addition, copies of all notices regarding Claims, Disputes, termination, and default Notices shall be delivered to the following Persons:

Riverside County Transportation Commission
Attention: Aaron Hake, Executive Director
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Phone: (951) 787-7141
Facsimile: (951) 787-7920
Email address: ahake@rctc.org

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30.10.2. Notices shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U.S. Postal Service, private carrier or other Person making the delivery. Notwithstanding the foregoing, Notices sent by facsimile after 4:00 p.m. Pacific Standard or Daylight Time (as applicable) and all other Notices received after 5:00 p.m. shall be deemed received on the first Business Day following delivery (that is, in order for a fax to be deemed received on the same day, at least the first page of the fax must have been received before 4:00 p.m.). Any technical or other communications pertaining to the Work shall be conducted by the DB Contractor Representative and technical representatives designated by RCTC.

30.10.3. DB Contractor shall copy RCTC on all written correspondence pertaining to this Contract between DB Contractor and any Person other than DB Contractor's Subcontractors, consultants and attorneys.

30.11. Taxes

30.11.1. DB Contractor shall pay, prior to delinquency, all applicable taxes. DB Contractor accepts sole responsibility and agrees it shall have no right to a Change Order or to any other Claim, because of its misinterpretation of Governmental Rules respecting taxes, or incorrect assumptions regarding applicability of taxes.

30.12. Further Assurances

DB Contractor shall promptly execute and deliver to RCTC all such instruments and other documents and assurances as are reasonably requested by RCTC to further evidence the obligations of DB Contractor under this Contract, including assurances regarding the validity of (a) the assignments of Subcontracts contained in this Contract and (b) any instruments securing performance hereof.

30.13. Severability

If any clause, provision, Section or part of this Contract is ruled invalid under Section 28 or otherwise by a court having proper jurisdiction, then the Parties shall: (a) promptly meet and negotiate a substitute for such clause, provision, Section or part, which shall, to the greatest extent legally permissible, effect the original intent of the Parties, including an equitable adjustment to the Contract Price to account for any change in the Work resulting from such invalidated portion; and (b) if necessary or desirable, apply to the court or other decision maker (as applicable) which declared such invalidity for an interpretation of the invalidated portion to guide the negotiations. The invalidity or unenforceability of any such clause, provision, Section or part shall not affect the validity or enforceability of the balance of this Contract, which shall be construed and enforced as if this Contract did not contain such invalid or unenforceable clause, provision, Section or part.

30.14. Headings

The table of contents and captions of the Sections of this Contract are for convenience only and shall not be deemed part of this Contract or considered in construing this Contract.

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30.15. Entire Agreement

This Contract contain the entire understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings, statements, representations and negotiations between the Parties with respect to its subject matter.

30.16. Counterparts

This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

30.17. Costs

(a) Each Party is responsible for paying its own Costs and expenses incurred in connection with the negotiation, preparation and execution and delivery of this Contract.

(b) Except as otherwise provided in this Contract, each Party perform its obligations in accordance with this Contract at its own Cost and risk.

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SECTION 31
SIGNATURE WARRANTY

31.1. Signature Warranty

Each signatory to this Contract warrants that the signatory has necessary authority to execute this Contract on behalf of the entity represented.

[Signatures on next page]

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IN WITNESS WHEREOF, this Contract has been executed as of _____, 2026.

DB CONTRACTOR:

MYERS & SONS CONSTRUCTION, LLC,
a California limited liability company

By: _____

Name: _____

Title: _____

Date: _____, 2026

Contractor License No.: 1033752

RCTC:

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____

Name: _____

Title: _____

Date: _____, 2026

APPROVED AS TO FORM:

By: _____
Steve DeBaun, General Counsel
Date: _____, 2026

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EXHIBIT 1

ABBREVIATIONS AND DEFINITIONS

Unless the context otherwise requires:

(a) The following abbreviations, capitalized terms or terms used in the Department Standard Specifications as used in this Contract have the meanings given in this Exhibit 1; and

(b) The definitions in this Exhibit 1 that are in lower case also apply to terms that are capitalized.

Abbreviation	Meaning
AADTT	Annual Average Daily Truck Traffic
AAN	Approved As Noted
AASHTO	American Association of State Highway and Transportation Officials
AB	Aggregate Base
ACI	American Concrete Institute
ADA	Americans with Disabilities Act
ADAS	Automatic Data Acquisition System
ADL	Aerially Deposited Lead
AFC	Authorized for Construction
AFF	Authorized for Fabrication
AML	Authorized Materials List
ANSI	American National Standards Institute
APE	Area of Potential Effect
AQMD	Air Quality Management District
ARB	California Air Resources Board
AS	Aggregate Subbase
ASME	American Society of Mechanical Engineers
ASNT	American Society of Nondestructive Testing
ASTM	American Society of Testing and Materials
AT&T	American Telephone & Telegraph
AV	Audio Visual

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AWS	American Welding Society
BMP	Best Management Practice
BO	Biological Opinion
BSDS	Bridge Site Data Submittal
BSPP	Business Support Program Plan
CAC	California Certified Asbestos Consultant
CADD	Computer Aided Drafting and Design
Cal-NExUS	California Numbered Exit Uniform System
Cal-OSHA	California Division of Occupational Safety and Health Administration
CAP	Critical Activity Point
CAR	Corrective Action Report
CAT	Contract Acceptance Testing
CCI	Construction Cost Index
CCITT	International Telegraph and Telephone Consultative Committee
CCP	Crisis Communication Plan
CCO	Contract Change Order
CCR	California Code of Regulations
CCS	California Coordinate System
CCTV	Closed Circuit Television
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CFR	Code of Federal Regulations
CHP	California Highway Patrol
CHST	Construction Health and Safety Technician
CIDH	Cast-In-Drilled-Hole
CIH	Certified Industrial Hygienist
CIP	Corridor Improvement Project

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CLOMR	Conditional Letter Map or Revision
CMS	Changeable Message Sign
CMU	DIR's Compliance Monitoring Unit
CNDDB	California Natural Diversity Database
COZEEP	Construction Zone Enhanced Enforcement Program
CPL	Contractor's Pollution Liability (insurance)
CPM	critical path method
CPP	Communication Protocol Plan
CPR	Cardiopulmonary Resuscitation
CPT	Cone Penetration Test
CPUC	California Public Utilities Commission
CQMP	Construction Quality Management Plan
CQVM	Construction Quality Validation Manager
CRCP	Continuously Reinforced Concrete Pavement
CRM	Crumb Rubber Modifier
CSI	Construction Specifications Institute
CSL	Crosshole Sonic Logging
CTB	Cement Treated Base
CTM	California Test Method
CWI	AWS Certified Welding Inspector
DB	Design Build Contractor
DBE	Disadvantaged Business Enterprise
DBESP	Determination of Biological Equivalent or Superior Preservation
DFEH	California Department of Fair Employment and Housing
DGS	California Department of General Services
DHCP	Dynamic Host Configuration Protocol
DIGGS	Data Interchange for Geotechnical and Geoenvironmental Specialists
DIR	California Department of Industrial Relations
DLAPM	Department Local Assistance Procedures Manual

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DLC	Detector Lead-In Cable
DMP	Document Management Plan
DMS	Document Management System
DOSH	Division of Occupational Safety and Health
DOT	Department of Transportation
Dpi	Dots per inch
DPN	Department Parcel Number
DPPIA	Design Pollution Prevention Infiltration Area
DQMP	Design Quality Management Plan
DQVM	Design Quality Validation Manager
DRB	Dispute Resolution Board
DSA	Division of the State Architect
DSDD	Design Standard Decision Document
DTSC	Department of Toxic Substances Control
DVBE	Disabled Veteran Business Enterprise
DVD	Digital Versatile Disc
EA	Expenditure Authorization
ECM	Environmental Compliance Manager
ECOP	SR-91 Eastbound Corridor Operations Project
ECR	Environmental Commitments Record
EDMS	Electronic Document Management System
EEO	Equal Employment Opportunity
EI	Expansion Index
EIA/ECIA	Electronic Industries Alliance/Electronic Components Industry Association
EIT	Engineer-in-Training
EL	Express Lane
EMS	Extinguishable Message Sign
EOR	Engineer of Record
ERS	Earth Retaining Systems

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ESA	Environmentally Sensitive Area
ETC	Electronic Toll Collection
ETW	Edge of Travel Way
f_c	Extreme Fiber Compressive Stress in Concrete at Service Loads
f'_c	Compressive Strength of Concrete
F/O	Fiber Optic
FD	Final Design
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FR	Foundation Report
FRP	Fiber Reinforced Polymer
FSP	Freeway Service Patrol
FTE	Full-time equivalent
G&A	General and Administrative expenses
GAD	Geometric Approval Drawing
Gbps	Gigabit per second
GDR	Geotechnical Design Report
GEP	Geotechnical Execution Plan
GGL	Gamma-Gamma Logging
GMP	Guaranteed Maximum Price
GP	General Purpose
GPS	Global Positioning System
HAZWOPER	Hazardous Waste Operations and Emergency Response
HDM	Department Highway Design Manual
HEC	Hydraulic Engineering Circular
HM	Hazardous Materials
HMA	Hot Mix Asphalt
HMA-O	Hot Mix Asphalt (open graded)
HOV	High Occupancy Vehicle

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HS	High Strength
HVAC	Heating Ventilation and Air Conditioning
IAST	Independent Assurance Sampling and Testing
ICC	International Code Council
ICE	Independent Cost Estimator or Independent Cost Estimate (as the context requires)
IDR	Inspector Daily Report
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineer Society
IFR	Interim Final Rule
IH	Interstate Highway
IIPP	Injury and Illness and Prevention Program
INVEST	Infrastructure Voluntary Evaluation Sustainability Tool
IP	Internet Protocol
IRI	International Roughness Index
ISO	Insurance Services Office
IT	Information Technology
ITE	Institute of Transportation Engineers
ITP	Instructions to Proposers
ITS	Intelligent Transport Systems
JHA	Job Hazard Analysis
JPCP	Jointed Plain Concrete Pavement
JPEG	Joint Photographic Experts Group
JRT	Joint Resolution Team
LAPM	Local Assistance Procedures Manual
LBP	Lead-Based Paint
LCB	Lean Concrete Base
LCCA	Life Cycle Cost Analysis
LCP	Labor Compliance Program
LCS	Department's lane closure system

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LED	Light Emitting Diode
LOE	Level of Effort
LOTB	Log of Test Borings
LOTO	Lockout/Tagout
LRFD	Load and Resistance Factor Design
LTDS	Long Term Design Strength
MB	Megabyte
METS	Material Engineering and Testing Services
MIT	Magnetic Imaging Technology
MOT	Maintenance of Traffic
MPQP	*Material Plant Quality Program* published by the Department
MR	Movement Rating
MRI	Mean Roughness Index
MSDS[b]	Material Safety Data Sheet
MSE	Mechanically Stabilized Earth
MSHCP	Multiple Specific Habitat Conservation Plan
MUTCD	Manual on Uniform Traffic Control Devices
MVP	Maintenance Vehicle Pullout
NAD	North American Datum
NAHC	Native American Heritage Commission
NAL	Numeric Action Level
NAVD	North American Vertical Datum
NCR	Nonconformance Report
NCR/MAR	New Connections Report/Modified Access Report
NDC	Notice of Design Change
NDT	Nondestructive Testing
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NEPA	National Environmental Policy Act

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NESC	National Electric Safety Code
NET	No Exceptions Taken
NFPA	National Fire Protection Association
NHPA	National Historic Preservation Act
NOI	Notice of Intent
NONC	Notice of Non-Conformance
NOT	Notice of Termination
NPT	National Pipe Thread Taper
NRTL	Nationally Recognized Testing Laboratory
NSSP	Non-Standard Special Provision
OC	Overcrossing
OCTA	Orange County Transportation Authority
OFAC	Office of Foreign Assets Control of the United States Department of the Treasury
OFCCP	Office of Federal Contract Compliance Program
OH	Overhead
OJT	On-the-Job Training
OPC	Opinion of Probable Cost
OSC	Offices of Structure Construction
OSD	Offices of Structure Design
OSFP	Office of Special Funded Projects
OT	Overtime
OTS	Over-the-Shoulder
PA/ED	Project Approval/Environmental Document
PALM	Project Aesthetics and Landscape Master Plan
PC	Precast
PCC	Portland Cement Concrete
PCI	Protective Coatings Inspector
PCM	Project and Construction Manager

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PCMS	Portable Changeable Message Sign
PDB	Progressive Design-Build
Pdf	portable document format
PE	Professional Engineer
PFR	Preliminary Foundation Report
PGSSP	Project General Standard Special Provision
PI	Plasticity Index
PLS	Professional Land Surveyor
PMP	Project Management Plan
PPE	Personal Protective Equipment
PPM	Pages Per Minute
PS	Prestressed
PS&E	Plans, Specifications and Estimates
PTS	Yellow Paint and Thermoplastic Striping
Q&A	Question and Answer
QC	Quality Control
QMP	Quality Management Plan
QPL	Qualified Products List
QV	Quality Validation
QVe	Quality Verification
RCFC&WCD	Riverside County Flood Control & Water Conservation District
RCP	Reinforced Concrete Pipe
RCTC	Riverside County Transportation Commission
RFC	Release for Construction
RFI	Request For Information
RFQ	Request for Qualifications
RHMA	Rubberized Hot Mix Asphalt
RHMA-G	Rubberized Hot Mix Asphalt (Gap Graded)
RM	Ramp Meter

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RMS	Ramp Meter System
ROC	RCTC Operations Center
ROW	Right of Way
RR	Railroad
RT	Radiographic Testing
SARWQCB	Santa Ana Regional Water Quality Control Board
SBCTA	San Bernardino County Transportation Authority
SBE	Small Business Enterprise
SCE	Southern California Edison
SCG	Southern California Gas
SCRRA	Southern California Regional Rail Authority
SDC	Seismic Design Criteria
SDS	Safety Data Sheet
SER	Standard Environmental Reference
SF	Square Foot
SH	State Highway
SHE	Safety, Health and Environmental
SMFO	Single Mode Fiber-Optic
SPT	Standard Penetration Test
SR	State Route
SR-91	State Route 91
SRC	District 8 Safety Review Committee
SSID	Service Set Identification
SSP	Standard Special Provisions
SUE	Subsurface Utility Engineering
SUV	Service Utility Vehicle
SWDR	Storm Water Data Report
SWPPP	Storm Water Pollution Prevention Plan
TCE	Temporary Construction Easement

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TCP	Traffic Control Plan
TCS	Toll Collection System
TEES	Department Transportation Electrical Equipment Specification
TI	Traffic Index
TIFF	Tagged Image File Format
TMC	Traffic Management Center
TMDL	Total Maximum Daily Load
TMP	Transportation Management Plan
TMS	Transportation Management System
TOC	Toll Backbone Communications and Operations Center
TOS	Traffic Operations System
TP	Technical Provisions
TRO	time-related overhead
TS	Traffic Signal
TSP	Toll Services Provider
TUB	Toll Utility Building
TW	Time Warner
UC	Undercrossing
UL	Underwriters Laboratories, Inc.
USACE	United States Army Corps of Engineers
USB	Universal Serial Bus
U.S. GAAP	Generally Accepted Accounting Principles
U.S.C.	United States Code
USDOL	United States Department of Labor
USDOT	United States Department of Transportation
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
UTP	Unshielded Twisted Pair
VAC	Voltage Alternating Current

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VGA	Video Graphics Array
VLAN	Virtual Local Area Network
VTMS	Variable Toll Message Sign
WAN	Wide Area Network
WBS	Work Breakdown Structure
WDR	Waste Discharge Requirement
WLAN	Wireless Local Area Network

91 EL Closure Charges means the charges payable by DB Contractor to RCTC for certain Lane Closures of 91 Express Lanes, as set forth in Exhibit 6 (Lane Closures).

91 Express Lanes/91 EL means the existing tolled express lanes on SR-91 in each direction generally between SR-55 and I-15; in the Cities of Anaheim, Yorba Linda, Corona, and unincorporated Riverside and Orange counties. The 91 Express Lanes are managed by both RCTC and OCTA.

91 ECOP or **Project** means the State Route 91 (SR-91) Eastbound Corridor Operations Project (ECOP).

Abandon means to render unserviceable in place.

Acceleration Costs means those fully documented increased Costs expressly authorized in writing by RCTC and reasonably incurred by DB Contractor (that is, reasonable Costs over and above what DB Contractor would otherwise have incurred) which are directly and solely attributable to increasing the performance and production levels of the Work to complete necessary elements or packages of the Work earlier than otherwise anticipated, such as for additional equipment, additional crews, lost productivity, overtime and shift premiums, increased supervision and any unexpected material, equipment or crew movement necessary for resequencing in connection with accelerated efforts. Profit, overhead and indirect costs in connection with acceleration efforts shall not exceed the amount allowed under Section 9 of Exhibit 5 (Modified Standard Specification).

Activity means, in the context of Project Schedules, a task, event, or other project element on a schedule that contributes to completing the project. An activity has a description, start date, finish date, duration, and one or more logic ties.

Actual Knowledge means facts and information actually known to RCTC, DB Contractor or RCTC's or the DB Contractor Representative (in each case, as applicable), after due consultation with other personnel of such Person (or in the case of DB Contractor, each DB-Related Entity), as applicable.

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Additional Properties has the meaning given in Section 10.1.2(a) and includes any Utility Easements which are RCTC's responsibility to acquire in accordance with the applicable Utility Agreement(s) and are not included in the RCTC-Provided Property.

Adjust means, in the context of Utility-related Work, to raise or lower a facility to match a new grade line.

ADL Management Plan means the plan described in TP Section 6.4.5 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Administrative Documents has the meaning given in TP Section 3.2 Administrative Documents and includes: PMP, QMP, Schedules, other Project plans, etc. and all Submittals not deemed Design Documents or Construction Documents.

Administrative Project Plans means the project plans for each of Phase 1 and Phase 2 specified in the Contract Particulars, as updated and approved by RCTC in accordance with this Contract.

aerially deposited lead (ADL) means lead primarily from vehicle emissions deposited within unpaved areas or formerly unpaved areas.

Aesthetics and Replacement Planting Concept Meeting has the meaning given in TP Section 20.2.3.

Affidavit of Final Acceptance means the affidavit described in Section 17.5.1(a).

Affiliate means (a) any Person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, DB Contractor or any of its members, partners, or shareholders holding a 10% or greater interest in DB Contractor; and (b) any Person for which 10% or more of the equity interest in such Person is held directly or indirectly, beneficially, or of record by (i) DB Contractor, (ii) any of DB Contractor's members, partners or 10% or greater shareholders, or (iii) any Affiliate of DB Contractor under clause (a) of this definition. For purposes of this definition the term "control" means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, family relationship or otherwise. Work performed by Affiliates shall be deemed performed by DB Contractor.

Allowance Item means all work and/or goods described as allowance items in the Contract Particulars.

Allowance Value means the sum of money referred to in the Contract Particulars which is included in the NTE (Phase 1) or GMP (Phase 2) (as applicable), including the direct cost of labor, materials, equipment, transportation, taxes and insurance directly associated with each applicable Allowance Item.

Allowed Uses has the meaning given in Section 29.5.4(a).

Application for Final Payment means DB Contractor's written request for Final Payment of the unpaid remainder of the Contract Price as described in Section 18.13.1.

Apprenticeable Craft or **Trade** has the meaning given in Exhibit 13-B (Labor Code Requirements).

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Approved Subcontract Agreement means an agreement which is entered into by DB Contractor with a Subcontractor on the terms which have been approved in writing by RCTC.

Area of Potential Effect or **APE** means the area of potential effect identified in TP Attachment 6-2.

As-Built Documents means (a) the Final Construction Documents and related documentation revised to show changes made in the field during construction so that they reflect the Project's as-built condition; and (b) the As-Built Schedule.

As-Built Schedule means the final schedule for the Project, reflecting the actual scope, actual completion dates and actual durations of the activities in the Project Schedule.

Authorized for Construction means, for the Project's temporary construction elements, such as excavation and shoring plans, falsework plans, and guying plans, the designation indicating that the element may be constructed as shown in the corresponding Authorized for Construction stamp by the Quality Manager.

Authorized for Fabrication means, for the Project's working or shop drawings, the designation indicating that the element may be fabricated as shown in the corresponding Authorized for Fabrication stamp by the Quality Manager.

authorized laboratory means an independent testing laboratory (a) not employed or compensated by any Subcontractor or Subcontractor's affiliate providing other services for this Contract, and (b) authorized by Department.

base means, in the context of road-building, a layer of specified material of planned thickness placed immediately below the pavement or surfacing.

Base License Rights has the meaning given in Section 29.5.2(a).

Baseline OPC has the meaning given in TP Section 8.2.

Baseline Schedule means the approved Submittal provided in accordance with TP Section 4.3.4 and Section 8.2.1.

basement material means, in the context of road-building, material in an excavation or embankment under the lowest layer to be placed.

Bat Management Plan means the plan described in TP Section 6.4.10.2 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Betterment has, with respect to a given Utility facility, the meaning (if any) given in the applicable Utility Agreement. In all other cases, the term "Betterment" means any upgrading of the Relocated Utility that is not attributable to the construction of the Project and is made solely for the benefit of and at the election of the Utility Owner, including an increase in the capacity, capability, level of service, efficiency, duration or function of the Relocated Utility facility over that which was provided by the existing Utility facility; except that the following are not considered Betterments in such cases:

(a) Any upgrading necessary for safe and effective construction of the Project;

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(b) Replacement devices or materials that meet equivalent standards although they are not identical;

(c) Replacement of devices or materials no longer regularly manufactured with the next highest grade or size;

(d) Any upgrading required by applicable Governmental Rules (excluding any Governmental Rules that fall within the definition of Utility Standards for such Utility Owner); or

(e) Replacement devices or materials which are used for reasons of economy (e.g. non-stocked items may be uneconomical to purchase).

Bond means each of the Performance Bond, Payment Bond and Warranty Bond or any or all of them, as the context requires.

Books and Records means any and all documents, books, records, papers or other information of any DB-Related Entity or Affiliate relating to the Project, RCTC-Provided Property, Relocations, or Work, including:

(a) All design and construction documents (including drawings, specifications, Submittals, Subcontracts, invoices, schedules, meeting minutes, budgets, forecasts and change orders);

(b) All budgets, OPCS, cost models, certificates, claims, correspondence, emails, daily time sheet and supervisor's daily reports, inspector's daily reports, data (including test data), cost accounting data, documents, expert analyses, facts, files, information, investigations, materials, notices, payroll documents, plans, projections, proposals, records, reports, requests, samples, schedules, settlements, statements, studies, surveys, tax returns and information, tests, test results, vehicular traffic information, operational information analyzed, categorized, characterized, created, collected, generated, maintained, processed, produced, prepared, provided, recorded, stored or used by any DB-Related Entity in connection with the Project;

(c) Union agreements;

(d) Insurance, welfare and benefits records;

(e) Payroll registers;

(f) Earnings records;

(g) Payroll tax forms;

(h) Material invoices and requisitions;

(i) Material cost distribution work sheet;

(j) Equipment records (list of company equipment, rates, etc.);

(k) Subcontractors' (including Suppliers) invoices;

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(l) Subcontractors' and agents' payment certificates;

(m) Canceled checks;

(n) Job cost report;

(o) Job payroll ledger;

(p) General ledger;

(q) Cash disbursements journal;

(r) Project schedules;

(s) All documents that relate to each and every Claim and Dispute, together with all documents that support the amount of damages as to each Claim or Dispute;

(t) Work sheets used to prepare the Claim or Dispute establishing the cost components for items of the Claim or Dispute, including labor, benefits and insurance, materials, equipment, Subcontractors, all documents that establish the time periods, individuals involved, the hours for the individuals, and the rates for the individuals;

(u) Network servers, data storage devices, backup tapes/media;

(v) Email, letters and correspondence; and

(w) With respect to all of the above, any information that is stored electronically or on computer-related media.

For purposes of the requirements of this Contract to maintain Books and Records, the term "Books and Records" includes documents or information that are subject to the attorney-client privilege, but for purposes of requirements of this Contract to provide access to Books and Records, the term specifically excludes documents or information that are subject to the attorney-client privilege and are identified in a privilege log as attorney-client privileged information.

Boulder means any rock that fails to pass through a 12-inch sieve as defined Department Soil and Rock Logging, Classification, and Presentation Manual (2022).

bridge means a structure that:

(a) Has a bridge number, and

(b) Carries a (1) utility, (2) railroad, or (3) vehicle, pedestrian, wildlife, or other traffic over, under, or around roadways or waterways.

Burrowing Owl Management Plan means the plan DB Contractor will develop as part of environmental compliance in alignment with the requirements of TP Section 6.4.10.1, as updated and approved by RCTC in accordance with this Contract.

Business Day means Monday through Friday, excluding weekends and Holidays.

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Cal-OSHA means the California Department of Industrial Relations, Division of Occupational Safety and Health.

California Test means Department-developed test for determining work quality. For California Tests, go to the METS website.

Category C Costs means all Work or similar activities as set out in Tasks 100 and 400 in Exhibit 2-E.

Category D Costs means all Work or similar activities as set out in Tasks 200 and 300 in Exhibit 2-E.

CEQA Approval means, collectively, the Existing CEQA Approval and the Revalidation, together with any other amendments.

certificate of compliance means, in the context of providing materials under the Technical Provisions, a certificate which complies with Modified Standard Specifications certifying that the material complies with this Contract.

Certificate of Environmental Compliance has the meaning given in TP Section 6.3.1.

Certificate of Final Acceptance means the Notice issued by RCTC to DB Contractor that, except for Plant Establishment Work, DB Contractor has achieved Final Acceptance, and all Work has been fully completed in accordance with this Contract.

Certificate of Project Completion means the Notice issued by RCTC to DB Contractor that DB Contractor has achieved Project Completion.

Certificate of Substantial Completion means the Notice issued by RCTC to DB Contractor that DB Contractor has achieved Substantial Completion.

Certification of As-Built Documents has the meaning given in TP Section 3.4.4.

Certification of Final Design Documents has the certificate described in TP Section 5.4 and Table 5-2.

Change means:

(a) Any addition, decrease, omission, deletion, modification, or removal to or from the Work, the Project or the Technical Provisions;

(b) Any change to a Completion Deadline or the Contract Price;

(c) Any addition, omission or change to insurance policy limits or deductibles; and

(d) Other items the Parties agree to be a Change or which this Contract states to be a Change,

excluding Deviations.

Change in Law means the enactment, adoption, modification, repeal or other change in any Governmental Rule that occurs after the Setting Date, including any change in the judicial or

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administrative interpretation of any Governmental Rule, or adoption of any new Governmental Rule, which is materially inconsistent with Governmental Rules in effect on the Setting Date, but excluding:

(a) Any change in or new Governmental Rule which was passed or adopted but not yet effective as of the Setting Date;

(b) A change in a Project Standard or Utility Standard;

(c) A DBE Event;

(d) A change in the way a Governmental Rule is applied or interpreted as a result of:

(i) The failure of any DB-Related Entity to comply with a Governmental Rule or any Governmental Approval; or

(ii) Any act or omission of any DB-Related Entity or any DB Contractor Fault;

(e) A change in any Governmental Rule relating to taxes (excluding any Change in Governmental Rule related to sales tax on materials that are permanently incorporated in the Work); or

(f) A change in Governmental Rule which was not in force at the Setting Date but which (i) had been published as a draft bill or draft statutory instrument or otherwise specifically referred to prior to the Setting Date; (ii) a party experienced and competent in the implementation of works or services similar to the Work would have reasonably foreseen or anticipated prior to the Setting Date, including adoption of a national interoperability standard; or (iii) is substantially the same as a Governmental Rule in force prior to the Setting Date.

Change Notice means a Notice delivered by RCTC to DB Contractor in accordance with Section 21.4.1.

Change of Control means any assignment, sale, financing, grant of security interest, transfer of interest or other transaction of any type or description, including by or through voting securities, asset transfer, contract, merger, acquisition, succession, dissolution, liquidation or otherwise, that results, directly or indirectly, in a change in possession of the power to direct or control or cause the direction or control of the management of DB Contractor or a material aspect of its business. A Change of Control of a shareholder, member, partner or joint venture member of DB Contractor may constitute a Change of Control of DB Contractor if such shareholder, member, partner or joint venture member possesses the power to direct or control or cause the direction or control of the management of DB Contractor. Notwithstanding the foregoing, the following shall not constitute a Change of Control:

(a) A change in possession of the power to direct or control the management of DB Contractor or a material aspect of its business due solely to a bona fide transaction involving beneficial interests in the ultimate parent organization of a shareholder, member, partner or joint venture member of DB Contractor, (but not if the shareholder, member, partner or joint venture member is the ultimate parent organization), unless the transferee in such transaction is at the time of the transaction suspended or debarred or subject to a proceeding to suspend or debar

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from bidding, proposing or contracting with any federal or State department or agency;

(b) An upstream reorganization or transfer of direct or indirect interests in DB Contractor so long as no change occurs in the entity with ultimate power to direct or control or cause the direction or control of the management of DB Contractor;

(c) A transfer of interests between managed funds that are under common ownership or control other than a change in the management or control of a fund that manages or controls DB Contractor; or

(d) The exercise of minority veto or voting rights (whether provided by applicable Governmental Rules, by DB Contractor's organizational documents or by related member or shareholder agreements or similar agreements) over major business decisions of DB Contractor, provided that if such minority veto or voting rights are provided by shareholder or similar agreements, RCTC has previously received copies of such agreements.

Change Order means a written amendment to the terms and conditions of this Contract issued by RCTC to DB Contractor with respect to a Change or Relief Event in accordance with Section 21 and includes the undisputed portion of any "claim" from DB Contractor, as that term is defined in Public Contract Code section 9204.

Change Response has the meaning given in Section 21.4.3.

Claim means any claim, proceeding, action, cause of action, demand, judgment, investigation or suit (including by way of contribution or indemnity) made:

(a) In connection with this Contract, the Project or the Site;

(b) Under Governmental Rules or in equity; or

(c) For specific performance, restitution, payment of money (including damages), an extension of time, or any other form of relief.

Submission of a DB Contractor Change Request is not a Claim.

closure means a closure of a traffic lane or lanes, including shoulder, ramp or connector lanes, within a single traffic control system.

Code means the statutory law of the State.

commercial quality means the level of quality meeting the Good Industry Practice.

commercial source means an established business operating as a material source for the general public.

Commission means the governing body of RCTC.

Compensable Event means Relief Events (excluding Force Majeure Events).

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Completion Deadline means each Substantial Completion Deadline, Project Completion Deadline and Final Acceptance Deadline, or all of them as the context requires.

Completion Milestone means each Substantial Completion, Project Completion, or Final Acceptance, or all of them as the context requires.

Computer and Network Administration Plan means the plan described in TP Section 2.7.3 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Conceptual Design Package has the meaning given in TP Section 3.3.1.4.

Conduit means any conduit, casing, sleeve, hanger, attachment, or blockout for installation or protection of Utilities attached to or installed through structures, or installed under rail or roadway crossings, and any associated pull-ropes for Utility cables.

Construction Documents means all shop drawings, working drawings, fabrication plans, material and hardware descriptions, specifications, construction quality control reports, construction quality validation reports and samples necessary for construction of the Project in accordance with this Contract.

Construction Manager has the meaning given in TP Section 2.2.1.3.

Construction Notice to Owner has the meaning given in TP Section 7.2.4.

Construction Quality Management Plan means the plan described in TP Section 5.3.3 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Construction Quality Validation Manager has the meaning given in TP Section 2.2.1.10.

Construction Safety Orders means the California Construction Safety Orders of the Division of Occupational Safety and Health.

Construction Work means all Work to build or construct, make, form, manufacture, furnish, install, supply, deliver, landscape or equip the Project.

Contaminated Groundwater means any extracted, pumped and/or ponded groundwater that contains Hazardous Materials.

Contract means this Progressive Design-Build Contract made and entered into between RCTC, and DB Contractor, including:

(a) Upon the Effective Date, for Phase 1 (only) constituted by:

(i) The body of this Progressive Design-Build Contract;

(ii) All Exhibits of this Progressive Design-Build Contract, other than Exhibit 9; and

(iii) All other documents, if any, specified in the Contract Particulars (Phase 1); and

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(b) For Phase 2 constituted by:

(i) The documents referred to in subsection (a) of this definition, except to the extent the Contract Particulars (Phase 2) supersedes the Contract Particulars (Phase 1);

(ii) The Phase 2 Amendment;

(iii) All Exhibits of this Progressive Design-Build Contract; and

(iv) All other documents, if any, specified in Exhibit 9-A (Contract Particulars (Phase 2)).

Contract Particulars means Exhibit 2-A Contract Particulars (Phase 1) and Exhibit 9-A (Contract Particulars (Phase 2)), or either of them, as the context requires.

Contract Price means the sum of the NTE (Phase 1) and GMP (Phase 2), subject to adjustment only in accordance with the express terms of this Contract.

Contractor means the entity identified as "DB Contractor" under this Contract.

Controlling activity means, in the context of Project Schedules, a construction activity that will extend the scheduled completion date if delayed.

Corrective Action Plan has the meaning given in Section 9.4(c)(iii).

Corrective Action Report or **CAR** has the meaning given in TP Section 5.3.3.1.3, as applicable.

Cost(s) means the actual, documented, direct incremental costs of design, construction, commissioning, maintenance, or repair (as applicable).

Cost and Schedule Proposal has the meaning given in Section 21.4.3(a)(v).

Cost Liability means the obligation to bear the cost of a Relocation (as between RCTC and the Utility Owner), whether arising out of common or statutory law or contract (including Utility Agreements), as determined by RCTC, in its good faith discretion.

Cost Model has the meaning given in TP Section 8.

Cost of the Work means:

(a) In Phase 1, the Cost of the Work shall be determined based on the applicable hourly rates specified in the Table of Rates and Prices; and

(b) In Phase 2, has the meaning given in Exhibit 11 (Cost of the Work).

Cost of the Work Contingency means those Phase 2 contingency items designated for reimbursement under Section 18.8.

Cost Submission has the meaning given in Section 7.12.

Cost Validation has the meaning given in TP Section 8.2.

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Co-Located Office is a single office space, occupied by RCTC and Department staff, and the DB Contractor, or two directly connecting office spaces within the same building, within one mile of the Planned ROW Limits.

Co-Sureties has the meaning given in Exhibit 7-A (Performance Bond).

Critical Activity Point has the meaning given in TP Section 5.3.3.4.

Critical Path means each critical path on the Project Schedule which ends on the applicable Completion Deadline, as applicable (i.e., the term shall apply only following consumption of all available Float in the schedule for a Completion Milestone, as applicable). The lower case term "critical path," as used in the preceding sentence, means the longest continuous chain of activities for the Project that has the least amount of total float of all chains.

Critical Path Method means a method of planning and scheduling for a project where activities are arranged based on activity relationships (i.e., a network-based planning technique using activity durations and relationships between activities to calculate a schedule for the entire project). This process determines which activities are "critical" (i.e., on the longest path) and which have "total float" (i.e., can be delayed without making the project longer).

Crotch Bumble Bee Monitoring Plan means the plan referenced in TP Section 6.4.10.4.

Culvert means a structure other than a bridge that provides an opening under a roadway.

Data Date means, in the context of the Project Schedules, the day after the date through which a schedule is current. Everything occurring earlier than the data date is as-built and everything on or after the data date is planned.

Date of Phase 2 Approval has the meaning given in Section 7.5.2(a).

Day or day means a calendar day.

DB Contractor means the design-builder specified in the Contract Particulars (Phase 1) to perform the Work, as replaced in accordance with this Contractor.

DB Contractor Audited Overhead (G&A) Rate means the percentage for DB Contractor's included in the applicable Contract Particulars, for each of Phase 1 and Phase 2, which represents the auditable costs which generally benefit more than one project or are impractical to separate by project, also known as home office overhead includes:

(a) Corporate management;

(b) Corporate information technology (IT);

(c) Corporate insurance;

(d) Legal services;

(e) Equipment procurement;

(f) Training;

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(g) Financial accounting;

(h) Marketing; and

(i) Human resources and benefit administration.

DB Contractor Change Request means a Notice delivered by DB Contractor to RCTC in accordance with Section 21.5.1(b).

DB Contractor Default has the meaning given in Section 24.1.1.

DB Contractor Fault means:

(a) A breach by DB Contractor of any of its obligations or any representation or warranty under this Contract;

(b) A failure by DB Contractor to submit and/or obtain RCTC's approval of any Submittal;

(c) A breach or violation by any DB-Related Entity of any Governmental Rule or Governmental Approval; or

(d) Negligence, gross negligence, fraud, bad faith recklessness, criminal conduct intentional misconduct or any other negligent or culpable act or omission by any DB-Related Entity.

DB Contractor IP means Intellectual Property that is (i) owned by any DB-Related Entity prior to the Effective Date, (ii) developed by any DB-Related Entity independently of the Contract or (iii) any adaptation, continuation or derivative work which requires the incorporation, exercise or practice of Intellectual Property that is the subject of either clause (i) or (ii).

DB Contractor Release of Hazardous Materials means any spill or release, or threatened spill or release, of a Hazardous Material and in the case of clause (b), any exacerbation of any existing release or condition of Hazardous Materials, that was (a) brought onto the Site by a DB-Related Entity, or (b) attributable to any act or omission of any DB-Related Entity or any DB Contractor Fault.

DB Contractor Representative means an individual with the power or right exercisable by the DB Contractor, in its sole and unfettered discretion.

DB Contractor's Profit (Phase 1) means the fixed fee for profit included the Contract Particulars (Phase 1), which represents profit for the Phase 1 Work.

DB Contractor's Profit (Phase 2) means the fixed fee for profit included Exhibit 9-A (Contract Particulars (Phase 2)), which represents the profit for the Phase 2 Work.

DB Contractor's Utility Conflict Matrix means an update to the Preliminary Utility Matrix to be provided by DB Contractor as described in TP Section 7.3.5.

DB-Related Entities means DB Contractor, Subcontractors or any of, their respective employees, agents, representatives, shareholders, directors, members, managers, partners and officers and all other Persons for whom DB Contractor may be legally or contractually responsible.

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DB Utility Work has the meaning given in Section 10.2.1(c).

DBE Event means Department's reestablishment of the DBE program requirements in Section 12.7, which materially and adversely directly affects DB Contractor's obligations under this Contract.

DBE Open Ended Performance Plan means the plan described in TP Section 2.2.5 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

debarred has the meaning given in Attachment 2 to Exhibit 13.

Demarcation Matrix means the table setting out the responsibilities of DB Contractor and TSP with respect to the Project set out in TP Attachment 19-1.

Department means the State of California Department of Transportation as defined in Streets and Highways Code section 20 and authorized in Streets and Highways Code section 90; and its authorized representatives.

Department Cooperative Agreement means the cooperative agreement between RCTC and Department identified in Recital B to this Contract.

Department Documents means the Department Standard Plans, Department Revised Standard Plans, the Department Standard Specifications, the Department Revised Standard Specifications, the Department Standard Special Provisions, and all other provisions of publications, manuals, handbooks, engineering manuals, technical memoranda, standards, guidelines rules and regulations of Department that are applicable to the type of Work required under this Contract.

Department Safety Review Committee has the meaning given in TP Section 22.2.7.

Department Standard Plans means the Department's standardized engineering drawings on the Department's website used to reduce redundancy and ensure consistency in design and construction details for recurring elements.

Department Standard Specifications or **Standard Specifications** has the meaning given in Section 1.5.1.

Design Documents means all drawings (including plans, elevations, sections, details and diagrams), specifications, reports, calculations, records and other Submittals developed by DB Contractor as necessary for design of each Phase of the Project in accordance with this Contract, following approval by RCTC and others as required by this Contract. Design Documents include the Final Design Documents.

Design Lead Engineer – Roadway has the meaning given in TP Section 2.2.1.6.

Design Lead Engineer - Structures has the meaning given in TP Section 2.2.1.5.

Design Manager has the meaning given in TP Section 2.2.1.4.

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Design Quality Management Plan means the plan described in TP Section 5.3.2 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Design Quality Validation Manager has the meaning given in TP Section 2.2.2.1.

Design Review means the formal review of an existing or proposed design for the purpose of detection and remedy of design deficiencies that would, among other things, affect fitness-for-use and environmental aspects of the product, process or service, and/or identification of potential improvements of performance, safety and economic aspects.

Design Standard Decision Documents (DSDD) has the meaning given in TP Section 10.3.2.

Design Work means all Work related to the design, engineering or architecture for the Project.

detour means a temporary route for traffic around a closed road part. A passageway through a job site is not a detour.

Deviation means any change, deviation, modification, or alteration from the TP or scope requirements of this Contract (including deviations from standards referenced in this Contract) but excluding any Change that is approved by RCTC in accordance with Section 21.24.

Differing Site Condition means:

(a) Subsurface or latent physical conditions that are encountered at or near the Site that differ from those reasonably assumed by DB Contractor based on information disclosed in the RFQ or Reference Documents provided by RCTC;

(b) Physical conditions of an unusual nature, differing materially from those ordinarily encountered in the area and generally recognized as inherent in the type of work provided for in the Contract including:

(i) The discovery at, near or on the Site of any archaeological, paleontological, biological or cultural resource; and

(ii) The discovery at, near or on the Site of any species listed as threatened or endangered under the federal or State Endangered Species Act, except to the extent that the RCTC-Provided Approvals provide for mitigation measures to be undertaken with respect thereto (regardless of whether the species is listed as threatened or endangered as of the Setting Date), and also subject to the risk allocation provisions contained in Section 11 (relating to DB Contractor's obligation to obtain and maintain environmental approvals under certain circumstances).

The definition of Differing Site Condition excludes:

(a) The discovery of any Boulder that is less than four feet in diameter or does not have a material impact on DB Contractor's performance of the Work;

(b) Utilities documented by or recorded with the USA Dig Alert of Southern California;

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(c) Hazardous Materials;

(d) Moving groundwater;

(e) Any differences in groundwater depth, flow or location from the depths, flow or location, if any, noted in the Reference Documents or otherwise;

(f) Any differences between actual conditions and As-Built Reference Documents;

(g) In the case of Work performed during Phase 1, any condition known to DB Contractor prior to the Effective Date or that would have become known to DB Contractor by undertaking a Reasonable Investigation prior to the SOQ Step 2 Submittal Date; and

(h) In the case of Work performed during Phase 2, known to DB Contractor prior to the Date of Phase 2 Approval or that could have been discovered by performing a Phase 1 Site Investigation in accordance with Good Industry Practice prior to the date of submitting the Phase 2 Proposal.

Directive Letter means a Notice issued by RCTC under Section 21.3.

Disabled Veteran Business Enterprise means a business certified as a DVBE by the State Department of General Services, Office of Small Business and DVBE Services.

Disadvantaged Business Enterprise (DBE) means a disadvantaged business enterprise as defined in 49 CFR § 26.5.

dispose of means to remove from the job site.

Dispute means a disagreement between the Parties as to the merits, amounts, or remedy arising out of an issue in controversy, including a disagreement regarding a Claim.

Disputes Review Board means the Project's adjudication board established by the Parties under Section 28.3.

District 8 means Department District 8.

District 12 means Department District 12.

divided highway means a highway with separated traveled ways for traffic, generally in opposite directions.

Document Management Plan means the plan described in TP Section 2.3.1 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Draft Invoice means a draft invoice in the form included in Exhibit 8-A including all documents and information required by Section 18.10, prepared for the purposes of the Progress Schedule Invoice Meeting in Section 18.2.

Early Termination Date has the meaning given in Section 2.3.1

Effective Date has the meaning given in the Recitals to this Contract.

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Electronic Document Management System has the meaning given in TP Section 2.3.2.

Eligible Surety means a Surety licensed in the State, listed on the U.S. Department of the Treasury's "Listing and Approved Sureties" (found at www.fms.treas.gov/c570/c570.html), rated "A" or higher by at least two nationally recognized rating agencies (Fitch Ratings, Moody's Investor Service and Standard & Poor's) or rated at least A-, X or higher according to A.M. Best's Financial Strength Rating and Financial Size.

Emergency Incident Action and Communications Crisis Protocol Plan means the plan described in TP Section 2.4.1 to be prepared and updated by DB Contractor, as approved by RCTC in accordance with this Contract.

Encroachment Permit Construction Commencement Date means the date the Department issues written authorization that allows DB Contractor to perform Construction Work.

Encroachment Permit Investigation Commencement Date means the date the Department issues written authorization that allows DB Contractor to perform investigations within the Department's right-of-way for Phase 1 Work.

Engineer means, subject to Section 1.7.2(b), a Registered Professional Engineer authorized by DB Contractor to perform or furnish professional services in connection with the Work.

ENR Los Angeles Construction Cost Index means the Los Angeles Construction Cost Index published by Engineering News Record.

Environmental Approvals means all Governmental Approvals arising from or required by any Environmental Law in connection with construction, use or operation of the Project, including approvals and permits required under the National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.), as amended, or the California Environmental Quality Act (section 21000 et seq. of the Public Resources Code). Environmental Approvals include the EIR/EA. In the case of the NEPA/CEQA Approval and the ROD**,** DB Contractor's obligations with respect to such Environmental Approvals are limited to those obligations set out in the Environmental Commitments Record.

Environmental Commitments Record means the document entitled "Environmental Commitments Record" included in TP Attachment 6-1.

Environmental Compliance Manager has the meaning given in TP Section 2.2.1.7.

Environmental Document means any draft or final decision document prepared as part of the Environmental Review Process.

Environmental Laws means (1) all Governmental Rules applicable to the Project or the Work now or hereafter in effect regulating, relating to, or imposing liability or standards of conduct concerning the environment or to generation, production, emissions, discharges, storage, use, handling, transportation, treatment, disposal, remediation, releases or threatened releases of Hazardous Materials or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances, or materials into the environment including into the air, surface water or ground water or onto land, and (2) any requirements and standards that pertain to the protection of the environment, or to the management of Hazardous Materials or generation, production, emissions, storage, use, handling, transportation, treatment, disposal, remediation, discharges, releases or

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threatened releases of Hazardous Materials or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances or materials into the environment, contamination of any type whatsoever, or health and safety matters with respect to Hazardous Materials, set forth in any Governmental Approval, or other criteria and guidelines promulgated, in accordance with Governmental Rules applicable to the Project or the Work, as each of the foregoing have been or are amended, modified, or supplemented from time to time (including any present and future amendments thereto and reauthorizations thereof), including those relating to:

(i) The manufacture, processing, distribution, use, re-use, treatment, storage, disposal, transport or handling of Hazardous Materials or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances or materials;

(j) The protection of public health, public welfare, public safety or the environment (including protection of nonhuman forms of life, land, surface water, groundwater and air);

(k) Air, soil, surface and subsurface strata, stream sediments, surface water, and groundwater;

(l) Releases of Hazardous Materials;

(m) Protection of wildlife, endangered, threatened, and sensitive species, wetlands, water courses and water bodies, parks and recreation lands, cultural, historical, archeological, and paleontological resources and natural resources;

(n) The operation and closure of underground or aboveground storage tanks;

(o) Health and safety of employees and other persons with respect to Hazardous Materials; or other hazardous, toxic or dangerous waste, pollutants, contaminants, substances or materials; and

(p) Notification, documentation and record keeping requirements relating to the foregoing.

Without limiting the above, the term “Environmental Laws” shall also include the following (all as amended):

(i) The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (“**CERCLA**”);

(ii) The Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (“**RCRA**”);

(iii) The Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. § 11001 et seq.;

(iv) The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.;

(v) The National Environmental Policy Act, 42 U.S.C. § 4321 et seq.;

(vi) The Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.;

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(vii) The California Occupational Safety and Health Act of 1973, Lab. Code § 63000 et seq.;

(viii) The Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.;

(ix) The Endangered Species Act, 16 U.S.C. § 1531 et seq.;

(x) The Clean Water Act, 33 U.S.C. § 1251 et seq.;

(xi) The Clean Air Act, 42 U.S.C. § 7401 et seq.;

(xii) The Federal Water Pollution Control Act, as amended by the Clean Water Act, 33 U.S.C. § 1251 et seq.;

(xiii) The Oil Pollution Act, 33 U.S.C. § 2701 et seq.;

(xiv) The Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.;

(xv) The Federal Safe Drinking Water Act, 42 U.S.C. § 300 et seq.;

(xvi) The Federal Radon and Indoor Air Quality Research Act, 42 U.S.C. § 7401 et seq.;

(xvii) The Fish and Wildlife Coordination Act, 16 U.S.C. § 661 et seq.;

(xviii) The Coastal Zone Management Act, 33 U.S.C. § 1451 et seq.;

(xix) The Rivers and Harbors Act of 1899, 33 U.S.C. § 401 et seq.;

(xx) The Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq.;

(xxi) The Marine Mammal Protection Act, 16 U.S.C. § 1361 et seq.;

(xxii) Section 4f of the Department of Transportation Act, 49 U.S.C. § 303;

(xxiii) The National Historic Preservation Act, 16 U.S.C. § 470;

(xxiv) 33 CFR §§ 114 and 125;

(xxv) The California Environmental Quality Act, § 21000 et seq. of the California Public Resources Code;

(xxvi) The California Clean Air Act of 1988, § 39000 et seq. of the California Health and Safety Code;

(xxvii) The California Porter-Cologne Water Quality Act, § 13000 et seq. of the California Water Code;

(xxviii) The California Coastal Act, § 30000 et seq. of the California Public Resource Code;

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(xxix) The Integrated Waste Management Act, § 40000 et seq. of the California Public Resources Code;

(xxx) The California Safe Drinking Water and Toxic Enforcement Act, § 25249.5 et seq. of the California Health and Safety Code;

(xxxi) The California Hazardous Waste Control Act, Chapter 6.5 of Division 20 of the California Health and Safety Code, § 25100 et seq.;

(xxxii) The California Hazardous Substance Account Act, the California Health and Safety Code, § 25330 et seq.;

(xxxiii) Health and Safety Code § 25280 et seq. (Underground Storage of Hazardous Substances);

(xxxiv) The California Hazardous Waste Management Act, the California Health and Safety Code § 25170.1 et seq.;

(xxxv) Health and Safety Code § 25501 et seq. (Hazardous Materials Response Plans and Inventory);

(xxxvi) Fish and Game Code §§ 1600 et seq., 1360 et seq., 2050 et seq., and 2080 et seq.;

(xxxvii) California Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act, all as amended;

(xxxviii) National Communities Conservation Plan under the NCCP Act of 2001;

(xxxix) Executive Order 119 Floodplain Management, Section 6 (b);

(xl) State of California Public Resources Code (Chapter 1.7, Sections 5097 and 30244; and

(xli) California Public Resources Code 4291.

Environmental Management Plan means the plan described in TP Section 6.3.2 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Environmental Management Program has the meaning given in TP Section 6.3.1.

Environmental Monitoring Reports has the meaning given in TP Section 6.3.2.

Environmental Notification Checklist has the meaning given in TP Section 6.3.3.

Environmental Review Process means environmental review and permitting processes to evaluate, avoid, minimize and mitigate Project effects, including as required under Governmental Approvals, NEPA/CEQA Approval, and all other Environmental Laws. These processes may be concurrent, sequential or overlapping.

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Environmentally Sensitive Area means an area within or near the Site where access is prohibited or limited to protect environmental resources and as set forth in TP Section 6.4.1.

Error means:

(a) An error, omission, inconsistency, inaccuracy, deficiency or other defect; and

(b) Any aspect of the Work that (i) does not comply with the requirements of this Contract or (ii) is inconsistent or incompatible with its age, function, performance and use (in each case, as contemplated by this Contract) when properly maintained in accordance with Good Industry Practice, any manufacturer's requirements and the requirements described in this Contract.

Estimating Methodology Report has the meaning given in TP Section 8.3.

Event of Default has the meaning given in Section 24.2.1.

Existing CEQA Approval means the SR-91 Eastbound Corridor Operations Project Environmental Impact Report/Environmental Assessment as approved by RCTC on October 23, 2012.

Existing Department ROW means the real property, owned by Department as of the Effective Date, which RCTC intends to make available for permanent improvements included in the Project which is shown in the Geometric Approval Drawings.

Express Lane means any Lane that is a SR-91 Express Lane (or 91 EL), a 15/91 Express Lane (or 15/91 EL), or an I-15 Express Lane (or 15 EL).

Extra Maintenance Work has the meaning given in TP Section 21.4.4.

Facilitator for partnering meetings has the meaning given in Exhibit 2-A (Contract Particulars).

federal-aid contract means a contract that is financed in part with federal funds.

Final Acceptance means the stage in the Work where the following requirements have been satisfied by DB Contractor:

(a) All requirements for Project Completion have been satisfied;

(b) DB Contractor has provided RCTC with all construction and Design Documents, original working drawings, shop drawings and final As-Built Documents of the Phase 2 Work, right-of-way record maps, surveys, test data and other Submittals required under this Contract; driven pile records, CIDH piling records, joint seal calculations, paint records, permanent vertical clearance, report of completion of structures, structure completion notification, As-Built Shop Drawings, Materials Release Summary, all forms required by Department Documents, and any other information required by the Contract;

(c) DB Contractor has submitted and received RCTC approval of all Submittals required by the Contract, including in TP Section 3.4.5.3;

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(d) All special tools, equipment, furnishings and supplies purchased and/or used by DB Contractor as provided in this Contract have been delivered to RCTC and all replacement spare parts shall have been purchased and delivered to RCTC free and clear of Liens;

(e) The items on the Final Acceptance Punch List shall have been completed to the satisfaction of RCTC and Department, and all of DB Contractor's other obligations under this Contract (other than obligations which by their nature are required to be performed after Final Acceptance, including Plant Establishment Work) has been satisfied in full or waived by Notice from RCTC;

(f) RCTC's governing board formally accepts the Work as complete; and

(g) All other conditions to Final Acceptance in this Contract shall have been satisfied.

Final Acceptance Date means the date on which Final Acceptance occurs.

Final Acceptance Deadline means 90 days after the earlier of (i) the Project Completion Date and (ii) the Project Completion Deadline, as such deadline may be extended under this Contract.

Final Design Documents means the complete final construction plans (including drawings, elevations, sections, details and diagrams) and specifications needed by DB Contractor to build the Project.

Final Design (FD) Notice to Owner has the meaning given in TP Section 7.2.4.

Final Design Package has the meaning given in TP Section 3.3.1.6.

Final Environmental Mitigation and Monitoring Reports has the meaning given in TP Section 6.3.2.

Final Payment means payment by RCTC of the final installment of the Contract Price.

fixed cost means labor, material, or equipment cost directly incurred by DB Contractor or any of its Subcontractors as a result of performing or supplying a particular bid item that remains constant regardless of the item's quantity.

Fixed General Conditions Costs means those portions of the Cost of the Work described in Section 2.3 of Exhibit 11 (Cost of the Work) to be included as Fixed General Conditions Costs for the Phase 2 Work, as provided in the Phase 2 Amendment.

Float means the amount of time that any given activity or logically connected sequence of activities shown on the Project Schedule may be delayed before it will affect DB Contractor's ability to achieve a Completion Milestone by its applicable Completion Deadline. "Float" generally means the difference between early completion times and late completion times for activities as shown on the Project Schedule and shall include any float contained within an activity as well as any period containing an artificial activity (that is, one which is not encompassed within the meaning of the word "Work").

Force Majeure Event means any of the events listed in clauses (a) through (g) below, subject to the exclusions listed in clauses (i) through (vii) below, which materially and adversely directly affect DB Contractor's obligations:

(a) Any earthquake, tornado, hurricane, Wildfire, lightning, one in a 100-year flood or other natural disaster that causes direct physical damage to the Project;

(b) Any pandemic or epidemic in the Riverside County, California area;

(c) Any blockade, rebellion, war, riot, act of sabotage or civil commotion that causes direct physical damage to the Project;

(d) Issuance of a temporary restraining order or other form of injunction by a court that prohibits prosecution of a material portion of the Work;

(e) The suspension, termination, interruption, denial or failure to obtain, failure to maintain, or non-renewal of any RCTC-Provided Approval, except if such suspension, termination, interruption, denial or failure to obtain, failure to maintain or non-renewal arises from failure by any DB-Related Entity to locate or design the Project or carry out the Work in accordance with the RCTC-Provided Approvals or other Governmental Approval;

(f) Delay in obtaining a Major Approval by the applicable Major Approval Deadline where the delay is not due to differences in the DB Contractor's final design; and

(g) The cumulative duration of Work stoppages under clause (e) of the definition of "RCTC-Caused Delay" exceeds 15 Business Days.

The term "Force Majeure Event" shall be limited to the matters listed above and specifically excludes from its definition the following matters which might otherwise be considered a force majeure event:

(i) Any physical destruction or damage, or delays to the Project which occur by action of the elements, including explosion, fire, lightning, wind, drought, rain, snow, or storm, except as specified in clause (a) above;

(ii) Except as provided in clause (c) above, malicious or other acts intended to cause loss or damage or other similar occurrence, including vandalism or theft;

(iii) Any strike, labor dispute, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence;

(iv) The suspension, termination, interruption, denial, failure to obtain, non-renewal or change in any requirements of any Governmental Approval except for such matter falling within the scope of clause (d), (e) or (f) above;

(v) Any increased costs or delays related to Relocations or failure to obtain or maintain, as applicable, any approval, work or other action from a Utility Owner, except to the extent directly due to any of the matters listed in clauses (a) through (g) above;

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(vi) The presence at, near or on the Site, of any Hazardous Materials, including substances disclosed in the Reference Documents as well as any substances contained in any structure required to be demolished in whole or in part or relocated as part of the Work; and

(vii) Any matters not caused by RCTC or beyond the control of RCTC or any other matter not listed in clauses (a) through (g) above.

Foundation Report has the meaning given in TP Section 13.3.3.1.

General Purpose Lane means all mixed-flow Lanes (including ramps and direct connectors), auxiliary Lanes on State Route 91, excluding the Express Lanes.

General TMP means the plan described in TP Section 18.3.1, as updated in accordance with this Contract.

General Warranty means the general warranty set out in Section 16.1.1.

Generally Accepted Accounting Principles or **U.S. GAAP** means the set of accounting rules and accounting standards promulgated by the "Financial Accounting Standards Board" (FASB), as updated from time to time, and adopted by the accounting profession for the form and content of financial statements and recording of financial transactions.

Geometric Approval Drawings means the Geometric Approval Drawings (Sheets 1 to 3, prepared by Parsons, with Department signatures dated September 11, 2026.

Geotechnical Engineer has the meaning given in TP Section 2.2.1.9

Geotechnical Execution Plan (Phase 1) means the plan described in TP Section 13.3.1 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

GMP (Phase 2) means the guaranteed maximum price approved, agreed or determined (as applicable) as part of the Phase 2 Amendment and specified in Exhibit 9-A (Contract Particulars (Phase 2)), which is comprised of:

(a) The Target Cost of the Work (Phase 2), including the Cost of the Work Contingency for Phase 2 and any Allowance Values; plus

(b) The Fixed General Conditions Cost; plus

(c) Amounts in clauses (a) and (b) multiplied by the applicable DB Contractor's Audited Overhead (G&A) Rate; plus

(d) DB Contractor's Profit (Phase 2); plus

(e) Premiums for Bonds and insurance for Phase 2; plus

(f) ODCs for Phase 2,

as updated in accordance with this Contract.

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Good Industry Practice means

(a) In the case of all Work (excluding the Design Work), the exercise of the degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled and experienced constructor, supplier or other contractor seeking in good faith to comply with its contractual obligations, complying with all applicable Governmental Rules and Governmental Approvals and engaged in the same type of undertaking under circumstances and conditions similar to those within the same geographic area as the Project; and

(b) In the case of Design Work, the exercise of the degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a professional designer or engineer seeking in good faith to comply with its contractual obligations, complying with all applicable Governmental Rules and Governmental Approvals and engaged in the same type of undertaking under circumstances and conditions similar to those within the same geographic area as the Project.

Governmental Approval means any permit, license, consent, concession, grant, franchise, authorization, waiver, certification, exemption, filing, lease, registration or ruling, variance or other approval, guidance, protocol, mitigation agreement, agreement or memoranda of agreement/understanding, and any revision, modification, amendment, supplement, renewal or extension of any of the foregoing, required by or with any Governmental Entity in order to perform the Work or any Relocation work being performed by a Utility Owner, but excluding (a) any such approvals relating to the work to be performed by other contractors as specifically described in this Contract, and (b) any such approvals required by or with a Governmental Entity in its capacity as a Utility Owner. Governmental Approvals include Environmental Approvals, RCTC-Provided Approvals and New Approvals.

Governmental Entity means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity other than RCTC.

Governmental Rule means any statute, law, code, regulation, ordinance, rule, judgment, common law, writ, injunction, order, decree, permit, concession, grant, franchise, license, agreement, directive, guideline, policy requirement or other governmental restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Entity, which is applicable to the Work, the Project, the Site or any Relocation work being performed by a Utility Owner, whether now or hereafter in effect. The term "Governmental Rule" includes any Environmental Law and excludes "Governmental Approvals."

GP Lane Closure Charges mean the charges owing from DB Contractor to RCTC for certain Lane Closures of General Purpose Lanes, in Exhibit 6 (Lane Closures).

grading plane means the basement material surface on which the lowest layer of subbase, base, pavement, surfacing, or other specified layer is placed.

Guaranteed Obligations has the meaning given in the Guaranty.

Guarantor means each Person providing a Guaranty as described in Section 13.4.

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Guaranty means each guaranty executed by a Guarantor guaranteeing some or all of the obligations of DB Contractor under this Contract.

Hazardous Materials means any element, chemical, compound, mixture, substance, product, waste or other material, whether solid, liquid or gaseous, which is or becomes defined, listed, classified, regulated, or addressed in any way under any Environmental Laws, or any other substances or conditions (including mold and other mycotoxins, fungi or fecal matter) which may create any unsafe or hazardous condition or pose any threat or harm to the environment or human health and safety. "Hazardous Materials" includes the following:

(a) Any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any Environmental Law or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court;

(b) Hazardous Waste, hazardous materials, hazardous substances, hazardous constituents, and toxic substances, ignitable, corrosive and reactive substances or related materials, whether solid, liquid or gas, including substances defined as or included in the definition of "hazardous substance," "hazardous waste," "hazardous material," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "radioactive materials," "bio-hazardous waste," "pollutant," "toxic pollutant," "contaminant," "restricted hazardous waste," "infectious waste," "toxic substance," "toxic waste," "toxic material," or any other term or expression intended to define, list or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment (including harmful properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "TCLP toxicity" or "EP toxicity" or words of similar import under any applicable Environmental Law);

(c) Any petroleum or crude oil and any fraction thereof, including any refined petroleum product or any additive thereto or fraction thereof, and any waste oil or waste petroleum byproduct or fraction thereof or additive thereto, but excluding petroleum and petroleum products contained within regularly operated motor vehicles;

(d) Any solvent, solvent waste, including any refined solvent product, and any waste solvent or waste solvent byproduct, including any additive, byproduct or fraction of any of the foregoing;

(e) Any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources;

(f) Any flammable substances or explosives, including unexploded ordnance;

(g) Any radioactive materials;

(h) Any asbestos or asbestos-containing materials in structures and or other improvements on or in the Site (other than mineral asbestos naturally occurring in the ground);

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(i) Silica;

(j) Any lead, cadmium, or lead-based paint or any other heavy metal-based paint or material, or any metal listed in or regulated by the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.);

(k) Any radon or radon gas;

(l) Any methane gas or similar or regulated gaseous materials;

(m) Any urea formaldehyde foam insulation;

(n) Electrical equipment and components which contain any oil or dielectric fluid containing polychlorinated biphenyls;

(o) Pesticides, herbicides or fungicides;

(p) Any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Entity or which may or could pose a hazard to the health and safety of any Persons in the vicinity of the Project or to the environment; and

(q) Soil, surface water or groundwater containing any of the Hazardous Materials as defined above.

Hazardous Materials and Waste Management Plan means the plan described in TP Section 6.4.4 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Hazardous Materials Management means sampling, characterization, stockpiling, storage, backfilling in place, asphalt batching, recycling, treatment, clean-up, remediation, transportation and/or off-Site disposal of Hazardous Materials, whichever is the most cost-effective approach authorized under applicable Governmental Rules.

Hazardous Substance Removal Certification has the meaning given in Business and Professions Code section 7085.7.

Hazardous Waste means material that is hazardous waste as defined in section 25117 of the California Health and Safety Code in accordance with section 25141 of the California Health and Safety Code.

Health and Safety Plan means the plan described in TP Section 22.2.3 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

highway means the whole right-of-way or area reserved for use in constructing the roadway and its appurtenances.

HM-1 means Hazardous Material that may require removal and disposal in accordance with Governmental Rules, whether disturbed by the Project or not.

HM-2 means Hazardous Material that may require removal and disposal in accordance with Governmental Rules only if disturbed by the Project.

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Holiday means any holiday shown in the following table:

Holidays

Holiday	Date observed
Every Sunday	Every Sunday
New Year's Day	January 1st
Day after New Year's Day	January 2nd
Martin Luther King, Jr. Day	3rd Monday in January
Lincoln's Birthday	February 12th
Washington's Birthday	3rd Monday in February
Farmworkers Day	March 31st
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veterans Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving Day	Day after Thanksgiving Day
Christmas Day	December 25th

If January 1st, February 12th, March 31st, June 19th, July 4th, November 11th, or December 25th falls on a Sunday, the Monday following is a holiday. If November 11th falls on a Saturday, the preceding Friday is a holiday.

Improved Landscape Areas has the meaning given in TP Section 20.3.2.1.

Incident Management has the meaning given in TP Section 18.4.1.1.

Incidental Utility Work means all of the following work necessary for construction of the Project, including any necessary coordination with Utility Owners and property owners or holders of real property rights, providing design, performing construction, and obtaining and complying with all required Governmental Approvals:

(a) Protection in Place of Utilities;

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(b) All work necessary to abandon in place any utility in accordance with proper procedures (e.g., flushing, capping, slurry backfill, etc.);

(c) Traffic control for Relocation work, to the extent such responsibility is assigned to DB Contractor in accordance with TP Section 7;

(d) Resurfacing and re-striping of streets; reconstruction of curbs, gutters and sidewalks; reinstallation of signage; and reinstallation or replacement of traffic signals; to the extent such responsibility is assigned to DB Contractor in accordance with TP Section 7;

(e) Adjustment of utility appurtenances (e.g., manholes, valve boxes, and vaults) for line and grade upon completion of roadway work;

(f) Potholing, electronic detection, surveying and any other methods used to determine Utility locations and other material information concerning Utilities;

(g) Relocation or Protection in Place of Service Lines; and

(h) Temporary Relocations.

Indemnified Claim has the meaning given in Section 27.1.1.

Indemnified Parties means RCTC, the members of the Commission, the RCTC Representative, Department, City of Corona, County of Riverside, OCTA, and each of their respective officers, directors, board members, employees, consultants, representatives and agents, or each of them as the context requires.

Independent Cost Estimator or Estimate (ICE) (as the context requires) means a Person or group of Persons within the PCM (including a subconsultant of the PCM), or such other Person as may be designated by RCTC at any time as its Independent Cost Estimator as further described in TP Section 8.4.

Instructions to Proposers means the RFQ Document entitled "Instructions to Proposers" issued by RCTC on November 13, 2025, as amended.

Instrumentation and Monitoring Program Plan means the plan described in TP Section 13.3.4.1 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Intellectual Property means all current and future legal and/or equitable rights and interests, anywhere in the world, in know-how, patents (including applications), copyrights (including moral rights), trademarks (registered and unregistered), service marks, trade secrets (as defined by the Defend Trade Secrets Act § 2(b)(1) (18 USC § 1839(3)), and in accordance with US state and federal laws), designs (registered and unregistered), utility models, circuit layouts, mask works, business and domain names, inventions, solutions embodied in technology, and other intellectual activity, and applications of or for any of the foregoing. Without limiting the foregoing, Intellectual Property includes Software and RCTC Data. For the avoidance of doubt, Intellectual Property is distinguished from the physical, electronic, and/or mechanical embodiments of such Intellectual Property.

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Invoice means an invoice in the form included in Exhibit 8-A including all documents and information required by Section 18.11.1(a).

Invoice Certificate means the certificate to be provided with each Invoice in the form included in Exhibit 8-B.

Job Hazard Analysis has the meaning given in TP Section 22.2.4.

Job Vehicle Leasing Plan: means the plan described in TP Section 2.7.4 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Joint Resolution Team has the meaning given in TP Section 3.1.2.

Key Person or **Key Personnel** means positions identified in TP Sections 2.2.1 and TP Section 2.2.2 or positions otherwise advised by RCTC to DB Contractor from time to time.

Known or Suspected Hazardous Materials means Hazardous Materials that are known or reasonably suspected to exist as of the Setting Date from information or analysis contained in or referenced in the Reference Documents, and/or Hazardous Materials that would have become known to DB Contractor as follows:

(a) In the case of Work performed prior to the Phase 2 Approval Deadline, by undertaking Reasonable Investigation prior to the SOQ Step 2 Submittal Date; and

(b) In the case of Work performed after the Phase 2 Approval Deadline, by performing a Phase 1 Site Investigation as required under the Scope of Work (Phase 1) or such other investigations required in accordance with Good Industry Practice prior to the date of submitting the Phase 2 Proposal.

Known or Suspected Hazardous Materials include Hazardous Materials arising in or from any of the sites identified in the CEQA Approval, the NEPA Approval and TP Section 6, including TP Section 6.4.4, as having or potentially having Hazardous Materials.

Labor Compliance Program means a Third-Party Labor Compliance Program adopted by RCTC and approved by DIR.

Labor Surcharge and Equipment Rental Rates means the Department publication that lists labor surcharge and equipment rental rates.

landscaping means the practice of a landscaping contractor under 16 CA Code of Regs. § 832.27.

Landscaping and Irrigation Plans means the plan described in TP Section 20.3.1 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Lane means any traffic or express lane including main lanes, ramps, direct connectors, frontage roads and cross roads.

Lane Closure means a Permitted Lane Closure or an Unpermitted Lane Closure, or both, as the context requires.

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Lane Closure Charges mean GP Lane Closure Charges, or 91 EL Closure Charges, as the context requires.

Lane Requirement Chart means Department approved charts showing the locations and periods allowed for General Purpose lane closures.

Lane Transaction means a uniquely identified record of activity, including transponder reads, license plate images, and other event data created as a result of a vehicle traveling through a Read Point.

Lead Document Control Manager has the meaning given in TP Section 2.2.2.6.

Lead Engineering Firm means the single entity or joint venture identified in Exhibit 2-A (Contract Particulars) that is primarily responsible for the design and engineering of the Project.

Lien means any pledge, lien, hypothecation, security interest, mortgage, deed of trust or other charge, encumbrance or restriction on title or property interest of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument and the filing of or agreement to file any financing statement under the Uniform Commercial Code of any jurisdiction).

Light/Noise Barrier Design Report has the meaning given in TP Section 6.4.8.2.

Line of Sight Study has the meaning given in TP Section 19.3.4.

Liquidated Damages has the meaning given in Section 25.5.1.

Liquidated Damages Events means each of the events described in Sections 25.1, 25.3, and 25.4 or all of them as the context requires.

Listed Subcontractors means each of the Major Subcontractors and the other Subcontractors identified in Exhibit 2 G (Listed Subcontractors / Subcontractor Identification Form).

Local Agencies means the County of Riverside, the City of Corona, City of Lake Elsinore, community of Temescal Valley and any other state or local agency owning property within the Planned ROW Limits or with jurisdiction over any such property, or that otherwise has interfaces with the Project, other than RCTC, OCTA, and Department. For purposes of this definition, the State Water Resources Control Board and California Department of Parks and Recreation shall be considered to be Local Agencies.

Losses includes any loss, damage (including personal injury, property damage and natural resource damages), injury, expense, compensation, debt, obligation, charge, liability, cost, expense (including attorneys' fees, accountants' fees expert witness fees and expenses, deductibles or increased premiums (including those incurred in connection with the enforcement of any provision of this Contract)), fee, charge, demand, investigation, proceeding, action, suit, claim, judgment, penalty, fine or Third Party Claims, actual, prospective or contingent and whether or not currently ascertainable. Losses include injury to or death of persons, damage or loss of property, and harm or damage to natural resources.

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Lump Sum (Phase 1) means the amount set out in Exhibit 2 (Contract Particulars (Phase 1)) to perform the Phase 1 Work, subject to adjustment only in accordance with the express terms of this Contract.

Lump Sum Scope of Work has the meaning given in Section 18.6.

Main or **Trunkline Utility** means an underground Utility, which is not a Service Line, and which relative to the particular system of which it is a part, (a) is a larger line serving as a main line to connecting tributary lines and (b) serves a larger area, all as determined by RCTC. In determining whether a facility should be considered a Main or Trunkline Utility, RCTC may refer to definitions in the relevant manual or code, if any, of the Utility Owner.

Maintenance During Construction has the meaning given in TP Section 21.

Maintenance Work has the meaning given in TP Section 21.4.3.

Maintenance Work Plan means the plan to be provided by DB Contractor and approved by RCTC and Department as described in TP Section 21.4.2, as updated in accordance with this Contract.

Maintenance Work Plan Map means the map depicting areas of DB Contractor responsibility and Department responsibility, as agreed upon map by the Department, RCTC and DB Contractor.

Major Approvals Baseline Conditions has the meaning given in TP Section 6.3.5.1.

Major Approval Deadline means the end of the expected time necessary to secure each of the Major Approvals in TP Section 6.3.5.1.

Major Approval Delay means a delay to the Work during Phase 2 resulting from the failure to obtain a Major Approval by the applicable Major Approval Deadline where that delay is not due to DB Contractor's design, any act or omission by a DB Contractor-Related Entity or any DB Contractor Fault (including any failure to provide RCTC with an updated Project Schedule or to perform the Work in accordance with the Project Schedule).

Major Approvals means the approvals specified in Exhibit 9-A (Contract Particulars (Phase 2)).

Major Subcontract means any Subcontract or combination of Subcontracts with a single Subcontractor for design or construction of the Project or for special fabrication and installation of a portion of the Work with a price in excess of $10 million.

Major Subcontractor means:

(a) The Lead Contractor (if not the DB Contractor);

(b) The Lead Engineering Firm (if not the DB Contractor);

(c) The Structural Design Firm (if not the DB Contractor);

(d) The Geotechnical Design Firm (if not the DB Contractor or the Lead Engineering Firm);

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(e) Each subcontractor with a subcontract or combination of subcontracts for design or construction of the Project or for special fabrication and installation of a portion of the Work with a price in excess of $10 million; and

(f) Any other Subcontractor that is a party to a Major Subcontract.

material means any product or substance specified for use in the construction of a project.

Materials Report has the meaning given in TP Section 11.3.7.

Maximum DB Audited Overhead (G&A) Rate) means the Maximum DB Audited Overhead Rate (G&A) (Phase 1) and the Maximum DB Audited Overhead (G&A) Rate (Phase 2), or either, as the context requires.

Maximum DB Audited Overhead (G&A) Rate (Phase 1) means the maximum DB Audited Overhead (G&A) Rate for Phase 1 included in Exhibit 2-A (Contract Particulars (Phase 1)).

Maximum DB Audited Overhead (G&A) Rate (Phase 2) means the maximum DB Audited Overhead (G&A) Rate for Phase 2 included in Exhibit 9-A (Contract Particulars (Phase 2)).

Maximum DB Profit means the Maximum DB Profit (Phase 1) for Phase 1 Work and the Maximum DB Profit (Phase 2) for Phase 2 Work, or either, as the context requires.

Maximum DB Profit (Phase 1) means the profit included in Exhibit 2-A (Contract Particulars (Phase 1)), which represents the maximum profit that can be charged on the Cost of the Work when determining Category D Costs for the NTE (Phase 1) or compensation for any Compensable Event or Time and Materials Work.

Maximum DB Profit (Phase 2) means the Profit included in Exhibit 9-A (Contract Particulars (Phase 2)), which represents the maximum profit that can be charged on the Cost of the Work when determining Category D Costs for the GMP (Phase 2) or compensation for any Compensable Event or Time and Materials Work.

median means, in the context of roadbuilding, the portion of a divided highway separating the traveled ways including inside shoulders.

Milestone means the Phase 1 Milestones, Phase 2 Milestones or all of them (as applicable).

Milestone Deadline means each Phase 1 Milestone Deadline, each Phase 2 Milestone Deadline, and each Completion Deadline for the Work or a Package, or all of them (as applicable).

mobilization means the preparatory work that must be performed, or costs incurred before starting work on the various items on the job site (Public Contract Code section 10104).

Modified Standard Specifications means the modifications to Sections 1 through 9 of the Standard Specifications published by the Department and included as Exhibit 5.

modify means to add to or subtract from an appurtenant part.

Monthly Progress Report has the meaning given in TP Section 2.5.3.

Monthly Progress Schedule has the meaning given in TP Section 4.3.5.

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narrative report means, in the context of the Project Schedule, a document submitted with each schedule that discusses topics related to project progress and scheduling.

near-Critical Path means, in the context of the Project Schedule, the chain of activities with total float exceeding that of the critical path but having not more than 10 working days of total float.

NEPA Approval means the Environmental Approvals for NEPA, which are developed in connection with the Environmental Review Process, and which are adopted or certified by the Commission.

NEPA/CEQA Approval means the NEPA Approval and the CEQA Approval, or either, as applicable.

Nesting Bird Management Plan means the plan described in TP Section 6.4.10.3 to be prepared and updated by DB Contractor, as approved by RCTC in accordance with this Contract.

New Approval means any of the following: (a) a new Governmental Approval of the same type as the RCTC-Provided Approvals; and (b) a revision, modification, or amendment to one or more of the RCTC-Provided Approvals.

New Utilities has the meaning given in Section 10.2.1(f).

Nonconformance means any aspect of the Work:

(a) That does not comply with the requirements of this Contract; or

(b) Is not consistent, or is incompatible with, its age, function, performance, and use when properly maintained in accordance with Good Industry Practice, any manufacturer's requirements and the requirements of this Contract,

excluding any aspect of the Work that constitutes a Deviation that has been approved by RCTC in accordance with the Contract.

Non-Dig Alert Mapped Utility(ies) means Utilities that are not documented by or recorded with USA Dig Alert of Southern California.

Non-Standard Special Provision (NSSP) has the meaning given in TP Section 1.4 and TP Section 10.3.3.

Notice has the meaning given in Section 30.10.1.

Notice of Design Change means a Notice issued in accordance with TP Section 3.4.3.

Notice of Termination for Convenience means a Notice issued by RCTC to DB Contractor terminating all or part of the Work of DB Contractor for convenience as described in Section 23.1.1.

Notice of Termination for Convenience means a Notice issued by RCTC to DB Contractor terminating all or part of the Work of DB Contractor for convenience as described in Section 23.1.1

Notice to Owner means a Notice issued by RCTC to a Utility Owner, instructing the Utility Owner to commence (a) preliminary planning of a Relocation, (b) final design of a Relocation, or (c)

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construction of a Relocation. Notices to Owner include FD Notices to Owner and Construction Notices to Owner.

NTE (Phase 1) means the not-to-exceed price approved, agreed, or determined, as applicable, under Section 18.1 and initially specified in the Project Specific Information (Phase 1), which is to comprise:

(a) the Target Cost of the Work (Phase 1), including the Cost of the Work Contingency for Phase 1 and Allowance Values; plus

(b) Costs in (a) multiplied by the DB Contractor's Audited Overhead (G&A) Rate; plus

(c) the DB Contractor's Profit for Phase 1, applied to Category C Costs; plus

(d) premiums for bonds and insurance for Phase 1; plus

(e) ODCs for Phase 1.

NTP Phase 1 means a Notice issued by RCTC to DB Contractor authorizing DB Contractor to proceed with the Phase 1 Work.

NTP Phase 2 means a Notice issued by RCTC to DB Contractor authorizing DB Contractor to proceed with the Phase 2 Work.

obliterate means to place an earth cover over or root, plow, pulverize, or scarify.

Open Book Basis means providing RCTC all underlying assumptions, price quotes and data associated with pricing or compensation (whether of DB Contractor or RCTC) or adjustments thereto, including assumptions as to costs of the Work, schedule, composition of equipment spreads, equipment rates, labor rates, productivity, estimating factors, design and productivity allowance, contingency and indirect costs, risk pricing, discount rates, interest rates, and other items reasonably required by RCTC to satisfy itself as to the reasonableness of the amount.

Opinion of Probable Cost has the meaning given in TP Section 8.4**.**

Other RCTC Contractor means any contractor or consultant, except any DB-Related Entity, that RCTC contracts to perform other or additional work on or near the Site or in connection with the Project including TSP.

Package means a package of the Work created under Section 7.8.

Paleontological Mitigation Plan means the plan described in TP Section 6.4.3.1 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

participant has the meaning given in Attachment 2 to Exhibit 13.

Party means DB Contractor or RCTC, as the context may require, and "Parties" means DB Contractor and RCTC, collectively.

Pavement means the uppermost layer of material, the base and sub base layer (as the context requires) placed on a traveled way or shoulder.

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Payment Bond means the Phase 1 Payment Bond, Phase 2 Payment Bond, or both of them as the context requires.

Performance Bond means the Phase 1 Performance Bond, Phase 2 Performance Bond, or both of them as the context requires.

Permit Submittal Package has the meaning given in TP Section 6.3.5.1.

Permitted 91 EL Closure means a Permitted Lane Closure of a 91 Express Lane during the time frames specified for the applicable segment and direction in Exhibit 6 – Chart 6-3 or Exhibit 6 – Chart 6-4, as the context requires.

Permitted GP Lane Closure means a Permitted Lane Closure of a General Purpose Lane at the locations and during the time frames specified for the applicable segment and direction in the Lane Requirements Charts in Exhibit 6 – Chart 6-1 or Exhibit 6 – Chart 6-2.

Permitted Lane Closure means such cases where DB Contactor (a) fully or partially closes a General Purpose Lane or Express Lane to facilitate construction of the Project, or (b) fully or partially blocks ingress to or egress from a General Purpose Lane or Express Lane to facilitate construction of the Project, and where, in the case of either clause (a) or (b), (i) RCTC approves the closure or blockage in advance and in accordance with TP Sections 18.3.3.1, 18.3.3.2, 18.3.3.3, and 18.3.3.4, and (ii) DB Contractor otherwise complies with the provisions of the Contract applicable to Lane Closures.

Person means any individual, corporation, joint venture, company, voluntary association, partnership, trust, unincorporated organization or Governmental Entity.

Phase means Phase 1, Phase 2, or both of them (as applicable).

Phase 1 means the period (a) beginning on the issuance of NTP Phase 1 and (b) ending on the earlier of Phase 2 Award and the date of termination under Section 7.7 (as applicable), during which the Phase 1 Work is performed.

Phase 1 Baseline Schedule means the schedule for the Phase 1 Work prepared and maintained by DB Contractor in accordance with TP Section 4.3.2, and must be approved by RCTC in accordance with Section 8.2.1(b), which is based upon the Phase 1 Work Schedule and updated in accordance with this Contract.

Phase 1 Bonds has the meaning given in Section 13.1.1.

Phase 1 Design Documentation means:

(a) Any Design Documents required to be developed in the Scope of Work (Phase 1), including those listed in Exhibit 9-C;

(b) Any other Design Documents that the RCTC Representative determines are necessary:

(i) For DB Contractor to establish the Scope of Work (Phase 2) and to prepare the Phase 2 Proposal; or

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(ii) For Phase 2 Approval to be achieved; and

(c) Other Design Documents that are required by any Change Order.

Phase 1 Milestone means each milestone specified in the Contract Particulars (Phase 1).

Phase 1 Milestone Deadline means each date specified in the Contract Particulars (Phase 1) for a Phase 1 Milestone, as updated in accordance with this Contract.

Phase 1 Payment Bond has the meaning given in Section 13.1.1(b).

Phase 1 Performance Bond has the meaning given in Section 13.1.1(a).

Phase 1 Site Investigation means DB Contractor's investigation of the Site, Reference Documents, and As-Built Documents in accordance with the Technical Provisions (Phase 1), including TP Section 6.2.3.

Phase 1 Submittals means the Phase 1 Submittals listed included in TP Attachment 1-1.

Phase 1 Work means that part of the Work required to be performed during Phase 1 in accordance with this Contract, including any tasks required by any direction of the RCTC Representative given or purported to be given under a provision of this Contract, including any Change Order.

Phase 2 means, with regards to any portion of Phase 2 Work, the period (a) commencing on the issuance of an NTP Phase 2 for such portion of Phase 2 Work, and (b) ending on the earlier of Final Acceptance or the Early Termination Date, during which the Phase 2 Work is performed.

Phase 2 Amendment means the document, including Exhibit 9-A (Contract Particulars (Phase 2)), Technical Provisions (Phase 2), Final BODR / Phase 1 Drawings and associated comment resolution matrices, Exhibit 12 (to the extent applicable to Phase 2), RCTC-approved Phase 2 Proposal, Phase 2 Baseline Schedule and all other necessary amendments to this Contract required for Phase 2.

Phase 2 Approval means RCTC has issued Notice to DB Contractor that all of the following conditions have been satisfied, or any unsatisfied conditions have been waived by RCTC, in its sole discretion, in writing:

(a) DB Contractor has finalized, and RCTC has approved, the Phase 1 Design Documentation (including Administrative Project Plans) required to be completed as condition of Phase 2 Approval in accordance with this Contract;

(b) The Phase 2 Proposal has been approved by the RCTC Representative;

(c) The Project Schedule has been approved by the RCTC Representative;

(d) All Milestones for Phase 1 have been achieved;

(e) The Phase 2 Amendment has been prepared and agreed in accordance with Section 7.5 and executed by DB Contractor;

(f) RCTC has closed all financing or obtained all funding for the Phase 2 Work;

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(g) All Governmental Approvals required for the Phase 2 Work have been obtained to the extent applicable before the date of Phase 2 Approval;

(h) Approval from the Commission for the execution of the Phase 2 Amendment and for the Phase 2 Work has been obtained; and

(i) DB Contractor has otherwise complied with all of its obligations under this Contract, to the extent applicable before the date of Phase 2 Approval and NTP Phase 2.

Phase 2 Approval Deadline means the date specified for Phase 2 Approval in the Contract Particulars (Phase 1), as amended in accordance with this Contract.

Phase 2 Award means the date of Commission approval after GMP (Phase 2) acceptance.

Phase 2 Baseline Schedule means the schedule for the Phase 2 Work prepared and maintained by DB Contractor in accordance with the Phase 2 Scope of Work and attached as Exhibit 9-E, as updated in accordance with this Contract.

Phase 2 Bonds has the meaning given in Section 13.2.1.

Phase 2 Co-Located Office Layout Plan refers to the plan DB Contractor will develop and submit to RCTC for comment regarding office co-location during project phases in alignment with the requirements of TP Sections 2.6 and 2.7 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Phase 2 Milestone means each milestone specified in Exhibit 9-A (Contract Particular (Phase 2)). If any Segment is created in accordance with Section 7.8, Completion of that Package and any other milestones agreed by the Parties shall each be deemed a Milestone.

Phase 2 Milestone Deadline means:

(a) Each date specified in Exhibit 9-A (Contract Particulars (Phase 2)) for a Phase 2 Milestone; and

(b) Each date or period of time approved by RCTC and specified in the Contract Particulars for a Segment,

as updated in accordance with this Contract.

Phase 2 Payment Bond has the meaning given in Section 13.2.1(b).

Phase 2 Performance Bond has the meaning given in Section 13.2.1(a).

Phase 2 Proposal means the DB Contractor's proposal with respect to the Phase 2 Work, including the items listed in TP Section 1.1.5.

Phase 2 Proposal Commitments means the commitments in Exhibit 9-F (as applicable).

Phase 2 Proposal Date means the date specified in Exhibit 9-A (Contract Particulars (Phase 2)).

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Phase 2 Work means that part of the Work required to be performed during Phase 2 in accordance with this Contract, including any tasks required by any direction of the RCTC Representative given or purported to be given under a provision of this Contract, including any Change Order.

Planned ROW Limits means (a) Existing Department ROW and (b) any other real property that RCTC acquires in connection with or that otherwise is amended as a result of an RCTC-Directed Change

Plans means standard plans, Revised Standard Plans, and project plans as follows:

(a) **Standard plans** means drawings standard to Department construction projects.

(b) **Revised Standard Plans** means new or revised standard plans.

(c) **Project plans** means drawings specific to the project, including authorized shop drawings and working drawings.

Plant Establishment Period means the three-year period described in TP Section 20.4.5.3.

Plant Establishment Work means the work described in TP Section 20.4.5.

Preliminary Foundation Report has the meaning given in TP Section 13.3.3.1.

Preliminary Phase 1 Baseline Schedule means the preliminary schedule for the first 90 days after the Effective Date, which is based upon the DB Contractor's Proposal Schedule, and any refinements as approved by RCTC prior to the Effective Date and included in Exhibit 9-E, as updated in accordance with this Contract.

Preliminary Design Package has the meaning given in TP Section 3.3.1.5.

Progress Meeting means the regular meetings described in Section 5.1.

Progress Schedule Invoice Meeting means the meeting in which RCTC reviews DB Contractor's Draft Invoice.

Project has the meaning given in the Recitals to this Contract.

Project Aesthetics and Landscape Memorandum has the meaning given in TP Section 20.3.1.1.

Project and Construction Manager or **PCM** means Parsons Transportation Group, or such other Person as may be designated by RCTC at any time as its Project and Construction Manager.

Project Assets means:

(a) During Phase 1, the Site, and the Phase 1 Work; and

(b) During Phase 2, the Site, the Phase 1 Work, and the Phase 2 Work.

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Project Completion means the stage of the Work when DB Contractor has satisfied the following requirements:

(a) All requirements for Substantial Completion have been satisfied;

(b) All design and construction Work is complete, including correction of all Nonconformances, completion of Punch List items and Department Safety Review Committee review items;

(c) DB Contractor has provided RCTC an updated certification from DB Contractor's Construction Quality Validation Manager, in form and substance satisfactory to RCTC, certifying conformity of the construction to the Design Documents in accordance with TP Section 19.2.2 and TP Attachment 19-2;

(d) All conditions to acceptance by Local Agencies and Utility Owners have been satisfied;

(e) All of DB Contractor's and Subcontractors' personnel, supplies, equipment, waste materials, rubbish and temporary facilities has been removed from the Site, DB Contractor has rebuilt, repaired or replaced all damage or injury arising from such removal to the satisfaction of RCTC, and the Site shall be in good working order and condition; and

(f) All other conditions to Project Completion in this Contract have been satisfied.

Project Completion Date means the date on which Project Completion occurs.

Project Completion Deadline means 90 days after the Substantial Completion Date, as such deadline may be extended under this Contract.

Project Goals means, in no particular order:

(a) Prioritize public safety throughout construction activities;

(b) Maintain traffic flow during construction and minimize disruptions to local communities and regional mobility;

(c) Avoid or minimize impacts within environmentally sensitive areas;

(d) Strengthening collaboration and partnerships among RCTC and DB Contractor;

(e) Coordinate with adjacent and nearby projects;

(f) Promote innovation by adopting advanced materials, methods, and technologies;

(g) Deliver high-quality work that meets rigorous standards and ensures long-term durability and minimizes future maintenance;

(h) Proactively identify, manage, and mitigate risks across cost, schedule, safety, and environmental factors; and

(i) Complete the Project within established budget.

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Project IP means Intellectual Property that is authored, created, invented or reduced to practice under or for the purposes of the Contract or the Project, whether or not such Intellectual Property is incorporated into the Project but excluding any adaptation, continuation or derivative work that constitutes DB Contractor IP.

Project Management Plan means the Submittal describing Quality Validation and Quality Control activities necessary to manage the development, design and construction of the Project. The Project Management Plan includes each of the RCTC-approved component parts, plans and documentation described in TP Section 2.1 and TP Attachment 2-1 and is to be prepared and updated by DB Contractor, as approved by RCTC in accordance with this Contract.

Project Manager has the meaning given in TP Section 2.2.1.1.

Project ROW means the property within the Planned ROW Limits, and the Additional Properties, excluding (a) any Utility Easements and (b) any portion of the Planned ROW Limits eliminated from the Project by a Change Order. The boundaries of the Project ROW will be as shown in the ROW Requirement Maps.

Project Schedule means the most current version of (i) in the case of Phase 1, the Preliminary Phase 1 Baseline Schedule or, once approved by RCTC, the Phase 1 Baseline Schedule (as applicable); and (ii) in the case of Phase 2, the Phase 2 Baseline Schedule approved by RCTC, as applicable under Section 8.2.1, in accordance with this Contract, as described in TP Section 4 and applicable to the Work as set out in Sections 8.2.1(a) through 8.2.1(g).

Progress Schedule Invoice Meeting means the meeting described in Section 18.11.

Project Scheduler has the meaning given in TP Section 2.2.2.2.

Project Schematics means the documents in TP Section 1.1.1 listed in Table 1-1 included in the Reference Documents.

Project Standards means those standards discussed in TP Section 1.3 and listed in TP Attachment 1-3, together with any additional standards and specifications applicable to the Work and established by express reference contained in one of the documents listed in TP Attachment 1-3, or this Contract.

Proposed Disposition means, for each Utility, the determination (which may be preliminary or final, as the context may require) as to whether such facility will require any of the following: (a) removal, (b) abandonment, (c) Protection in Place, (d) Relocation, (e) is a proposed new Utility, or (f) will not be impacted by the Project in any significant way (i.e., "no impact").

Proposer Questionnaire means Form C to the ITP.

Proprietary Intellectual Property means Intellectual Property created, used, applied or reduced to practice in connection with the Project or the Work that derives commercial value from its protection as a trade secret under applicable Governmental Rules or from its protection under patent law.

Protection in Place or **Protect in Place** means any activity undertaken to avoid damaging a Utility which does not involve removing or relocating that Utility, including staking the location of a Utility, avoidance of a Utility's location by construction equipment, installing steel plating or

concrete slabs, encasement in concrete, temporarily de-energizing power lines, and installing physical barriers. For example, temporarily lifting power lines without cutting them would be considered Protection in Place; whereas temporarily moving power lines to another location after cutting them would be considered a Temporary Relocation. The term Protection in Place includes both temporary measures and permanent installations meeting the foregoing definition.

Public Outreach Coordinator has the meaning given in TP Section 2.9.1.

Public Outreach Plan means the plan described in TP Section 2.4.3 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Public Records Act has the meaning given in Section 29.3.1.

Punch List means the list of Work that remains to be completed after achievement of Substantial Completion or as a condition of Project Completion or Final Acceptance, as applicable, and shall be limited to minor incidental items of Work necessary to correct imperfections which by virtue of not being completed, will not, individually or collectively, have any adverse effect on the safety, use or operability of the Project. Work required to comply with all applicable Governmental Rules or Governmental Approvals is not "Punch List Work."

Qualified Professional means one who possesses a recognized degree, certificate or professional standing, or who by extensive knowledge training and experience has successfully demonstrated their ability to solve or resolve problems related to the subject matter.

quality characteristic means a characteristic of a material that is measured to determine conformance with a given requirement.

Quality Control means those functions that provide a means to control and measure characteristics, as related to established system design requirements. It shall also mean the techniques and activities that sustain the quality of an item to satisfy given needs; also, the use of such techniques and activities. Quality Control is a production tool.

Quality Management Plan means, collectively, the Design Quality Management Plan and the Construction Quality Management Plan included in the Project Management Plan and more fully described in TP Section 5 to be prepared and updated by DB Contractor, as approved by RCTC in accordance with this Contract.

Quality Manager has the meaning given in TP Section 2.2.1.8.

Quality Program has the meaning given in TP Section 5.

Quality Records has the meaning given in TP Sections 5.3.2.2.11 and 5.3.3.2.6.

Quality Validation means all those planned and systematic actions necessary to provide adequate confidence that an item of Work is in conformance with established requirements and will satisfy given needs. The activity of providing the evidence needed to establish confidence that quality functions are being performed adequately. Quality Validation is a management tool.

RCTC has the meaning given in the Preamble to this Contract.

RCTC-Caused Delay means each of the following events:

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(a) RCTC-Directed Changes;

(b) Subject to complying with Section 10.1.1(h), failure or inability of RCTC to make RCTC-Provided Property available as provided in Section 10.1.1;

(c) Failure or inability of RCTC or Department to provide responses to proposed schedules, plans, Design Documents, Construction Documents, and other Submittals and matters for which affirmative response by RCTC or Departments is required, within the time periods indicated in this Contract; provided, however, that the foregoing shall apply only if the standard under the Contract for RCTC or Department approval is reasonableness;

(d) Any order of RCTC to suspend for convenience exceeding 48 hours per order or more than a total of 96 hours for all such orders to suspend for convenience in accordance with Section 22.1.1;

(e) Work stoppages under Section 21.15(e) following a discovery of Hazardous Materials (i) only to the extent the delay is caused by RCTC not permitting DB Contractor to resume Work in the affected area within three Business Days of the Work stoppage and (ii) such Work stoppage is not attributable to an RCTC-Caused Delay arising under Section 21.15(g);

(f) The failure or inability of Department to:

(i) Provide design and construction oversight, materials inspection and material and engineering testing services within the time period specified in this Contract;

(ii) Conduct investigation and perform Hazardous Materials Management of HM-1 discovered within the Existing Department ROW or delegate such responsibility to RCTC, within the time periods specified in Section 10.8.3;

(iii) Provide Notice to RCTC of its intent to delegate the Hazardous Materials Management by the expiration of the investigation period specified in Section 10.8.3(b) where DB Contractor is directed by RCTC to undertake the Hazardous Materials Management within the time periods specified in Section 10.8.3; and

(g) Failure or inability of RCTC to obtain the Revalidation by March 1, 2027.

RCTC Data means any information, data, or document, whether or not protectable Intellectual Property, which is created, developed, or collected by RCTC related to transportation operations, traffic management, tolling systems, infrastructure planning and Personal Information of RCTC employees, vendors and consumers. For the avoidance of doubt, RCTC Data shall include, but not be limited to, (a) all "nonpublic information," as defined by the Gramm-Leach-Bliley Act (15 USC § 6801 et seq.), and (b) personal information as defined by California Civil Code §§ 1798.29, 1798.82, and 1798.140 (California Consumer Privacy Act of 2018, effective January 1, 2020), as amended and supplemented by the California Privacy Rights Act of 2020 (effective December 16, 2020; operative January 1, 2023). For the further avoidance of doubt, RCTC Data is not limited to proprietary or confidential information and need not constitute trade secret information.

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RCTC Decision means a written decision issued by RCTC in accordance with Section 29.2.3.

RCTC-Directed Changes means:

(a) Any Change which RCTC has directed DB Contractor to perform as described in Section 21.1 (including Section 21.14(a));

(b) Subject to Section 21.10.1, any Change in the Work to be performed by DB Contractor as a result of material modifications contained in any final RCTC-Provided Approval not obtained as of the Setting Date which will (a) have a material adverse impact on DB Contractor's obligations under this Contract, and (b) were not caused by design solutions provided by or construction means, methods and techniques employed by DB Contractor; and

(c) A Direction by RCTC requiring DB Contractor to comply with commitments contained in re-evaluations, re-validations, and modifications of Environmental Approvals submitted after the Setting Date that have a material adverse impact on DB Contractor's obligations under this Contract to the extent such re-evaluations, re-validations.

RCTC Interface Contractors means the Toll Services Provider, Other RCTC Contractors or all of them, as applicable.

RCTC IP means all Intellectual Property owned by, or sufficiently licensed to, RCTC.

RCTC Marks has the meaning given in Section 29.5.4(a).

RCTC-Provided Approvals means the approvals listed in Exhibit 2-A (Contract Particulars (Phase 1)).

RCTC-Provided Property means the Planned ROW Limits plus any TCE that RCTC acquires for the Project.

RCTC Representative means an individual with the power or right exercisable by RCTC, in its sole and unfettered discretion.

Read Point means a location where the TCS detects vehicles, reads transponders, and captures images in order to create Lane Transactions.

reasonable accuracy has the meaning given in Section 21.12.2.

Reasonable Investigation means the following activities by appropriate, qualified professionals prior to the SOQ Step 2 Submittal Date:

(a) Visit and visual, non-intrusive inspection of the Planned ROW Limits and adjacent locations including inspection to identify the presence of other facilities, such as barriers, railing, structures, buildings, meters, junction boxes, manholes, or identifying markers, except areas to which access rights have not been made available by the SOQ Step 2 Submittal Date;

(b) Review and analysis of all Reference Documents and online map tools;

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(c) Review and analysis of RCTC-Provided Approvals available prior to the SOQ Step 2 Submittal Date;

(d) Review and analysis of material Governmental Rules applicable to the Project or the Work as of the SOQ Step 2 Submittal Date; and

(e) Other activities sufficient to familiarize DB Contractor with surface and subsurface conditions, including the presence of Utilities, Hazardous Materials, archeological, biological, paleontological and cultural resources, and threatened or endangered species, affecting the Site or surrounding locations.

except that none of the foregoing activities includes conducting field studies, geotechnical investigations, or original research of private records not contained or referenced in the Reference Documents or Technical Provisions.

Recommendation has the meaning given in Section 28.

reconstruct means to remove and disassemble and construct again at an existing or new location.

Record of Survey has the meaning given in TP Section 17.4.4.

Recovery Schedule means a schedule that demonstrates DB Contractor's proposed plan to regain lost schedule progress and achieve the Completion Milestone by the applicable Completion Deadline and which complies with the requirements of TP Section 4.3.7, as updated and approved by RCTC in accordance with this Contract.

Reference Documents means all drawings, reports, studies, data, documents, or other information, provided or made available to any DB-Contract Related Entity by RCTC, or which was obtained from or through any other sources prior to a Setting Date including the documents and information contained in Volume III of the RFQ.

Registered Professional Engineer means a person who is duly licensed and registered by the California Board of Professional Engineers to engage in the practice of engineering in the State.

Regulations has the meaning given in Section 28.6.3.

Release for Construction means, for any element of the Project's design, the designation indicating that the element may be constructed as shown in the corresponding RCTC-approved Release for Construction Package.

Release for Construction Package has the meaning given in TP Section 3.3.1.

Release of Hazardous Materials means any spill, leak, emission, release, discharge, injection, escape, leaching, dumping or disposal of Hazardous Materials into the soil, air, water, groundwater or environment, including any exacerbation of an existing release or condition of Hazardous Materials contamination.

Relief Event means each of the following events:

(a) Force Majeure Events;

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(b) RCTC-Caused Delays;

(c) A Change in Law which (i) requires a material modification in the design of the Project, or (ii) results in imposition of material additional mitigation requirements on the Project due to impacts on archaeological, paleontological, biological or cultural resources;

(d) Any failure by a Utility Owner to complete design, construction, materials procurement, and/or acquisition of a Utility Easement (as applicable) for any Relocation before the deadline in the applicable Utility Agreement;

(e) Subject to Section 21.13, a Differing Site Condition;

(f) Performance of Hazardous Materials Management by DB Contractor resulting from:

(i) Discovery of material quantities of HM-1 within the Existing Department ROW;

(ii) Discovery of material quantities of HM-2 within the Existing Department ROW which are Unknown Hazardous Materials;

(iii) Discovery of material quantities of Unknown Hazardous Materials within the Project ROW or any parcels added to the RCTC-Provided Property by an RCTC-Directed Change or required due to a Force Majeure Event (excluding the Existing Department ROW); or

(iv) Any spill of Hazardous Materials by a third party who is not acting in a capacity of, on behalf or under the authority or permission of a DB-Related Entity which: (A) is required to be reported to a Governmental Entity and (B) renders use of the roadway or construction area unsafe or potentially unsafe absent assessment, containment and/or remediation.

(g) Failure by the Utility Owner or RCTC (as applicable) to provide DB Contractor with timely access to any Utility Easement, where that Party is responsible for handling acquisition efforts for a particular Utility Easement under the terms of any applicable Utility Agreement;

(h) Subject to DB Contractor complying with its obligations under Section 4.2, acts or omissions of any Other RCTC Contractor, which materially and adversely directly affects DB Contractor's obligations under this Contract;

(i) A Utility Relief Event;

(j) A DBE Event;

(k) Subject to Section 21.8, Force Majeure Events that are not insured against and are not required to be insured against in accordance with this Contract and result in substantial destruction or damage to the Work;

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(l) Any Change which RCTC has not disputed in response to a DB Contractor Change Request; and

(m) Except as set out in Section 9.3.4, uncovering, removing, and restoring Work under Section 9.3, where the Work uncovered, removed, or restored is in compliance with this Contract.

Relief Event Notice has the meaning given in Section 20.1.

Relocate means action to undertake a Relocation. In its lowercase spelling to "relocate" means to remove and install or place in a new location.

Relocated Utility means a Utility facility for which a Relocation has occurred.

Relocation means each removal, relocation, adjustment, reconstruction, abandonment, Temporary Relocation, and provision of temporary services of any existing Utility facility that is necessary in order to accommodate or permit construction of the Project, including backfilling, pavement restoration and any other work described in TP Section 7.

remove means to remove and dispose of.

Request for Change Order means a written request initiated by DB Contractor substantially in the form of Exhibit 3.

Retainage has the meaning given in Section 18.12.1(a).

Revalidation means the amendment to the Existing CEQA Approval for the SR-91 CIP (Ultimate Project) for widening to the south of SR-91 and additional scope elements, such as lowering the access road below the Coal Canyon bridge, widening the County Line Creek UC (Bridge No. 56-0366) up to 20 feet to the south instead of to the north and constructing debris and rockfall measures and a Coal Canyon wildlife light/noise barrier to be approved and adopted by RCTC.

Requirement Verification Database has the meaning given in TP Section 5.3.3.1.2.

RFQ means the Request for Qualifications regarding the Project issued by RCTC on February 28, 2025, including all addenda thereto, and all attachments.

RFQ Documents means the documents issued as part of the RFQ, including all addenda.

Risk Register means the process described in TP Section 8.5.2.

roadbed means the roadway portion extending from the curb line to curb line or the edge of shoulder line to shoulder line. A divided highway has two roadbeds.

roadside an area between the outside shoulder edge and the right-of-way limits.

roadway the portion of a highway within the outside lines of curbs, sidewalks, slopes, ditches, channels, or waterways. A roadway includes the structures and features necessary for safety, protection of facilities, and drainage.

ROD means a record of decision issued by Department with respect to the Project based on, among other things, the RCTC NEPA/CEQA EIR/EA.

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ROW Requirements Maps/PD-26 mean the maps DB Contractor prepares to show the parcels comprising the final Project ROW based on the Project's final design, as further described in TP Section 9.3.1.

Safety Manager has the meaning given in TP Section 2.2.2.5.

Schedule of Values means the schedule of values prepared and maintained by DB Contractor in accordance with the Technical Provisions, as updated in accordance with this Contract.

Scheduled Expiration Date has the meaning given in Section 2.3.1(b)

Security Plan means the plan described in TP Section 22.2.3.4 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Segment means a segment of the 91 Eastbound Corridor defined in Exhibit 9-A (Contract Particulars (Phase 2)).

Senior Project Engineers has the meaning given in TP Section 2.2.3.9.

Service Line (also referred to as a service lateral or lateral) means (a) any Utility line, the function of which is to directly connect the improvements on an individual property (e.g., a single family residence or an industrial warehouse) to another Utility line located off such property, which other Utility line connects more than one such individual line to a larger system, and (b) any cable or Conduit that supplies an active feed from a Utility Owner's facilities to activate or energize a Local Agency's lighting and electrical systems, traffic signal systems, traffic control systems, copper or fiber communication systems or irrigation systems. The term also includes any Utility on public or private property that services structures located on such property.

Setting Date means:

(a) In the case of the Phase 1 Work, the date which is 60 days before the Effective Date; and

(b) In the case of the Phase 2 Work, the date of RCTC's receipt of a complete Phase 2 Proposal.

shoulder means the Roadway portion contiguous with the traveled way for accommodation of a stopped vehicle, emergency use, and lateral support of base and surface courses.

Sign, Tolling, and Utility Service Concept Plan means the plan described in TP Section 19.3.2 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Site means those areas designated in writing by RCTC for performance of the Work and such additional areas as may, from time to time, be designated in writing by RCTC for DB Contractor's use in performance of the Work. For purposes of insurance (subject to any notification and other requirements imposed by the insurer(s) for approval), indemnification, safety and security requirements, the prevailing wage requirements, and payment for use of equipment, the term "Site" shall also include (a) the field office sites, (b) any property used for bonded storage of material for the Project approved by RCTC under Section 18.12.4, (c) staging areas dedicated to the Project, and (d) areas where activities incidental to the Project are being performed by DB

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Contractor or Subcontractors covered by the worker's compensation policy included in the insurance described in Section 14 but excluding any permanent locations of DB Contractor or such covered Subcontractors.

Site Specific Instrumentation and Monitoring Plans means the plan described in TP Section 13.3.4.2 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

small tool means a tool or piece of equipment not listed in Labor Surcharge and Equipment Rental Rates that has a replacement value of $500 or less.

Software means individually each, and collectively all, of the computer programs developed or provided by the DB Contractor under this Contract (including DB Contractor IP and/or Third-Party IP), including as to each such program, the processes, and routines used in the processing of data, the object code, interfaces to be provided hereunder by the DB Contractor, updates, upgrades, and any and all programs otherwise provided by the DB Contractor under this Contract.

SOQ means the original SOQ Step 1 Submittal and SOQ Step 2 Submittal of DB Contractor submitted in response to the RFQ, as modified and supplemented with RCTC's approval prior to the Effective Date.

SOQ Step 2 Submittal Date means April 3, 2026.

Source Code or **Source Code Documentation** means software written in programming languages, such as C and Fortran, including all comments and procedural code, such as job control language statements, in a form intelligible to trained programmers and capable of being translated into object or machine readable code for operation on computer equipment through assembly or compiling, and accompanied by documentation, including flow charts, schematics, statements of principles of operations, architectural standards, and commentary, explanations and instructions for compiling, describing the data flows, data structures, and control logic of the software in sufficient detail to enable a trained programmer through study of such documentation to maintain and/or modify the software without undue experimentation. Source Code and Source Code Documentation also include all modifications, additions, substitutions, updates, upgrades and corrections made to the foregoing items.

Special Design has the meaning given in TP Section 1.4.1.

State means the State of California, including its agencies, departments or divisions whose conduct or action is related to the work.

State Arbitration Act has the meaning given in Section 28.6.3.

Stipulated Damages has the meaning given in Exhibit 6 (Lane Closures)

Structural Design Firm means the single entity or joint venture identified in Exhibit 2 (Contract Particulars) that is primarily responsible for the structural design of the Project.

Structure Design means the Offices of Structure Design of the Department of Transportation.

subbase means the layer of material between a base and the basement material.

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Subcontract means an agreement between DB Contractor and one or more third parties providing for such third party to perform any part of the Work or provide any materials, equipment, labor or supplies for any part of the Work, or any such agreement between a Subcontractor and its lower tier Subcontractor or a Supplier and its lower tier Supplier, at any tier.

Subcontractor means any Person with whom DB Contractor has entered into any Subcontract and any other Person with whom any Subcontractor has further subcontracted any part of the Work, at any tier.

Subcontractor Procurement Plan means the plan prepared and updated by DB Contractor as described in TP Section 2.2.4, as updated and approved by RCTC in accordance with this Contract.

subgrade means the roadbed portion on which pavement, surfacing, base, subbase, or a layer of any other material is placed.

Submittal means any document, work product, or other written or electronic end product or item required under this Contract to be prepared by DB Contractor and delivered or submitted or resubmitted to RCTC (including the Administrative Project Plans, Project Schedule, Design Documents and Construction Documents, among others).

Submittal Requirements means the submittal requirements described in Section 5.2 (Submittal Requirements) which contain uniform terms and procedures applicable to Submittals.

Submittal Schedule has the meaning given in TP Section 3.1.2.6.

Substantial Completion means the stage in the Work when the following requirements have been satisfied by DB Contractor:

(a) All major safety features are installed and functional, such major safety features to include shoulders, guard rails, striping and delineations, concrete traffic barriers, bridge railings, cable safety systems, midwest guard rail systems, fences, ladders, steps, rungs, safety end treatments, terminal anchor sections, crash attenuators and any other items specified in TP Section 22.2.3;

(b) All required illumination is installed and functional;

(c) All required signs and signals are installed and functional;

(d) The need for temporary traffic controls or for lane closures at any time has ceased (except for any required for routine maintenance, and except for temporary lane closures during hours of low traffic volume in accordance with and as permitted by the Transportation Management Plan solely to complete Punch List items);

(e) All lanes of traffic (including ramps, interchanges, overpasses, underpasses, other crossings and frontage roads) given in the Design Documents are in their final configuration and available for public use;

(f) Department Safety Review Committee has reviewed the Work and the Project and any items identified as deficient is corrected;

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(g) The required TMS systems (excluding elements to be installed by TSP) are installed and functional in accordance with TP Section 16.4.2;

(h) Whether DB Contractor has completed the Work in accordance with this Contract and Design Documents, including the construction of noise/sound walls, such that the Project (excluding elements of the Project that are to be installed by TSP) is in a condition that it can be used for normal and safe vehicular travel in all lanes and at all points of entry and exit, subject only to Punch List items and other items of work that do not affect the ability to safely open the Project for such normal use and operation by the traveling public;

(i) The Parties shall disregard the status of the vegetative ground cover landscaping and aesthetic features, except noise/sound walls, included in the Released for Construction Documents in determining whether Substantial Completion has occurred, except to the extent that its later completion will affect public safety or satisfaction of the criteria in clause (d) of this definition; and

(j) DB Contractor has completed all Work which this Contract states is a condition precedent to Substantial Completion; provided that, Substantial Completion shall not be deemed to have occurred until DB Contractor's completion of its Work and acceptance of such Work by RCTC.

Substantial Completion Deadline means the date specified in Exhibit 9-A (Contract Particulars (Phase 2)) as such date may be extended under this Contract.

substructure means bridge parts below the bridge seats, pier tops, and haunches for rigid-framed bridges or spring lines for arched bridges; "substructure" includes abutment backwalls, abutment parapets, and wingwalls.

superstructure means Bridge parts except the substructure.

Supplier means any Subcontractor that supplies machinery, equipment, materials or systems to DB Contractor or any Subcontractor in connection with the performance of the Work and that does not perform Work at the Site. Persons who merely transport, pick up, deliver or carry materials, personnel, parts or equipment or any other items or persons to or from the Site shall not be deemed to be performing Work at the Site. The term "Supplier" includes fabricators and material dealers.

Surety means each properly licensed surety company, insurance company or other Person approved by the California State Insurance Commissioner to do business in the State and approved by RCTC, which has issued the Payment Bond or the Performance Bond in accordance with this Contract.

surfacing means the uppermost layer of material placed on a traveled way or shoulders; pavement.

suspended has the meaning given in Attachment 2 to Exhibit 13.

Sustainability Management Plan means the plan described in TP Section 6.4.13 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

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Table of Rates and Prices means the table of rates and prices specified in the applicable in Exhibit 2E of the Project Specific Information for Phase 1 and Exhibit B of the Project Specific Information for Phase 2, as may be updated in accordance with this Contract.

Take means, in the context of Environmental Approvals and environmental Governmental Rules, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

Target Cost of the Work (Phase 1) means the target Cost of the Work for Phase 1, including the Cost of the Work Contingency for Phase 1 and any Allowance Values, as approved, agreed or determined (as applicable) and specified in Exhibit 2-A (Contract Particulars (Phase 1)).

Target Cost of the Work (Phase 2) means the target Cost of the Work for Phase 2, including the Cost of the Work Contingency for Phase 2 and any Allowance Values, as approved, agreed or determined (as applicable) via the Phase 2 Amendment and specified in Exhibit 9-A (Contract Particulars (Phase 2)).

TCS Infrastructure has the meaning given in TP Section 19.3.3.

Technical Provisions means the Technical Provisions (Phase 1) and the Technical Provisions (Phase 2), or each of them as the context requires.

Technical Provisions (Phase 1) means the aspects of Exhibit 4 (Technical Provisions) of the Contract that apply to the Phase 1 Work, including those aspects described in TP Attachment 1-1.

Technical Provisions (Phase 2) means the aspects of Exhibit 4 (Technical Provisions) of the Contract that apply to the Phase 2 Work.

Temporary Construction Easement means any TCE acquired as Additional Property in accordance with Section 8.1.3 and TP Section 9.4.4.

Temporary Relocation means (a) any interim relocation of a Utility (i.e. the installation, removal and disposal of the interim facility) pending installation of the permanent facility in the same or a new location, and (b) any removal and reinstallation of a Utility in the same location with or without an interim relocation.

Termination Date means the date of termination specified in the Notice for Termination for Convenience or Termination for Default Notice (as applicable).

Termination for Convenience means a termination of the Contract, in whole or in part, in accordance with Section 23.1.

Termination for Convenience Amount has the meaning given in Section 23.5.

Third Party Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, actions, judgments, investigations or proceedings brought by a Person that is not a Party with respect to damages, injuries, liabilities, obligations, losses, costs, penalties, fines or expenses (including attorneys', accountants' and expert witnesses' fees and expenses) sustained or incurred by such Person.

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Third Party Claim Plan has the meaning given in TP Section 2.10.

Third Party IP means Intellectual Property owned by any Person unrelated to a DB-Related Entity, including any Software.

Time and Materials Change Order has the meaning given in Section 21.11.

Time and Materials Work means Work performed in accordance with a Time and Materials Change Order.

TMS Inventory has the meaning given in TP Section 16.2.2.

Toll Collection System means the toll collection system for the Express Lanes.

Toll Facilities means the tolled EL facilities located on the existing State highway system and identified in the Project Schematics.

Toll Services means the design, modification, installation, relocation, integration, deployment, testing, management, operation and maintenance of the toll collection system and provision of customer service, back office and traffic management services by the TSP.

Toll Services Provider or **TSP** means Kapsch TrafficCom USA, Inc., a Delaware corporation (formerly Kapsch TrafficCom Transportation NA, Inc., a Michigan corporation).

Tolling Schematics means toll-vendor as-built documentation (provided in the Reference Documents) that presents tolling layouts (Toll Read Point, VTMS, CMS, CCTV/TTMS locations) which could possibly be used for layouts on the ECOP.

total float means the amount of time that an activity or chain of activities can be delayed before extending the scheduled completion date.

TP Attachments means those documents annexed to the Technical Provisions and identified as "Attachments."

traffic means pedestrians, bicyclists, ridden or herded animals, vehicles, streetcars, and other conveyances either singularly or together while using any highway for purposes of travel.

traffic lane means the portion of traveled way used for the movement of a single line of vehicles.

Traffic Management Center has the meaning given in TP Section 16.1 and shall, as the context requires, refer to the Department Traffic Management Center, City of Corona Traffic Management Center and/or County of Riverside Traffic Management Center.

Traffic Manager – Construction has the meaning given in TP Section 2.2.2.3.

Traffic Manager – Design has the meaning given in TP Section 2.2.2.2.

Transportation Management Plan means the plan for maintenance of traffic during construction described in TP Section 18.3.1 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

Transportation Management System has the meaning given in TP Section 16.

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traveled way means the portion of the roadway for the movement of vehicles, exclusive of the shoulders, berms, sidewalks, and parking lanes.

Tree and Vegetation Preservation and Removal Plan means the plan described in TP Section 20.3.2.2 to be prepared and updated by DB Contractor, as updated and approved by RCTC in accordance with this Contract.

tunnel means "Tunnel" as defined in 8 CA Code of Regs. § 8405 et seq.

unauthorized work means work performed beyond the lines and grades described in this Contract or established by RCTC or extra work performed without RCTC's authorization.

Uniform Act means the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. Chapter 61, as amended, and all associated regulations and policies.

Unknown Hazardous Materials means Hazardous Materials that meet all of the following criteria:

(a) The Hazardous Materials are in, on or under the Project ROW, or parcels added to the Project ROW by an RCTC-Directed Change or required due to a Force Majeure Event as of the date Department makes available to DB Contractor the affected parcel;

(b) The Hazardous Materials are not Known or Suspected Hazardous Materials; and

(c) The Hazardous Materials are not required to be removed and disposed of due to a DB Contractor Release of Hazardous Materials.

For purposes of this definition, "makes available" means the date DB Contractor first receives access to the parcel in accordance with this Contract. For avoidance of doubt, ADL-contaminated soils that exceed applicable DTSC thresholds requiring off-Site disposal, and which are not permitted to be used on-Site are considered Unknown Hazardous Materials so long as subparts (a), (b) and (c) of this definition of Unknown Hazardous Materials apply.

Unpermitted Closure means an Unpermitted Lane Closure of a 91 Eastbound Corridor at the locations and during the time frames specified for the applicable segment and direction in Exhibit 6 – Charts 6-5 and Exhibit 6 – Charts 6-7. (as the context requires).

Unpermitted 91 EL Closure means an Unpermitted Lane Closure of a 91 Express Lane during the time frames specified for the applicable segment and direction in Exhibit 6 – Charts 6-5 and Exhibit 6 – Charts 6-7.

Unpermitted GP Lane Closure means an Unpermitted Lane Closure of a General Purpose Lane at the locations and during the time frames specified for the applicable segment and direction in the Lane Requirement Charts.

Unpermitted Lane Closure means such cases where DB Contractor: (a) fully or partially closes any portion of a General Purpose Lane or Express Lane, for any purpose; or (b) fully or partially blocks ingress to or egress from any portion of a General Purpose Lane or Express Lane, for any purpose, and where, in the case of either clause (a) or (b), the closure or blockage is not a

Permitted Lane Closure; or (c) fails to comply with any requirement with respect to any Lane Closure.

unsuitable material means material encountered below the natural ground surface in embankment areas or below the grading plane in excavation areas that the Engineer determines to be in any of the following conditions:

(a) Of such unstable nature that it cannot be compacted to the specified density using ordinary methods at optimum moisture content;

(b) Too wet to be properly compacted and cannot be dried before incorporating it into the work. Excessive moisture alone is not sufficient cause for determining that the material is unsuitable; or

(c) Inappropriate for the planned use.

Utility or **utility** means a privately, publicly, or cooperatively owned line, facility or system (including municipal and/or government lines, facilities and systems) for transmitting or distributing communications, cable television, power, electricity, gas, oil, crude products, water, steam, waste, or any other similar commodity, including any irrigation system and any fire or police signal system as well as streetlights. However, when used in the context of the Relocation of facilities to accommodate the Project and utility investigations, the term "Utility" or "utility" excludes (a) storm water facilities that provide drainage solely for the Project ROW, (b) traffic signals, ramp metering systems, flashing beacon systems, and lighting systems for the Project and (c) all existing Department facilities not included in clause (b) of the definition of Utility, including TMS components, fiber, and all existing RCTC SR-91 and I-15 tolling components. The necessary appurtenances to each Utility facility (including fire hydrants as appurtenances to water lines) shall be considered part of such Utility. Without limitation, any Service Line connecting directly to a Utility shall be considered an appurtenance to that Utility, regardless of the ownership of such Service Line.

Utility Agreement means any agreement, as the same may be amended from time to time, between RCTC and a Utility Owner, providing specific scope, cost and schedule details for the Relocation of one or more particular Utilities. A document is a Utility Agreement if it meets the foregoing definition, without regard to the title or form of the document. Any Notice to Owner referenced in a Utility Agreement shall be deemed to be part of that Utility Agreement for purposes of this Contract unless the context requires otherwise. For any Utility Owner for which there is no Utility Agreement, the FD Notice to Owner and Construction Notice to Owner shall be treated as the Utility Agreement(s) for such Utility Owner.

Utility Conflict Matrix has the meaning given in TP Section 7.3.5.

Utility Easement means a permanent replacement easement and/or other interest in real property (excluding a franchise) located outside of the Project ROW that is necessary for a Relocation.

Utility Information means, collectively, a preliminary utility conflict matrix (dated 2020) and preliminary Utility Owner correspondence included in the utilities folder of the Reference Documents.

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Utility Owner means any private entity or public body (including city, county, state, public corporation, or public district) that owns and/or operates a Utility, including cooperative utilities.

Utility Owner Project means the design and construction by or at the direction of a Utility Owner of a New Utility that is not part of a Relocation. Utility Owner Projects shall be entirely the financial obligation of the Utility Owner.

Utility Plans means the final installation details and construction documents that are prepared and updated by DB Contractor or Utility Owner(s), as updated and approved by RCTC in accordance with this Contract, for Utilities being Relocated to accommodate the Project.

Utility Relief Event means any Main or Trunkline Utility that is located within the Planned ROW Limits and requires Relocation that:

(a) In the case of Work performed during Phase 1, is (i) not identified at all in the Utility Information (i.e., is "unidentified"); or (ii) not identified in the Utility Information with "reasonable accuracy," as defined in Section 21.12.2 (i.e., is "misidentified"), excluding any Main or Trunkline Utility known to DB Contractor prior to the Effective Date or that would have become known to DB Contractor by undertaking a Reasonable Investigation prior to the SOQ Step 2 Submittal Date; and

(b) In the case of Work performed during Phase 2, is not identified in the Utility Information or Utility Strip Map (i.e., is "unidentified"), excluding any Main or Trunkline Utility known to DB Contractor prior to the Date of Phase 2 Approval or that could have been discovered by performing a Phase 1 Site Investigation in accordance with Good Industry Practice prior to the date of submitting the Phase 2 Proposal.

Utility Standards means the standard specifications, standards of practice, and construction methods that a Utility Owner customarily applies to facilities constructed by the Utility Owner (or for the Utility Owner by its contractors) at its own expense and that are comparable to the Utilities being Relocated for the Project. Such Utility Standards may or may not all be incorporated into documents issued by the Utility Owner, and shall include those processes, procedures, policies and practices that are industry-standard in Southern California for each particular type of Utility and those (if any) that are specified for the particular Utility Owner in accordance with TP Section 7. For any Utility Owner that is also a Governmental Entity, its Utility Standards shall include all such requirements that are imposed by Governmental Rules issued by such Utility Owner.

Utility Strip Map has the meaning given in TP Section 7.3.2.

Utility Strip Map Deadline has the meaning given in Section 8.4.2(a), as such deadline may be extended under this Contract.

voluntarily excluded has the meaning given in Attachment 2 to Exhibit 13.

Warranty Bond has the meaning given in Section 13.2.3(a).

Warranty Bond Amount has the meaning given in Section 13.2.3(b).

Warranty Period has the meaning given in Section 16.1.2.

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Warranty Work means Work required to remedy Nonconformances during the applicable Warranty Period.

Weed Abatement Plan means the plan described in TP Section 20.3.3 to be prepared and updated by DB Contractor, as approved by RCTC in accordance with this Contract.

Wildfire means an uncontrolled fire in an area of combustible vegetation.

Work or **work** means all of the resources required to be provided by DB Contractor, including administrative, design, support services, procurement, professional, manufacturing, supply, design, installation, integration testing, commissioning, construction, supervision, management, labor, materials, equipment (including Department furnished materials), maintenance, documentation and other duties and services to be provided and provided by DB Contractor under this Contract, including all efforts necessary or appropriate to achieve the Completion Milestones by the Completion Deadlines, except for those efforts which this Contract expressly specifies will be performed by Persons other than the DB-Related Entities.

work paid by force account means work ordered without an existing agreement on its cost and performed with the understanding that DB Contractor will bill RCTC according to the cost of labor, materials, and equipment, plus a certain percentage for overhead and profit which shall not exceed the DB Contractor Audited Overhead (G&A) Rate or Maximum DB Profit (as applicable).

work plan means the detailed formulation of a program of action.

work zone means the area of a highway with construction, maintenance or utility work activities.

[END OF DEFINITIONS]

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State Route 91
EASTBOUND CORRIDOR OPERATIONS PROJECT

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

REQUEST FOR QUALIFICATIONS (RFQ No. 26-31-019-00)

SR-91 EASTBOUND CORRIDOR OPERATIONS PROJECT

PROGRESSIVE DESIGN-BUILD CONTRACT

VOLUME II: CONTRACT EXHIBITS

RFQ: November 13, 2025

Draft Execution Version: October 5, 2026

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4080 Lemon Street, 3rd Floor
Riverside, CA 92501
www.rctc.org

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EXHIBIT 1

ABBREVIATIONS AND DEFINITIONS

[SEE EXHIBIT 1 IMMEDIATELY FOLLOWING CONTRACT]

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EXHIBIT 2

PROJECT SPECIFIC INFORMATION (PHASE 1)

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EXHIBIT 2-A

CONTRACT PARTICULARS (PHASE 1)

GLOSSARY OF TERMS, INTERPRETATION AND MISCELLANEOUS	
DB Contractor	**Myers & Sons Construction, LLC**
Guarantor	**Myers & Sons Construction, LP**
Lead Engineering Firm	**Michael Baker International, Inc.**
Partnering facilitator (Section 28.1.1)	**Phase 1- N/A** **Phase 2 – To be determined by RCTC and DB Contractor during Phase 1**
Structural Design Firm	**Michael Baker International, Inc.**
Phase 2 Approval Deadline (Exhibit 1)	**[To be inserted via amendment upon approval of the Phase 1 Baseline Schedule]**
Warranty Period (Section 16.1.2)	1. For each element of the Project, except elements that will be owned by Persons other than RCTC and/or Department (e.g., Utility Owners and Local Agencies), the Warranty Period commences upon Project Completion and ends two years after the Project Completion Date; and 2. For each element of the Project that will be owned by Persons other than RCTC and/or Department (e.g., Utility Owners and Local Agencies), the Warranty Period commences upon acceptance of the element by the Person that will own such element and ends two years after such acceptance, or, in the case of Relocations, for such longer term required by the applicable Utility Agreement(s).
RCTC-Provided Approvals (Exhibit 1)	CEQA Approval NEPA Approval Revalidation
Project-Related Agreements (Section 4)	1. Caltrans Cooperative Agreement – RCTC Agreement #26-31-096-00 2. City of Corona Cooperative Agreement – RCTC Agreement #26-31-044-00 3. OCTA Cooperative Agreement – RCTC Agreement #____ **[To be inserted via amendment upon approval]**

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	4. U.S. Department of Transportation Grant Agreement Under The Fiscal Year 2026 Build Program
PRICING INFORMATION	
NTE (Phase 1) (Section 18.2)	
TOTAL NTE (Phase 1)	**$19,069,353**
Category C (Preconstruction Management Services)	
Total Category C Costs	**$ 2,902,816**
DB Contractor's (G&A) Rate Applied to Category C Costs	**$87,084**
DB Contractor's Profit (Phase 1) Applied to Category C Costs	**$203,197**
Category C Other Direct Costs	**$ 1,092,788**
Category D (Preconstruction Preliminary Design)	
Total Category D Costs	**$ 11,109,877**
DB Contractor's (G&A) Rate Applied to Category D Costs	**$ 666,593**
DB Contractor's Profit (Phase 1) Applied to Category D Costs	**$ 0**
Category D Other Direct Costs	**$ 2,406,998**
Premiums for Bonds and insurance for Phase 1	**$ 600,000**
MARKUPS	
Maximum DB Contractor Overhead (G&A) Rate (Phase 1)	3%
Maximum DB Contractor Profit (Phase 1)	7%

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Total DB Contractor Markup (Phase 1)	10%	
Maximum DB Contractor Audited Overhead (G&A) Rate (Phase 2)	3%	
Maximum DB Contractor Profit (Phase 2)	7%	
Total DB Contractor Markup (Phase 2)	10%	
PHASE 1 MILESTONES		
Phase 1 Milestones and Deadlines (Section 7.3)	**Phase 1 Milestone (Exhibit 1)**	**Phase 1 Milestone Deadline (Exhibit 1)**
	Cost Validation	**120 days from NTP Phase 1**
	NTP Phase 1	**November 30, 2026**
	Phase 2 Proposal	**February 15, 2028**
	GMP (Phase 2)	**February 15, 2028**
	Commission Approval of Phase 2 Amendment	**June 14, 2028**
	NTP Phase 2	**June 30, 2028**
NATURE OF CONTRACT		
Conditions to NTP Phase 1 (Section 7.2)	DB Contractor has delivered to RCTC: 1. Insurance policies, certificates of insurance, riders to its existing insurance policies or other evidence reasonably required by RCTC to confirm the existence of all the insurance coverages required for the Phase 1 Work in accordance with Section 14 and Exhibit 12; 2. All Phase 1 Bonds each executed by the issuing Eligible Surety; 3. Guaranty of DB Contractor's obligations in accordance with this Contract, executed by Guarantor in the form of Exhibit 14; and 4. Any other documents, things or assurances required by this Contract as a condition of NTP Phase 1.	

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Order of precedence of documents in the case of any ambiguity, discrepancy or inconsistency (Phase 1) (Section 1.2)	1. Amendments and Change Orders 2. Contract body, other than Exhibits and Appendices 3. Contract Particulars (Phase 1) 4. Any other documents forming part of this Contract, (including Exhibits and Appendices), other than the Technical Provisions (Phase 1) 5. Technical Provisions 6. Modified Standard Specifications 7. Phase 1 Design Documentation 8. Administrative Project Plans 9. Phase 1 SOQ Step 2 Submittal Commitments	
Phase 1 Administrative Project Plans (Section 4.3)	Refer to TP Table 2-4	
PERSONNEL		
RCTC Representative and its other designated representatives (if any) and their functions (Section 6.2)	**Representative**	**Function(s)**
	David Thomas	Toll Project Delivery Director
DB Contractor's Key Personnel (Section 6.4)	**Person**	**Position**
	Micaiah Revero (Myers)	Project Manager
	Mike Lewis (Myers)	Lead Estimator
	Kurtis Frailey (Myers)	Construction Manager
	Danny Walden (MBI)	Design Manager
	Fahim Hakemi (MBI)	Design Lead Engineer – Structures
	Kandice Nguyen (AYCE)	Design Lead Engineer – Roadway
	Stephanie Oslick (Dokken)	Environmental Compliance Manager

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	Pri DeSilva (Sequoia)	Quality Manager
	Eric Brown (EMI)	Geotechnical Engineer of Record
	Indy Chadha (Sequoia)	Construction Quality Validation Manager
	Randy Ratzlaff (MBI)	Design Quality Validation Manager
	Sal Deraki (Myers)	Traffic Manager – Construction
	Octavio Hernandez (MBI)	Traffic Manager – Design
	Ryan Castillo (Myers)	Safety Manager
	Saeid Dehnad (Myers)	Lead Document Control Manager
	Eric Espinoza (Dokken)	Utilities Coordinator
PERFORMANCE AND PAYMENT BONDS / INSURANCE		
Phase 1 Performance Bond (Sections 13.1.1(a), 13.1.2(a), Exhibit 7-A)	**$ TBD**	
Phase 1 Payment Bond (Sections 13.1.1(b), 13.1.2(b), Exhibit 7-B)	**$ TBD**	
Insurance required for Phase 1	As provided in Section 14 and Exhibit 12	
SITE (Section 10.1)		
Conditions precedent to Site access during Phase 1 (Section 10.1.2)	DB Contractor shall: 1. Obtain and maintain encroachment permits and other Governmental Approvals and rights of entry to gain access to areas of RCTC-Provided Property within the jurisdictions of Local Agencies (excluding Department); 2. Pay all fees and comply with all requirements of Governmental Approvals in connection with RCTC-Provided Property, including obtaining necessary	

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	approvals of plans and specifications (including Design Documentation).
Access hours for Work on Site during Phase 1	See TP Attachment 6-1 for access restrictions.
QUALITY (Section 16)	
Period by which Warranty Period will be extended following rectification of a defect (Warranty Work) or completion of a Change Order to overcome a Defect (Section 16.1.2(b))	2 years
PAYMENT (Section 18)	
Times for submission of invoices by DB Contractor to RCTC Representative (Section 18.2)	Monthly, the 25th day of each month
Payment to Subcontractors (Section 18.15)	Within seven days of receipt of payment from RCTC
NOTICES (Section 30.10)	
Address and email address, for the giving or serving of notices (Section 30.10)	**RCTC:** Riverside County Transportation Commission 4080 Lemon Street, 3rd Floor Riverside, CA 92501 Mailing Address: P.O. Box 12008 Riverside, CA 92502-2208 Attention: Aaron Hake, Executive Director Phone: (951) 787-7141 Facsimile: (951) 787-7920 Email: ahake@rctc.org CC: 91ECOPdoccontrol.Parsons@parsons.com
	RCTC Representative:

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	Address: 4080 Lemon Street, 3rd Floor Riverside, CA 92501 Mailing Address: P.O. Box 12008 Riverside, CA 92502-2208 Attention: David Thomas, Toll Project Delivery Director Phone: (951) 787-7141 Email: dthomas@rctc.org With Copy to: Sri Srirajan, Capital Projects Manager Phone: (951) 787-7141 Email: ssrirajan@rctc.org
	DB Contractor: Myers & Sons Construction, LLC Address: 9033 Washington Blvd Pico Rivera, CA 90660 Attention: Clinton Myers Phone: (424) 646-4600 Email: cwmyers@myers-sons.com
	DB Contractor Representative: Clinton Myers Address: 9033 Washington Blvd Pico Rivera, CA 90660 Attention: Clinton Myers Phone: (424) 646-4600 Email: cwmyers@myers-sons.com

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EXHIBIT 2-B

PHASE 1 SOQ COMMITMENTS

The following pages summarize certain commitments and clarifications made by DB Contractor in its SOQ submitted for the Project, which DB Contractor agrees either clarifies the DB Contractor SOQ or exceed the requirements of this Contract. The commitments in this Exhibit are included in the scope of the work. This summary is an overview of certain DB Contractor commitments and is not intended to be an exhaustive list of clarifications or commitments made in the SOQ that exceed the requirements of this Contract. Nothing contained in this Exhibit shall limit, modify, discharge, eliminate, or reduce the requirements of this Contract. Nothing contained herein shall limit, modify, discharge, eliminate, or reduce the requirements of the Contract Documents. Inclusion of a commitment in this Exhibit 2-B shall not form the basis of any claim against RCTC or shift to RCTC the risk of, or liability for, any site condition, event, approval, or consent that has otherwise been allocated to DB Contractor under this Contract.

No.	Doc/Sec/Page	Commitment
1.	SOQ- V2 page 12	The Environmental Compliance Manager (designated as Stephanie Oslick as of the Effective Date) will sign-off as a formal interface within each design submittal package to verify environmental compliance.
2.	SOQ-V2 page 17	DB Contractor shall utilize a qualification-based selection for Subcontractors for soil nail procurement work.
3.	SOQ-V2 page 24	DB Contractor shall develop a slope monitoring program during Phase 1 and implement the slope monitoring program in Phase 2.
4.	SOQ-V2 page 13 (pdf)	DB Contractor shall maintain a real time quality metrics dashboard, accessible to RCTC, for continuous transparency into DB Contractor's compliance with Contract requirements, including key performance indicators mutually developed during Phase 1.
5.	SOQ-V2 page 7, 8	The Project Manager (designated as Micaiah Revero as of the Effective Date) and Design Manager (designated as Danny Walden as of the Effective Date), and relevant technical leads will attend all specified Phase 1 meetings in-person at the co-located office.
6.	SOQ-V2 page 14, 15	DB Contractor shall establish a formal coordination protocol with each adjacent project team within 60 days of NTP Phase 1 and shall provide evidence of the protocols to RCTC for review and input.

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EXHIBIT 2-C

[Not Used]

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EXHIBIT 2-D

PHASE 1 SOQ FORMS

[See Attached]

Non-Collusion Affidavit using Form H;
Certification Regarding Buy America using Form I and I-2;
Conflict of Interest Disclosure Statement using Form K;
Debarment and Suspension Certification using Form P;
Iran Contracting Certification using Form M;
Disclosure of Contributions using Form F;
Executive Order N-6-22 Certification using Form T;
DBE Certification using Form J-1;
DBE Commitment Form using Form J-2;
Equal Employment Opportunity Certification using Form N;
Use of Contract Funds for Lobbying Certification using Form O.

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EXHIBIT 2-E

TABLE OF RATES AND PRICES (PHASE 1)

Remains under review and development and subject to negotiation and further review and approval by RCTC Rates will be updated upon completion of RCTC Audit.

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EXHIBIT 2-F

LISTED SUBCONTRACTORS / SUBCONTRACTOR IDENTIFICATION FORM (PHASE 1)

[Note to DB Contractor: Under Development]

Subcontractor Name, Address, Telephone No., License Number (CSLB and DIR)	Description of Subcontract Work	Dollar Amount of Subcontract	Est. Time of Performance
Michael Baker International	Design Services		
Earth Mechanics Inc.	Geotechnical and Earthquake Engineering Services		
AYCE Consulting Engineers, Inc.	Roadway/ Civil Design Support Services		
Dokken Engineering	Environmental Engineering And Utilities Coordination Services		
Sequoia Consultants	QV/QC Services		
Yeh and Associates	Landslide Geotechnical Engineering Services		

DB Contractor: Myers & Sons Construction, LLC

Date: _____

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EXHIBIT 3

FORM OF DB CONTRACTOR REQUEST FOR CHANGE ORDER

CHANGE ORDER REQUEST NO. _____ CONTRACT NO. _____

SECTION I:

Name: _____ Date: _____

Title: _____

Company Name: _____

Description:

_____

_____

_____

_____

_____

Additions/Deletions/Modifications to Contract requirements:

Contract Requirement:	Addition/Deletion/Modification:
_____	_____
_____	_____
_____	_____
_____	_____

Scope:

_____

_____

_____

_____

_____

Reason for Request for Change Order:

_____

_____

_____

_____

_____

Is this Request for Change Order for a RCTC-Directed Change?

□ Yes □ No

Please Explain:

_____

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Project Manager
Date:

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EXHIBIT 4

TECHNICAL PROVISIONS

[See Attached]

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EXHIBIT 5

MODIFIED STANDARD SPECIFICATIONS

(Replacing Sections 1 through 9 of Department's Standard Specifications)

[See Attached]

This Exhibit 5 sets forth the Modified Standard Specifications for this Contract. The provisions contained in these Modified Standard Specifications shall replace Sections 1 through 9 of the 2026 Standard Specifications issued by the State of California Department of Transportation (Department), in their entirety and differ materially from the volume issued by Department.

The Modified Standard Specifications may include cross-references to provisions of the Standard Specifications which are not applicable to this Contract because they have been superseded by other provisions of this Contract. Any such cross-references are deemed references to the provisions of this Contract which have superseded the referenced provisions of the Standard Specifications.

Refer to Department Standard Specifications, dated 2025, for Sections 10 through 95 of the Standard Specifications.

General Exceptions:

1. When these Modified Standard Specifications or other provisions in the Department Standard Specifications refer to "Measurement for Payment," "Method of Measurement," or "Payment Quantities," except as otherwise provided in this Contract, such language is disregarded. Terms and conditions of Final Payment are set forth in this Contract.

2. When these Modified Standard Specifications or other provisions in the Department Standard Specifications refer to "basis of payment," "unit prices," or "adjustments of unit prices," such references and language is disregarded, except as otherwise provided in this Contract, including the Technical Provisions.

3. When these Modified Standard Specifications or other provisions in the Department Standard Specifications refer to "extra work," "compensation for," "at the Department's expense," "quantity adjustments," "equivalent quantities," or similar phrases, such references shall be disregarded. It is intended that the payment of the Contract Price will be full compensation for all Work performed pursuant to this Contract unless specific provisions for additional payments are contained in this Contract, including the Technical Provisions.

4. When these Modified Standard Specifications or other provisions in the Department Standard Specifications refer to the term "incidental" such term will mean that the cost is included in the Contract Price.

5. When these Modified Standard Specifications or other provisions in the Department Standard Specifications refer to "Change Orders," "change order work," or "extra work," except as otherwise provided in this Contract, such language shall be disregarded. Terms and conditions of changes, entitlement to additional compensation, and Change Orders are set forth in this Contract.

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6. Any references to the State Contract Act or provisions of the State Contract Act contained in the Department documents shall be deemed references to the equivalent provisions contained in statutes applicable to RCTC.

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EXHIBIT 6

LANE CLOSURES

CHART 6-1

PHASE 1 GP LANE CLOSURE CHARGES

In accordance with Section 25.2.2(a), Permitted GP Lane Closures shall be at no charge to DB Contractor, provided the Lane Closure complies with the requirements for Lane Closures in the Contract.

For Unpermitted Phase 1 GP Lane Closures, the applicable GP Lane Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Type of facility	Route	Direction or segment	Period	GP Lane Closure Charges
Mainline	91	EB	1st half hour 2nd half hour 2nd hour and beyond	$2,750/10 minutes $3,625/10 minutes $3,500/10 minutes
Mainline	91	WB	1st half hour 2nd half hour 2nd hour and beyond	$3,500/10 minutes $4,750/10 minutes $5,000/10 minutes

The 10-minute increments listed in the table above are for partial or full increments, meaning that, for example, an 11-minute period would be considered two increments.

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CHART 6-2

PHASE 2 GP LANE CLOSURE CHARGES

[Note to DB Contractor: To be updated, as needed during Phase 1 for purposes of Phase 2]

For Unpermitted Phase 2 GP Lane Closures, the applicable GP Lane Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Type of facility	Route	Direction or segment	Period	GP Lane Closure Charges
Mainline	91	EB	1st half hour 2nd half hour 2nd hour and beyond	$TBD/10 minutes $TBD/10 minutes
Mainline	91	WB	1st half hour 2nd half hour 2nd hour and beyond	$TBD/10 minutes $TBD/10 minutes $TBD/10 minutes

The 10-minute increments listed in the table above are for partial or full increments, meaning that, for example, an 11-minute period would be considered two increments.

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CHART 6-3

Phase 1 91 RCTC EL Closure Charges for Permitted 91 RCTC Westbound EL Closures from NTP Phase 1 to NTP Phase 2

For Permitted Phase 1 91 RCTC EL Closures, the applicable 91 RCTC EL Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Type of facility	Route	Direction and segment	Period	Closure Fees
Express Lanes (RCTC)	Route 91	EB from County Line Egress to Route 15	Sunday 22:00 to Monday 6:00	$3,500/night
			Monday 22:00 to Tuesday 6:00	$3,200/night
			Tuesday 22:00 to Wednesday 6:00	$4,500/night
			Wednesday 22:00 to Thursday 6:00	$7,500/night
			Thursday 23:00 to Friday 7:00	$5,000/night
			Friday 23:00 to Saturday 7:00	$4,100/night
			Saturday 23:00 to Sunday 7:00	$6,500/night
Express Lanes (RCTC)	Route 91	WB from Route 15 to County Line Ingress/Egress Includes Ingress from 15 express lane connectors from the north and south	Sunday 21:00 to Monday 4:00	$2,600/night
			Monday 21:00 to Tuesday 4:00	$1,600/night
			Tuesday 21:00 to Wednesday 4:00	$1,400/night
			Wednesday 21:00 to Thursday 4:00	$1,600/night
			Thursday 24:00 to Friday 4:00	$1,700/night
			Friday 21:00 to Saturday 6:00	$3,000/night
			Saturday 21:00 to Sunday 6:00	$3,400/night

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CHART 6-4

Phase 1 91 RCTC EL Closure Charges for Unpermitted 91 RCTC EL Closures from NTP Phase 1 to NTP Phase 2

For Unpermitted Phase 1 91 RCTC EL Closures, the applicable 91 RCTC EL Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Type of facility	Route	Direction or segment	Period	Unpermitted Closure Liquidated Damages / Interval
Express Lanes (RCTC)	Route 91	EB from County Line Egress to Route 15	1st half hour 2nd half hour 2nd hour and beyond	$14,500/10-minute $18,600/10-minute $21,000/10-minute
Express Lanes (RCTC)	Route 91	WB from Route 15 to County Line Ingress/Egress	1st half hour 2nd half hour 2nd hour and beyond	$14,500/10-minute $21,200/10-minute $24,400/10-minute

The 10-minute increments listed in the tables above are for partial or full increments, meaning that, for example, an 11-minute period would be considered two increments.

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CHART 6-5

Phase 1 91 Permitted OCTA EL Closure Charges

For Permitted Phase 1 91 OCTA EL Closures, the applicable 91 EL Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Travel Direction	Time Frame	91 EL Closure Charge from NTP Phase 1 to NTP Phase 2
Westbound	Weekday Period:	
	• Sunday 8:00 p.m. to Monday 4:00 a.m.	$5,100/night
	• Monday 8:00 p.m. to Tuesday 4:00 a.m.	$2,100/night
	• Tuesday 8:00 p.m. to Wednesday 4:00 a.m.	$2,200/night
	• Wednesday 8:00 p.m. to Thursday 4:00 a.m.	$2,300/night
	• Thursday 8:00 p.m. to Friday 4:00 a.m.	$2,600/night
	Weekend Period:	
	• Friday 9:00 p.m. to Saturday 5:00 a.m.	$2,200/night
	• Saturday 9:00 p.m. to Sunday 5:00 a.m.	$2,700/night
Eastbound	Weekday Period:	
	• Sunday 9:00 p.m. to Monday 5:00 a.m.	$4,400/night
	• Monday 9:00 p.m. to Tuesday 5:00 a.m.	$4,100/night
	• Tuesday 9:00 p.m. to Wednesday 5:00 a.m.	$5,100/night
	• Wednesday 9:00 p.m. to Thursday 5:00 a.m.	$5,300/night
	• Thursday 9:00 p.m. to Friday 5:00 a.m.	$6,100/night
	Weekend Period:	
	• Friday 9:00 p.m. to Saturday 5:00 a.m.	$11,400/night
	• Saturday 9:00 p.m. to Sunday 5:00 a.m.	$8,500/night

The applicable 91 OCTA EL Closure Charge listed in this Chart 6-5 will be assessed on a per night basis, irrespective of the actual length of the Permitted 91 OCTA EL Closure

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CHART 6-6

Phase 1 91 EL Closure Charges for Unpermitted 91 OCTA EL Closures

For Unpermitted Phase 1 91 OCTA EL Closures, the applicable 91 EL Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Travel Direction	Time Frame	91 EL Closure Charge from NTP Phase 1 to NTP Phase 2
Westbound	Weekday Period: • Monday 4:00 a.m. to 8:00 p.m. • Tuesday 4:00 a.m. to 8:00 p.m. • Wednesday 4:00 a.m. to 8:00 p.m. • Thursday 4:00 a.m. to 8:00 p.m. • Friday 4:00 a.m. to 9:00 p.m.	$22,600 for every partial or full 10-minute increment
	Weekend Period: • Saturday 5:00 a.m. to 9:00 p.m. • Sunday 5:00 a.m. to 8:00 p.m.	$22,600 for every partial or full 10-minute increment
Eastbound	Weekday Period: • Monday 5:00 a.m. to 9:00 p.m. • Tuesday 5:00 a.m. to 9:00 p.m. • Wednesday 5:00 a.m. to 9:00 p.m. • Thursday 5:00 a.m. to 9:00 p.m. • Friday 5:00 a.m. to 9:00 p.m.	$22,600 for every partial or full 10-minute increment
	Weekend Period: • Saturday 5:00 a.m. to 9:00 p.m. • Sunday 5:00 a.m. to 9:00 p.m.	$22,600 for every partial or full 10-minute increment

The 10-minute increments listed in the tables above are for partial or full increments, meaning that, for example, an 11-minute period would be considered two increments.

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CHART 6-7

CHART 6-7a: PHASE 2 91 PERMITTED EL CLOSURE CHARGES

[Note to DB Contractor: Charts to be developed during Phase 1 for purposes of Phase 2]

For Permitted Phase 1 91 EL Closures, the applicable 91 EL Closure Charges shall be determined as follows based on the applicable route, direction, facility and time period:

Phase 2 91 EL Closure Charges for Permitted 91 RCTC Westbound EL Closures from NTP Phase 2 and for the remainder of the Warranty Period

Time Frame	91 Westbound EL Full Closure to Countyline	I-15 Northbound to 91 Westbound EL Connector Closure	I-15 Southbound to 91 Westbound EL Connector Closure
Sunday 9:00 p.m. to Monday 4:00 a.m. (Except for certain Sundays identified in section 18.3.3.3.1 of the Technical Provisions)	$TBD/night	$TBD/night	$TBD/night
Monday 8:00 p.m. to Tuesday 4:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Tuesday 8:00 p.m. to Wednesday 4:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Wednesday 8:00 p.m. to Thursday 4:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Thursday 8:00 p.m. to Friday 4:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Friday 10:00 p.m. to Saturday 7:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Saturday 10:00 p.m. to Sunday 7:00 a.m.	$TBD/night	$TBD/night	$TBD/night

The applicable 91 RCTC EL Closure Charge listed in this Chart 6-7a will be assessed on a per night basis, irrespective of the actual length of the Permitted 91 RCTC EL Closure.

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CHART 6-7b: Phase 2 91 EL Closure Charges for Permitted 91 RCTC Eastbound EL Closures from NTP Phase 2 and for the remainder of the Warranty Period

Time Frame	91 Eastbound EL Full Closure	91 Eastbound to I-15 Southbound EL Connector Closure	91 Eastbound to I-15 Northbound EL Connector Closure
Sunday 10:00 p.m. to Monday 6:00 a.m. (Except for certain Sundays identified in section 18.3.3.3.1 of the Technical Provisions)	$TBD/night	$TBD/night	$TBD/night
Monday 10:00 p.m. to Tuesday 6:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Tuesday 10:00 p.m. to Wednesday 4:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Wednesday 10:00 p.m. to Thursday 4:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Thursday 10:00 p.m. to Friday 6:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Friday 11:00 p.m. to Saturday 7:00 a.m.	$TBD/night	$TBD/night	$TBD/night
Saturday 11:00 p.m. to Sunday 7:00 a.m.	$TBD/night	$TBD/night	$TBD/night

The applicable 91 RCTC EL Closure Charge listed in this Chart 6-7b will be assessed on a per night basis, irrespective of the actual length of the Permitted 91 RCTC EL Closure.

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CHART 6-8
Phase 2 91 UNPERMITTED EL Closure Charges
[Note to DB Contractor: Charts to be developed during Phase 1 for purposes of Phase 2]

		NTP Phase 2 and for the remainder of the Warranty Period
Travel Direction	**Time Frame**	**91 RCTC EL Closure Charge**
Westbound including Northbound to Westbound and Southbound to Westbound	Weekday Period: • Monday 4:00 a.m.to 8:00 p.m. • Tuesday 4:00 a.m. to 8:00 p.m. • Wednesday 4:00 a.m. to 8:00 p.m. • Thursday 4:00 a.m. to 8:00 p.m. • Friday 4:00 a.m. to 10:00 p.m.	The sum of (i) Stipulated Damages* plus (ii) $TBD for every partial or full 10-minute increment
	Weekend Period: • Saturday 7:00 a.m. through 10:00 p.m. • Sunday 7:00 a.m. through 9:00 p.m.	The sum of (i) Stipulated Damages* plus (ii) $TBD for every partial or full 10-minute increment
Eastbound including Eastbound to Southbound And Eastbound to Northbound	Weekday Period: • Monday 4:00 a.m. to 10:00 p.m. • Tuesday 4:00 a.m. to 10:00 p.m. • Wednesday 4:00 a.m. to 10:00 p.m. • Thursday 4:00 a.m. to 10:00 p.m. • Friday 6:00 a.m.to 11:00 p.m.	The sum of (i) Stipulated Damages* plus (ii) $TBD for every partial or full 10-minute increment
	Weekend Period: • Saturday 7:00 a.m. to 111:00 p.m. • Sunday 7:00 a.m. to 10:00 p.m.	The sum of (i) Stipulated Damages* plus (ii) $TBD for every partial or full 10-minute increment

The 10-minute increments listed in the tables above are for partial or full increments, meaning that, for example, an 11-minute period would be considered two increments.

* Stipulated damages shall be determined by using a comparison of the number of transactions identified by the toll collection system for the SR-91 during the period of the partial or complete 15-91 EL Closure and the number of transactions identified by the toll collection system for the SR-91 during a comparable prior period determined by RCTC. Determination of a comparable

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period shall be made by RCTC, acting reasonably, and shall consider the day, month, time of day, location, season, whether the day is a weekday, weekend or holiday, and such other factors as RCTC shall reasonably determine. The calculation of stipulated damages can never be a negative number or result in DB Contractor being entitled to additional payment from RCTC.

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CHART 6-9
Phase 2 91 EL Closure Charges for Permitted 91 OCTA EL Closures
[Note to DB Contractor: Charts to be developed during Phase 1 for purposes of Phase 2]

Travel Direction	Time Frame	91 EL Closure Charge from NTP Phase 2 and for the remainder of the Warranty Period
Westbound	Weekday Period:	$TBD/night
	• Sunday 8:00 p.m. to Monday 4:00 a.m.	
	• Monday 8:00 p.m. to Tuesday 4:00 a.m.	
	• Tuesday 8:00 p.m. to Wednesday 4:00 a.m.	
	• Wednesday 8:00 p.m. to Thursday 4:00 a.m.	
	• Thursday 8:00 p.m. to Friday 4:00 a.m.	
	Weekend Period:	$TBD/night
	• Friday 9:00 p.m. to Saturday 5:00 a.m.	
	• Saturday 9:00 p.m. to Sunday 5:00 a.m.	
Eastbound	Weekday Period:	$TBD/night
	• Sunday 9:00 p.m. to Monday 5:00 a.m.	
	• Monday 9:00 p.m. to Tuesday 5:00 a.m.	
	• Tuesday 9:00 p.m. to Wednesday 5:00 a.m.	
	• Wednesday 9:00 p.m. to Thursday 5:00 a.m.	
	• Thursday 9:00 p.m. to Friday 5:00 a.m.	
	Weekend Period:	$TBD/night
	• Friday 9:00 p.m. to Saturday 5:00 a.m.	
	• Saturday 9:00 p.m. to Sunday 5:00 a.m.	

The applicable 91 OCTA EL Closure Charge listed in this Chart 6-9 will be assessed on a per night basis, irrespective of the actual length of the Permitted 91 OCTA EL Closure.

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CHART 6-10
Phase 2 91 EL Closure Charges for Unpermitted 91 OCTA EL Closures

Travel Direction	Time Frame	91 EL Closure Charge from NTP Phase 2 and for the remainder of the Warranty Period
Westbound	Weekday Period: • Monday 4:00 a.m. to 8:00 p.m. • Tuesday 4:00 a.m. to 8:00 p.m. • Wednesday 4:00 a.m. to 8:00 p.m. • Thursday 4:00 a.m. to 8:00 p.m. • Friday 4:00 a.m. to 9:00 p.m.	$TBD for every partial or full 10-minute increment
	Weekend Period: • Saturday 5:00 a.m. to 9:00 p.m. • Sunday 5:00 a.m. to 8:00 p.m.	$TBD for every partial or full 10-minute increment
Eastbound	Weekday Period: • Monday 5:00 a.m. to 9:00 p.m. • Tuesday 5:00 a.m. to 9:00 p.m. • Wednesday 5:00 a.m. to 9:00 p.m. • Thursday 5:00 a.m. to 9:00 p.m. • Friday 5:00 a.m. to 9:00 p.m.	$TBD for every partial or full 10-minute increment
	Weekend Period: • Saturday 5:00 a.m. to 9:00 p.m. • Sunday 5:00 a.m. to 9:00 p.m.	$TBD for every partial or full 10-minute increment

The 10-minute increments listed in the tables above are for partial or full increments, meaning that, for example, an 11-minute period would be considered two increments.

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EXHIBIT 7

BONDS

Exhibit 7-A: Form of Performance Bonds

Exhibit 7-B: Form of Payment Bonds

Exhibit 7-C: Form of Warranty Bond

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EXHIBIT 7-A

FORM OF PERFORMANCE BONDS

Appendix 7-A-1 (Form of Phase 1 Performance Bond)

Appendix 7-A-2 (Form of Phase 2 Performance Bond)

Appendix 7-A-3 (Form of Multiple Obligee Rider)

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APPENDIX 7-A-1

Form of Phase 1 Performance Bond

Contract No.: _____

Bond No. _____

WHEREAS, the Riverside County Transportation Commission, a public entity of the State of California ("RCTC"), as the primary obligee, has awarded to Myers & Sons Construction, LLC, a California limited liability company and authorized to do business in the State of California ("Principal"), the Progressive Design-Build Contract, dated [_____], 2026 (as amended from time to time, "Contract") to provide progressive design-build services for the SR-91 Eastbound Corridor Operations Project (as defined in the Contract) on the terms and conditions in the Contract; and

WHEREAS, Principal is required to furnish a bond guaranteeing faithful performance of its obligations under the Contract on or before delivering to RCTC the executed Contract.

NOW THEREFORE, We the undersigned Principal and Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company ("Surety" or "Co-Sureties"), admitted surety insurer(s) in the State of California, are held and firmly bound unto RCTC, in the sum of $_____, **[100% of the NTE (Phase 1)]** subject to increase in accordance with the NTP Phase 2 Rider ("Bonded Sum") to be paid to RCTC for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

1. The Contract is incorporated by reference in this Bond. Unless the context otherwise requires, capitalized terms used but not separately defined in this Bond have the meaning given to them in the Contract.

2. If the Principal, or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform all covenants, conditions, agreements, obligations and work under the Contract, including any and all amendments, supplements, and alterations made to the Contract as therein provided, on Principal's part to be kept and performed, at the time and in the manner therein specified, and shall indemnify, defend and save harmless RCTC and all other Indemnified Parties, as therein stipulated, then this obligation shall become and be null and void; otherwise, it shall be and remain in full force and effect.

3. This Bond shall cover the cost to perform all the obligations of the Principal pursuant to the Contract.

4. The obligations covered by this Bond specifically include the performance of each and every obligation of Principal under the Contract including its liability for liquidated damages and warranties as specified in the Contract, but not to exceed the Bonded Sum.

5. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of any of the Contract, or in the work to be performed with respect to the SR-91 Eastbound Corridor Operations Project, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to any of the Contract, or any rescission or attempted rescission of this Bond, solely due to acts of Principal, or any fraud practiced by any other person other than RCTC seeking to recover from this Bond, shall in any way affect its obligations on this Bond, and it hereby waives notice of such changes, extension of time, alterations, additions, omissions or other modifications.

6. The Surety (or Co-Sureties) agree(s) that payments made to contractors and suppliers to satisfy claims on the Payment Bond do not reduce the Surety's legal obligations under this Bond. Payments made to contractors or suppliers under any agreement where the Surety has arranged for completion of the work to satisfy this Bond will not be considered Payment Bond claims.

7. Whenever Principal is in default under the Contract, provided that RCTC is not then in material default under the Contract, the Surety (or Co-Sureties) shall promptly:

(a) remedy such default, or

(b) complete the work and perform the obligations covered by this Bond in accordance with the terms and conditions of the Contract then in effect, or

(c) select a contractor or contractors to complete all Work and perform all obligations covered by this Bond for which a notice to proceed has been issued in accordance with the terms and conditions of the Contract, using a contractor or contractors approved by RCTC (provided, however, that the Surety (or Co-Sureties) may not select Principal or any affiliate of Principal to complete the work and perform the obligations for and on behalf of the Surety without RCTC's express written consent, in its sole discretion), arrange for a contract that contains substantially the same terms and conditions of the Contract between such contractor or contractors and RCTC, and make available as work progresses (even though there should be a default or a succession of defaults under such contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the unpaid balance of the NTE (Phase 1); but not exceeding, including other costs and damages for which the Surety is (or Co-Sureties) (are) liable hereunder, the Bonded Sum.

8. If Surety (or Co-Sureties) does not proceed as provided in Paragraph 7 of this Bond with reasonable promptness, Surety (or Co-Sureties) shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from RCTC to Surety (or Co-Sureties designated representative) demanding that Surety (or Co-Sureties) perform its (or their) obligations under this Bond, and RCTC shall be entitled to enforce any remedy available to RCTC.

9. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that RCTC will have no obligation to deal with multiple sureties under this Bond. All correspondence from RCTC to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to RCTC designating a single new representative, signed by all of the Co-Sureties. The initial

representative shall be John Hynes at Nationwide Mutual Insurance Company at email john.hynes@nationwide.com.

[Signatures Follow]

IN WITNESS WHEREOF, We have set our hands and seals on this _____ day of _____, _____.

Correspondence or claims relating to this Bond should be sent to the Surety (or Co-Sureties) at the following address: Nationwide Mutual Insurance Company One West Nationwide Blvd., 1-14-301 Columbus, OH 43215 **[Note: If more than one surety, then add appropriate number of lines to signature block.]**	Myers & Sons Construction, LLC (Principal's name, title, and signature) Nationwide Mutual Insurance Company Berkshire Hathaway Specialty Insurance Company Surety Name By:_____ Diana Cervantes, Attorney-in-Fact

NOTE: Signatures of those executing for the Surety (or Co-Sureties) must be properly acknowledged, and a Power of Attorney attached.

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CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

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APPENDIX 7-A-2

FORM OF PHASE 2 PERFORMANCE BOND

NTP PHASE 2 RIDER

This Rider shall be attached to and form a part of Bond No. _____ ("Performance Bond").

WHEREAS, on or about _____, _____, Myers & Sons Construction, LLC, a California limited liability company and authorized to do business in the State of California ("Principal"), entered into the Progressive Design-Build Contract, dated [_____], 2026 (as amended from time to time, "Contract") with the Riverside County Transportation Commission, a public entity of the State of California ("RCTC") to provide progressive design-build services for the SR-91 Eastbound Corridor Operations Project (as defined in the Contract);

WHEREAS, initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Contract;

WHEREAS, RCTC requires that Principal provide a performance bond for Phase 1 and Phase 2, respectively; and

WHEREAS, Principal and Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company ("Surety" or "Co-Sureties") have agreed to execute and deliver this Rider to the Performance Bond as a condition precedent to Phase 2 Approval on the terms and conditions herein stated.

NOW, THEREFORE, Principal and Surety (or Co-Sureties) are held and firmly bound unto RCTC in the sum of $_____ **[100% of the GMP (Phase 2) plus 100% of the NTE (Phase 1)]** ("Phase 2 Bonded Sum"), for payment of which sum Principal and Surety (or Co-Sureties) jointly and severally firmly bind themselves and their successors and assigns.

The following terms and conditions shall apply with respect to this Rider:

1. The Surety (or Co-Sureties) shall not be liable under the Performance Bond to RCTC unless RCTC shall make payments to Principal (or in the case the Surety (or Co-Sureties) arranges for completion of the Contract, to the Surety (or Co-Sureties)) in accordance with the terms of the Contract as to payments and shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by RCTC shall have occurred and be continuing under the Contract.

2. The aggregate liability of the Surety (or Co-Sureties) under the Performance Bond to RCTC is limited to the penal sum of the Phase 2 Bonded Sum. The total liability of the Surety (or Co-Sureties) shall in no event exceed the amount recoverable from Principal by RCTC under the Contract.

3. The Surety may, at its option, make any payments under the Performance Bond and Rider by check issued to RCTC.

4. It is further understood and agreed that nothing contained in this Rider shall be held to change, alter or vary the terms of the attached Performance Bond except as set forth in

this Rider. In the event of a conflict between the Performance Bond and this Rider, this Rider shall govern and control. All references to the Performance Bond, either in the Performance Bond or in this Rider, shall include and refer to the Performance Bond as supplemented and amended by this Rider. Except as herein modified, the Performance Bond shall be and remains in full force and effect.

5. The Rider may be executed in two or more counterparts, each of which shall be deemed to be an original, but which together shall constitute one and same instrument.

Signed, sealed and dated this _____ day of _____, 202__.

Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Nationwide Mutual Insurance Company (Surety / Co-Surety) By: _____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Surety / Co-Surety)
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Berkshire Hathaway Specialty Insurance Company (Co-Surety) By: _____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Co-Surety)
Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____

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[Note: Add lines to signature block if needed, and strike signature lines not used.]

[Note: This Rider shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished.]

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CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

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APPENDIX 7-A-3

FORM OF MULTIPLE OBLIGEE RIDER

(PERFORMANCE BONDS)

This Rider is executed concurrently with and shall be attached to and form a part of Performance Bond No. _____ ("Performance Bond").

WHEREAS, on or about _____, _____, Myers & Sons Construction, LLC, a California limited liability company and authorized to do business in the State of California ("Principal"), entered into the Progressive Design-Build Contract, dated [_____], 2026 (as amended from time to time, "Contract") with the Riverside County Transportation Commission, a public entity of the State of California ("RCTC"), as the primary obligee, for progressive design-build services for the SR-91 Eastbound Corridor Operations Project (as defined in the Contract); and

WHEREAS, initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Contract; and

WHEREAS, RCTC requires that Principal provide a performance bond and that the **[INSERT ADDITIONAL PARTIES]** (together "Additional Obligee(s)") be named as additional obligee(s) under the Performance Bond; and

WHEREAS, Principal and Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company (the "Surety" or "Co-Sureties") have agreed to execute and deliver this Rider concurrently with the execution of the Performance Bond upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

The Additional Obligee(s) is/are hereby added to the Performance Bond as named obligee(s).

The Surety (or Co-Sureties) shall not be liable under the Performance Bond to RCTC, the Additional Obligee(s), or any of them, unless RCTC, the Additional Obligee(s), or any of them shall make payments to Principal (or in the case the Surety (or Co-Sureties) arranges for completion of the Contract, to the Surety (or Co-Sureties)) in accordance with the terms of the Contract as to payments and shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth, such that no material default by RCTC shall have occurred and be continuing under the Contract.

The aggregate liability of the Surety (or Co-Sureties) under the Performance Bond, to any or all of the obligee(s), as its/their interests may appear, is limited to the penal sum of the Performance Bond. The rights of the Additional Obligee(s) under this Rider are subject to the same defenses Principal and/or the Surety (or Co-Sureties) have against RCTC. The total liability of the Surety (or Co-Sureties) shall in no event exceed the amount recoverable from Principal by RCTC under the Contract.

The Surety may, at its option, make any payments under the Performance Bond by check issued jointly to all of the obligees.

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It is further understood and agreed that nothing contained in this Rider shall be held to change, alter or vary the terms of the attached Performance Bond except as set forth above. In the event of a conflict between the Performance Bond and this Rider, this Rider shall govern and control. All references to the Performance Bond, either in the Performance Bond or in this Rider, shall include and refer to the Performance Bond as supplemented and amended by this Rider. Except as herein modified, the Performance Bond shall be and remains in full force and effect.

This Rider may be executed in two or more counterparts, each of which shall be deemed to be an original, but which together shall constitute one and same instrument.

Signed, sealed and dated this _____ day of _____, 202__.

Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Nationwide Mutual Insurance Company (Surety / Co-Surety) By: _____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Surety / Co-Surety)
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Berkshire Hathaway Specialty Insurance Company (Co-Surety) By: _____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Co-Surety)
Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____

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[Note: Add lines to signature block if needed, and strike signature lines not used.]

[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished.]

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CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ **(Seal)**

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EXHIBIT 7-B

FORM OF PAYMENT BONDS

Appendix 7-B-1	Form of Phase 1 Payment Bond
Appendix 7-B-2	Form of Phase 2 Payment Bond
Appendix 7-B-3	Form of Multiple Obligee Rider

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APPENDIX 7-B-1

FORM OF PHASE 1 PAYMENT BOND

Contract No.: _____

Bond No.: _____

WHEREAS, the Riverside County Transportation Commission, a public entity of the State of California ("RCTC"), as the primary obligee, has awarded to Myers & Sons Construction, LLC, a California limited liability company and authorized to do business in the State of California ("Principal"), the Progressive Design-Build Contract, dated [_____], 2026 (as amended from time to time, "Contract") to provide progressive design-build services for the SR-91 Eastbound Corridor Operations Project (as defined in the Contract) on the terms and conditions in the Contract; and

WHEREAS, Principal is required to furnish a bond guaranteeing payment of claims for Phase 1 Work on or before delivering to RCTC the executed Contract.

NOW THEREFORE, We the undersigned Principal, Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company (the "Surety" or "Co-Sureties"), an admitted surety insurer in the State of California, are held and firmly bound unto RCTC, in the sum of $_____ **[100% of the NTE (Phase 1)]** subject to increase in accordance with the NTP Phase 2 Rider ("Bonded Sum") for the payment whereof, well and truly to be paid to RCTC, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

1. The Contract is incorporated by reference in this Bond. Unless the context otherwise requires, capitalized terms used but not separately defined in this Bond have the meaning given to them in the Contract. If Principal, or its Subcontractors, or their respective heirs, executors, administrators, successors or assigns, shall fail to pay:

(a) any of the Persons named in California Civil Code section 9100 involved in prosecution of the Work, including the design and engineering services, and/or construction services, as provided for in the Contract, or

(b) any amounts due under the Unemployment Insurance Code, with respect to work or labor performed by such claimant under the Contract or Subcontracts, or

(c) any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Principal and its Subcontractors pursuant to Revenue and Taxation Code section 18662 et seq. with respect to such work and labor, or

(d) anyone required to be paid by law,

then the Surety (or Co-Sureties) shall pay for the same, in an aggregate amount not exceeding the sum specified in this Bond, otherwise the above obligation shall be null and

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void. In case suit is brought upon this Bond, the Surety (or Co-Sureties) will pay reasonable attorneys' fees to be fixed by the court.

2. This Bond shall inure to the benefit of any of the persons named in Civil Code section 9100 or anyone required to be paid by law under the Contract so as to give a right of action to such Persons or their assigns in any suit brought upon this Bond.

3. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the Contract, or in the Work to be performed with respect to the SR-91 Eastbound Corridor Operations Project, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the Contract, or any rescission or attempted rescission of this Bond, solely due to acts of Principal, or any fraud practiced by any other person other than the claimant seeking to recover from this Bond, shall in any way affect its obligations on this Bond, and it hereby waives notice of such changes, extension of time, alterations, additions, omissions or other modifications.

4. This Bond shall cover all payment obligations under the Contract.

5. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that RCTC and claimants will have no obligation to deal with multiple sureties under this Bond. All correspondence from RCTC or claimants to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to RCTC designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be John Hynes at Nationwide Mutual Insurance Company at email john.hynes@nationwide.com.

[Signatures Follow]

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IN WITNESS WHEREOF, We have hereunto set our hands and seals on this _____ day of _____, _____.

Correspondence or claims relating to this Bond should be sent to the Surety (or Co-Sureties) at the following address:

Nationwide Mutual Insurance Company

One West Nationwide Blvd., 1-14-301

Columbus, OH 4321

[Note: If more than one surety, then add appropriate number of lines to signature block.]

Myers & Sons Construction, LLC

(Principal's name, title, and signature)

Nationwide Mutual Insurance Company

Berkshire Hathaway Specialty Insurance Company

Surety Name

By: _____

Diana Cervantes, Attorney-in-Fact

NOTE: Signatures of those executing for the Surety (or Co-Sureties) must be properly acknowledged, and a Power of Attorney attached.

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CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

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APPENDIX 7-B-2

FORM OF PHASE 2 PAYMENT BOND

NTP PHASE 2 RIDER

This Rider to be attached to and form part of

Bond No.: _____

Type of Bond: _____
the "Payment Bond"

dated effective _____
(Month – Day – Year)

Myers & Sons Construction LLC
as "Principal"

and by Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company, as "Surety" or "Co-Sureties,"

in favor of Riverside County Transportation Commission, a public entity of the State of California, as the primary obligee.

In consideration of the mutual agreements herein contained Principal and the Surety (or Co-Sureties) hereby consent to the following:

The Bonded Sum (as defined in the Payment Bond) is hereby increased to the amount of $_____[100% of the NTE (Phase 1) plus 100% of the GMP (Phase 2)].

This rider is effective _____

(Month – Day – Year)

[Signatures Follow]

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Nothing herein contained shall vary, alter or extend any provision or condition of the Payment Bond except as herein expressly stated.

Signed, sealed and dated this _____ day of _____, 202__.

Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Nationwide Mutual Insurance Company (Surety / Co-Surety) By:_____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Surety / Co-Surety)
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Berkshire Hathaway Specialty Insurance Company (Co-Surety) By:_____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Co-Surety)
Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____

[Note: Add lines to signature block if needed, and strike signature lines not used.]

[Note: This Rider shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished.]

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CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

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APPENDIX 7-B-3

FORM OF MULTIPLE OBLIGEE RIDER

(PAYMENT BONDS)

This Rider is executed concurrently with and shall be attached to and form a part of Payment Bond No. _____ ("Payment Bond").

WHEREAS, on or about _____, 2026, Myers & Sons Construction, LLC, a California limited liability company and authorized to do business in the State of California ("Principal"), entered into the Progressive Design-Build Contract, dated [_____], 2026 (as amended from time to time, "Contract") with the Riverside County Transportation Commission, a public entity of the State of California ("RCTC"), as the primary obligee, for progressive design-build services for the SR-91 Eastbound Corridor Operations Project (as defined in the Contract); and

WHEREAS, initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Contract; and

WHEREAS, RCTC requires that Principal provide a payment bond and that the **[INSERT ADDITIONAL PARTIES]** (together "Additional Obligee(s)") be named as additional obligee(s) under the Payment Bond; and

WHEREAS, Principal and Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company (the "Surety" or "Co-Sureties") have agreed to execute and deliver this Rider concurrently with the execution of the Payment Bond upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

1. The Additional Obligee(s) is/are hereby added to the Payment Bond as named obligee(s).

2. The Surety (or Co-Sureties) shall not be liable under the Payment Bond to RCTC, the Additional Obligee(s), or any of them, unless RCTC, the Additional Obligee(s), or any of them shall make payments to Principal (or in the case the Surety (or Co-Sureties) arranges for completion of the Contract, to the Surety (or Co-Sureties)) in accordance with the terms of the Contract as to payments and shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth, such that no material default by RCTC shall have occurred and be continuing under the Contract.

3. The aggregate liability of the Surety (or Co-Sureties) under the Payment Bond, to any or all of the obligee(s), as its/their interests may appear, is limited to the penal sum of the Payment Bond. The rights of the Additional Obligee(s) under this Rider are subject to the same defenses Principal and/or the Surety (or Co-Sureties) have against RCTC. The total liability of the Surety (or Co-Sureties) shall in no event exceed the amount recoverable from Principal by RCTC under the Contract.

4. The Surety may, at its option, make any payments under the Payment Bond by check issued jointly to all of the obligees.

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5. It is further understood and agreed that nothing contained in this Rider shall be held to change, alter or vary the terms of the attached Payment Bond except as set forth above. In the event of a conflict between the Payment Bond and this Rider, this Rider shall govern and control. All references to the Payment Bond, either in the Payment Bond or in this Rider, shall include and refer to the Payment Bond as supplemented and amended by this Rider. Except as herein modified, the Payment Bond shall be and remains in full force and effect.

6. This Rider may be executed in two or more counterparts, each of which shall be deemed to be an original, but which together shall constitute one and same instrument.

Signed, sealed and dated this _____ day of _____, 202__.

Attest: (SEAL) _____ Secretary	Myers & Sons Construction, LLC (Name of Principal) By: _____ Title: _____
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Nationwide Mutual Insurance Company (Surety / Co-Surety) By: _____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Surety / Co-Surety)
Attest: (SEAL) _____ Signature Bonding Agent's Name: Diana Cervantes Agent's Address: Alliant Insurance Services, Inc. 16000 N. Dallas Pkwy, Suite 850 Dallas, TX 75248	Berkshire Hathaway Specialty Insurance Company (Co-Surety) By: _____ Title: Diana Cervantes, Attorney-in-Fact 1314 Douglas Street, Suite 1400 Omaha, NE 6810 (Business Address of Co-Surety)

[Note: Add lines to signature block if needed, and strike signature lines not used.]

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[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished.]

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EXHIBIT 7-C

FORM OF WARRANTY BOND

Contract No. _____
Bond No. _____

KNOW ALL PEOPLE BY THESE PRESENTS,

THAT WHEREAS, the Riverside County Transportation Commission, a California public entity (the "Obligee") has awarded to Myers & Sons Construction, LLC, a California limited liability company (the "Principal"), a Progressive Design-Build Contract dated as of _____, 2026 (as amended from time to time, the "Contract"), which Contract is specifically incorporated by reference in this Bond, for the progressive design and construction of the SR-91 Eastbound Corridor Operations Project (the "Project") through a progressive design-build method of procurement, as authorized under Section 22180 et. seq. of the Public Contract Code;

AND WHEREAS, initially capitalized terms not otherwise defined in this Bond have the meaning given in the Contract;

AND WHEREAS, as a condition to Final Acceptance and release of the Performance Bond and Payment Bond, Principal is required to furnish a bond (this "Bond") guaranteeing the faithful performance of its obligations under the Contract after Final Acceptance, including payments owing to persons named in California Civil Code Section 9100;

NOW THEREFORE, We the undersigned Principal and Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company (the "Surety" or "Co-Sureties"), an admitted surety insurer in the State of California, are held and firmly bound unto the Obligee, in the sum of [_____] (the "Bonded Sum"), for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH THAT, if Principal shall promptly and faithfully perform all of its obligations under the Contract, as they may be amended or supplemented, including without limitation the performance of all Plant Establishment Work, Warranty Work, enforcement of Subcontractor warranties, and payment of claims as described in paragraph 5 below, then the obligations under this Bond shall be null and void; otherwise this Bond shall remain in full force and effect, it being expressly understood and agreed that the liability of Surety for any and all claims hereunder shall in no event exceed the Bonded Sum.

The following terms and conditions shall apply with respect to this Bond:

1. The Contract is incorporated by reference into this Bond.

2. If the above bound Principal, or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform the covenants, conditions, obligations and agreements in the Contract, including any and all amendments, supplements, and alterations made to the Contract as therein provided, on the Principal's part to be kept and performed at the time and in the manner therein specified, and shall indemnify, defend and save harmless the Obligee and all other Indemnified Parties, as therein stipulated, then this

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obligation shall become and be null and void; otherwise, it shall be and remain in full force and virtue.

3. This Bond shall cover the cost to perform all the obligations of the Principal pursuant to the Contract, including warranty Work. The obligations covered by this Bond specifically include all payment obligations, liability for damages and warranties as specified in the Contract, but not to exceed the Bonded Sum.

4. Whenever the Principal shall be, and is declared by the Obligee to be, in default under the Contract, the Surety (or Co-Sureties) shall promptly:

(a) remedy such default, or

(b) complete the work and perform the obligations covered by this Bond in accordance with the terms and conditions of the Contract then in effect, or

(c) select a contractor or contractors to complete the work and perform the obligations covered by this Bond in accordance with the terms and conditions of the Contract then in effect, using a contractor or contractors approved by the Obligee in its sole discretion, arrange for a contract that contains substantially the same terms and conditions of the Contract between such contractor or contractors and the Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under such contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the unpaid balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety (or Co-Sureties) is (are) liable hereunder, the Bonded Sum.

5. This Bond shall inure to the benefit of the persons named in Civil Code Section 9100 or anyone required to be paid by law under the Contract so as to give a right of action to such persons or their assigns in any suit brought upon this Bond. The obligations covered by this Bond specifically include:

(a) payments owing to any of the persons named in California Civil Code Section 9100 involved in prosecution of the Work, including the design and engineering services or construction services, as provided for in the Contract, or

(b) any amounts due under the Unemployment Insurance Code, with respect to work or labor performed by such claimant under the Contract or subcontracts, or

(c) any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Principal and its subcontractors pursuant to Revenue and Taxation Code Section 18662 et seq. with respect to such work and labor, and

(d) any other payments owing to anyone required to be paid by law.

In case suit is brought to enforce the provisions of this paragraph 5, the Surety (or Co-Sureties) will pay a reasonable attorney's fee, to be fixed by the court.

6. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the Contract, or in the work to be performed with respect to the Project, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the Contract, or any rescission of this Bond, solely due to acts of Principal, or any fraud

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practiced by any other person other than the claimant seeking to recover this Bond, shall in any way affect its obligations on this Bond, and it does hereby waive notice of such changes, extension of time, alterations, additions, omissions or other modifications.

7. [Use in case of multiple or co-sureties] The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that the Obligee and claimants will have no obligation to deal with multiple sureties hereunder. All correspondence from the Obligee or claimants to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be John Hynes at Nationwide Mutual Insurance Company at email john.hynes@nationwide.com.

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In witness whereof, we have hereunto set our hands and seals on this _____ day of_____.

NOTE: Signatures of those executing for the Surety (or Co-Sureties) must be properly acknowledged, and a Power of Attorney attached.

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

) ss.
COUNTY OF _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
(AFFIX NOTARIAL SEAL)

_____
NOTARY PUBLIC

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APPENDIX 7-C-1

FORM OF MULTIPLE OBLIGEE RIDER

(Warranty Bond)

MULTIPLE OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Warranty Bond No. _____.

WHEREAS, on or about the _____ day of _____, 2026, Myers & Sons Construction, LLC, a California limited liability company (hereinafter called the "Principal"), entered into a Progressive Design-Build Contract bearing the date of _____, 2026 (as amended from time to time, hereinafter called the "Contract") with Riverside County Transportation Authority, a California public entity (hereinafter called the "Primary Obligee") for the progressive design and construction of the SR-91 Eastbound Corridor Operations Project (the "Project") through a progressive design-build method of procurement, as authorized under Section 22180 et. seq. of the Public Contract Code; and

WHEREAS, initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Contract; and

WHEREAS, the Primary Obligee requires that the Principal provide a performance bond and that the California Department of Transportation (the "Department") be named as additional obligee under the performance bond; and

WHEREAS, the Principal and Nationwide Mutual Insurance Company and Berkshire Hathaway Specialty Insurance Company (the "Surety" or Co-Sureties") have agreed to execute and deliver this Rider concurrently with the execution of the Warranty Bond No._____ (hereinafter referred to as the "Warranty Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

1. The Department is hereby added to the Warranty Bond as named obligee (hereinafter referred to as "Additional Obligee").

2. The Surety shall not be liable under the Warranty Bond to the Primary Obligee, the Additional Obligee, or any of them, unless the Primary Obligee, the Additional Obligee, or any of them shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) in accordance with the terms of the Contract as to payments and shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee shall have occurred and be continuing under the Contract.

3. The aggregate liability of the Surety under the Warranty Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Warranty Bond. The Additional Obligees' rights hereunder are subject to the same defenses the Principal and/or the Surety have against the Primary Obligee. The total liability of the Surety shall

in no event exceed the amount recoverable from the Principal by the Primary Obligee under the Contract.

4. The Surety may, at its option, make any payments under the Warranty Bond by check issued jointly to all of the obligees.

5. It is further understood and agreed that nothing contained in this Rider shall be held to change, alter or vary the terms of the attached Warranty Bond except as set forth hereinabove. In the event of a conflict between the Warranty Bond and this Rider, this Rider shall govern and control. All references to the Warranty Bond, either in the Warranty Bond or in this Rider, shall include and refer to the Warranty Bond as supplemented and amended by this Rider. Except as herein modified, the Warranty Bond shall be and remains in full force and effect.

6. The Rider may be executed in two or more counterparts, each of which shall be deemed to be an original, but which together shall constitute one and same instrument.

Signed, sealed and dated this _____ day of _____, 20___.

Myers & Sons Construction, LLC

(Principal) (Seal)

By: _____

(Title)

Nationwide Mutual Insurance Company

(Surety)
(Seal)

By: _____

Diana Cervantes, Attorney-in-Fact

Berkshire Hathaway Specialty Insurance Company

(Surety)
(Seal)

By:

Diana Cervantes, Attorney-in-Fact

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EXHIBIT 8

INVOICE AND INVOICE CERTIFICATE

Exhibit 8-A Invoice

Exhibit 8-B Invoice Certificate

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EXHIBIT 8-A

PHASE 1 INVOICE

[Note to DB Contractor: Phase 2 Invoice form to be developed during Phase 1]

Myers & Sons Construction, LLC
9033 Washington Blvd
Pico Rivera, CA 90660
(424) 646-4600
cwmyers@myers-sons.com

DATE: **MM/DD/YYYY**

David Thomas, P.E.
Toll Program Delivery Director
Riverside County Transportation Commission
4080 Lemon Street, Third Floor
Riverside, California 92501

Attention: Accounts Payable

Reference:
Project Design and Construction (DB) Activities for the SR-91 Eastbound Corridor Operations Project (ECOP)
Contract No. [_____]
Invoice # 001; xx

DB Invoice No: **1**
Month **YYYY**
Agency's Project No: **XX-XX-XXX-XX**
DB Job No: **ZZZZZ**

For professional, technical, and construction services rendered in connection with Progressive Design-Build Contract for SR-91 Eastbound Corridor Operations Project. Contract No. [_____]

Invoice period covered is: [_____] through [_____]

ORIGINAL NTE (PHASE 1):	$	-
AUTHORIZED CHANGES:	$	-
TOTAL NTE (PHASE 1):	$	-
TOTAL INVOICE TO DATE BASED ON SECTION 18.1:	$	-
TOTAL PREVIOUSLY BILLED:	$	-
ADJUSTMENT TO PREVIOUS PERIOD INVOICE:	$	-
ADJUSTED TOTAL PREVIOUSLY BILLED:	$	-
BALANCE REMAINING:	$	-
AMOUNT DUE INVOICE # XXX	**$**	**-**

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I certify that the hours and salary rates charged in this invoice are the actual hours worked and rates paid to the employee(s) listed.

Very truly yours,

Myers & Sons Construction, LLC

Project Manager

cc: RCTC, Project Coordinator
cc: PCM, Project Controls Manager

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EXHIBIT 8-B

PHASE 1 INVOICE CERTIFICATE

Design Quality Validation and Construction Quality Validation Certificate for Payment In accordance with the Contract, based on on-site observations and the data comprising the above application, the Design Quality Validation Manager and Construction Quality Validation Manager certifies to RCTC that, to the best of the DB Contractor's knowledge, information, and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract, and the DB Contractor is entitled to payment of the amount certified.

Design Quality Validation Manager:	**Construction Quality Validation Manager:**
By:_____ Name_____ Title:_____ Date:_____	By:_____ Name_____ Title:_____ Date:_____

This certification is not negotiable. The amount certified is payable only to the DB Contractor named herein. Issuance of payment and acceptance of payment are without prejudice to any rights of RCTC or the DB Contractor under this Contract.

The undersigned DB Contractor certifies that to the best of the DB Contractor's knowledge, information, and belief that the Work covered by this application for payment has been completed in accordance with the Contract, that all amounts have been paid by the DB Contractor for Work for which previous certificates for payment were issued and payments received from the Owner, and that current payment shown herein is now due. All current Subcontractors and vendors invoices are included in this payment request.

Myers & Sons Construction, LLC

DB Contractor:

By:_____
Name_____
Title:_____

Date:_____

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EXHIBIT 9

PROJECT SPECIFIC INFORMATION (PHASE 2)

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EXHIBIT 9-A

CONTRACT PARTICULARS (PHASE 2)

GLOSSARY OF TERMS, INTERPRETATION AND MISCELLANEOUS			
Major Approvals (Section 11.2.4)			
RCTC Liquidated Damages (Section 25.1.1)	**[Note to DB Contactor: Liquidated Damages are associated with Phase 2 and will be developed during Phase 1, and inserted into the Contract]**		
GMP (PHASE 2) (Section 18)			
Target Cost of the Work	**Category**		**Amount**
	Category C: Target Cost of the Work (excluding Cost of the Work Contingency and Allowance)		**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal and subject to negotiation and agreement with RCTC]**
	Category D: Target Cost of the Work (excluding Cost of the Work Contingency and Allowance)		**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal and subject to negotiation and agreement with RCTC]**
	Cost of the Work Contingency		**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal and subject to negotiation and agreement with RCTC]**
	Allowance(s)	**Allowance Item**	**Allowance Value**
		[Note to DB Contactor: To be included in Phase 2 Amendment]	**[Note to DB Contactor: To be included in Phase 2 Amendment]**

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	Total of Allowance Values	**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal and subject to negotiation and agreement with RCTC]**
	Total Target Cost of the Work:	
DB Contractor Audited Overhead (G&A) Rate	**Note to DB Contactor: To be included in Phase 2 Amendment not to exceed the DB Contractor's Audited Overhead (G&A) (Phase 2) applied to Target Cost of the Work, as negotiated and approved by RCTC and subject to negotiations between the Parties]**	
DB Contractor's Profit (Phase 2)	**[Note to DB Contactor: To be included in Phase 2 Amendment not to exceed the DB Contractor's Maximum Profit (Phase 2) applied to Target Cost of the Work plus the DB Contractor Audited Overhead (G&A) Rate, as negotiated and approved by RCTC and subject to negotiations between the Parties]**	
Premiums for bonds and insurance for Phase 2	**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal and subject to negotiations between the Parties]**	
ODCs	**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal and subject to negotiations between the Parties]**	
Total GMP (Phase 2)	**[Note to DB Contactor: To be included in final executed contract based on total Target Cost of the Work, DB Contractor's Fee (Phase 2) and Premiums for Bonds and Insurance]**	
RCTC Liquidated Damages (Section 17.1)	**[Note to DB Contactor: To be inserted if applicable]**	
PHASE 2 MILESTONES		
Phase 2 Milestones and Milestone Deadlines: (Sections 7.9, 7.10)	**Phase 2 Milestone**	**Phase 2 Milestone Deadline**
	NTP Phase 2	**[Note to DB Contactor: To be included in Phase 2**

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		Amendment based on Phase 2 Proposal]
	[Note to DB Contractor: Additional milestones may be added during Phase 2]	**[Note to DB Contactor: To be included in Phase 2 Amendment based on Phase 2 Proposal]**
	Substantial Completion	**[Note to DB Contactor: To be included in Phase 2 Amendment]**
	Project Completion	**[Note to DB Contactor: To be included in Phase 2 Amendment]**
	Final Acceptance	**[Note to DB Contactor: To be included in Phase 2 Amendment]**
NATURE OF CONTRACT		
Conditions to Phase 2 Amendment Execution (Section 7.5)	**[Note to DB Contactor: To be included in Phase 2 Amendment]**	
Conditions to NTP Phase 2 (Section 7.9)	DB Contractor has delivered to RCTC: 1. Insurance policies, certificates of insurance, riders to its existing insurance policies or other evidence reasonably required by RCTC to confirm the existence of all the insurance coverages required for the Phase 2 Work in accordance with Section 14 and Exhibit 12; 2. All Phase 2 Bonds each executed by the issuing Eligible Surety. 3. Guaranty of DB Contractor's obligations in accordance with this Contract, executed by Guarantor in the form of Exhibit 14; and 4. Any other documents, things or assurances required by this Contract as a condition of NTP Phase 2.	

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Order of precedence of documents in the case of any ambiguity, discrepancy or inconsistency (Section 1.2)	1. Amendments and Change Orders 2. Contract body, other than Exhibits and Appendices 3. Contract Particulars (Phase 2) 4. Any other documents forming part of this Agreement, (including Exhibits and Appendices), other than the Technical Provisions (Phase 2), DB Contractor's Activities Proposal, and Phase 2 Proposal Commitments 5. Technical Provisions 6. Department Standard Specifications 7. Phase 2 Design Documentation 8. Administrative Project Plans
Phase 2 Administrative Project Plans: (Section 4.3)	1. Project Management Plan (updated to include Phase 2) 2. Subcontractor Procurement Plan 3. DBE Open Ended Performance Plan 4. Document Management Plan (updated to include Phase 2) 5. Co-Located Office Plan 6. Field Office Plan 7. Computer and Network Administration Plan 8. Job Vehicle Leasing Plan 9. Public Outreach Plan 10. Third Party Claim Plan 11. Quality Management Plan (including Design and Construction, updated for Phase 2) 12. Environmental Management Plan 13. ESA Area and Fence Exhibit 14. Wildlife Corridor Management Plan 15. Cultural Resources Plan 16. Paleontological Mitigation Plan 17. Hazardous Materials and Waste Management Plan 18. Construction Contingency Plan 19. Contaminant Management Plan 20. ADL Management Plan 21. Construction Emissions Mitigation Plan 22. Biological Monitoring Plan 23. Burrowing Owl Management Plan 24. Bat Management Plan 25. Nesting Bird Management Plan 26. Crotch Bumble Bee Monitoring Plan 27. Fire Prevention Plan 28. Sustainability Management Plan

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	29. Weed Abatement Plan 30. California Gnatcatcher Habitat Restoration Plan 31. Habitat Mitigation and Monitoring Plan 32. Braunton's Milk-Vetch Survey 33. Construction Notice to Owner Exhibits 34. Utility Strip Map 35. Department High-Priority Facilities Certification 36. Utility Conflict Matrix 37. Utility Design Approval Letters 38. Alternatives Assessment Report 39. Right of Way Requirements Maps 40. Additional Properties Requests 41. Memorandum Describing Proposed Phase 2 Geotech Work 42. Existing Sign Inventory 43. TMS Inventory 44. Department Furnished Materials List 45. As-Built Verification Maps 46. General TMP 47. Line of Sight Study 48. Project Aesthetics and Landscape Memorandum 49. Tree and Vegetation Preservation and Removal Plan 50. Maintenance Work Plan 51. Preconstruction Maintenance Survey 52. Security Plan 53. Health and Safety Plan (updated to include Phase 2) **[List to updated and confirmed during Phase 1]**
PERFORMANCE AND PAYMENT BONDS / INSURANCE	
Phase 2 Performance Bond: (Section 13.2.1(a), Exhibit 7-A)	**[Sum of 100% of the NTE (Phase 1) plus 100% of GMP (Phase 2)]**
Phase 2 Payment Bond: (Section 13.2.1(b), Exhibit 7-B)	**[Sum of 100% of the NTE (Phase 1) plus 100% of the GMP (Phase 2)]**
Warranty Bond (Section 13.2.3, Exhibit 7-C)	**[10% of the GMP (Phase 2)] [Note: Subject to confirmation in Phase 1]**
SITE	
Access hours for Work during Phase 2: (Section 10.1)	**[Note to DB Contactor: To be included in Phase 2 Amendment]**

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EXHIBIT 9-B

TABLE OF RATES AND PRICES (PHASE 2)

[Rates and prices on following page]

[Note to DB Contactor: To be inserted during Phase 2 Amendment.]

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EXHIBIT 9-C

PHASE 1 DRAWINGS

[Note to DB Contractor: To be developed during Phase 1 and inserted with the Phase 2 Amendment subject to negotiation and review and approval by RCTC and to include the following:

- **Cost Validation**
- **Line of Sight Study**
- **Utility Strip Map**
- **Utility Conflict Matrix**
- **Sign, Tolling and Utility Service Concept Plan**
- **As-Built Verification Maps**
- **Structure plans (11x17 – preliminary)**
- **Draft PGSSP**
- **Draft Structure SSPs**
- **Draft NSSPs**
- **Draft/Final DSDD**
- **Materials Report**
- **Drainage Report**
- **SWDR**
- **Geotechnical Design Report**
- **Geologic Hazard Report for Rockfall and Debris Flow Mitigation**
- **Landscape and Irrigation plans (11x17 – preliminary)**
- **Transportation Management Plan**
- **Final Foundation Report**
- **Comment resolution matrices for all of above**

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EXHIBIT 9-D

PHASE 2 ADMINISTRATIVE PROJECT PLANS

[Note to DB Contactor: To be inserted based on Proposer's Phase 2 Proposal, subject to negotiation and review and approval by RCTC and to include the following:

- **Project Management Plan (Updated to Include Phase 2)**
- **Subcontractor Procurement Plan**
- **DBE Open Ended Performance Plan**
- **Document Management Plan (Updated to Include Phase 2)**
- **Co-Located Office Plan**
- **Field Office Plan**
- **Computer and Network Administration Plan**
- **Job Vehicle Leasing Plan**
- **Public Outreach Plan**
- **Third Party Claim Plan**
- **Quality Management Plan (Including Design and Construction, Updated for Phase 2)**
- **Environmental Management Plan**
- **ESA Area and Fence Exhibit**
- **Wildlife Corridor Management Plan**
- **Cultural Resources Plan**
- **Paleontological Mitigation Plan**
- **Hazardous Materials and Waste Management Plan**
- **Construction Contingency Plan**
- **Contaminant Management Plan**
- **ADL Management Plan**
- **Construction Emissions Mitigation Plan**
- **Biological Monitoring Plan**

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- **Burrowing Owl Management Plan**
- **Bat Management Plan**
- **Nesting Bird Management Plan**
- **Crotch Bumble Bee Monitoring Plan**
- **Fire Prevention Plan**
- **Sustainability Management Plan**
- **Weed Abatement Program**
- **California Gnatcatcher Habitat Restoration Plan**
- **Habitat Mitigation and Monitoring Plan**
- **Braunton's Milk-Vetch Survey**
- **Construction Notice to Owner Exhibits**
- **Utility Strip Map**
- **Utility Conflict Matrix**
- **Utility Design Approval Letters**
- **Right of Way Requirements Maps**
- **Additional Properties Requests**
- **Memorandum Describing Proposed Phase 2 Geotech Work**
- **Existing Sign Inventory**
- **TMS Inventory**
- **Department Furnished Materials List**
- **As-Built Verification Maps**
- **General TMP**
- **Line of Sight Study**
- **Project Aesthetics and Landscape Memorandum**
- **Tree and Vegetation Preservation and Removal Plan**
- **Maintenance Work Plan**

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- **Preconstruction Maintenance Survey**
- **Security Plan**
- **Health and Safety Plan (with Updates for Phase 2)**

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EXHIBIT 9-E

DB CONTRACTOR'S SCHEDULE

[Note to DB Contactor: Phase 2 Baseline Schedule to be inserted based on Proposer's Phase 2 Proposal, subject to negotiation and review and approval by RCTC]

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EXHIBIT 9-F

PHASE 2 PROPOSAL COMMITMENTS

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EXHIBIT 9-G

PHASE 2 PROPOSAL FORMS

[Note to DB Contractor: To be inserted based on Phase 2 Proposal]

[Note to DB Contractor: To include newly executed versions of the following forms related to the Phase 2 Proposal subject to negotiation and review and approval by RCTC:

Non-Collusion Affidavit using Form H;
Certification Regarding Build America, Buy America using Form I and I-2;
Conflict of Interest Disclosure Statement using Form K;
Debarment and Suspension Certification using Form P;
Iran Contracting Certification using Form M;
Disclosure of Contributions using Form F;
Executive Order N-6-22 Certification using Form T;
DBE Certification using Form J-1;
DBE Commitment Form using Form J-2;
Equal Employment Opportunity Certification using Form N;
Use of Contract Funds for Lobbying Certification using Form O.]

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EXHIBIT 9-H

LISTED SUBCONTRACTORS / SUBCONTRACTOR IDENTIFICATION FORM (PHASE 2)

[Note to DB Contractor: To be inserted based on Phase 2 Proposal]

Subcontractor Name, Address, Telephone No., License Number (CSLB and DIR)	Description of Subcontract Work	Dollar Amount of Subcontract	Est. Time of Performance
Michael Baker International	Design Services		
Earth Mechanics Inc.	Geotechnical and Earthquake Engineering Services		
AYCE Consulting Engineers, Inc.	Roadway/ Civil Design Support Services		
Dokken Engineering	Environmental Engineering And Utilities Coordination Services		
Sequoia Consultants	QV/QC Services		
Yeh and Associates	Landslide Geotechnical Engineering Services		

DB Contractor: Myers & Sons Construction, LLC

Date: _____

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EXHIBIT 10

DISPUTE REVIEW BOARD AGREEMENT

THIS DISPUTES REVIEW BOARD AGREEMENT ("Agreement") is made and entered into this ___ day of _____, 20__, among the Riverside County Transportation Commission, a public entity of the State of California ("RCTC") and Myers & Sons Construction, LLC, a California limited liability company ("DB Contractor"), and _____ (collectively, the "Board Members"), with reference to the following facts:

A. RCTC and DB Contractor have entered into that certain Progressive Design-Build Contract No. _____ dated as of _____, 2026 (as amended from time to time, the "Contract"). Pursuant to the Contract, DB Contractor has agreed to construct a portion of the ultimate SR-91 Corridor Improvement Project (SR-91 CIP), which consists of adding an operational lane on eastbound SR-91 from the State Route 241 general purpose connector to the State Route 71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing). The Project is intended to help alleviate the traffic congestion in this area. This portion of the Ultimate SR-91 CIP is being referred to as the SR-91 ECOP. The SR-91 ECOP consists of the adding an operational lane approximately 3 miles in length in the eastbound direction on SR-91 from the SR-241 general purpose connector to the SR-71 Connector auxiliary lane; widening Coal Canyon Road UC (Bridge No. 55-0507R); widening County Line Creek Bridge (Bridge No. 56-0366); constructing new soil nail and type 1 retaining walls on the south side of SR-91; constructing a two-lane exit ramp at the Green River Road eastbound exit ramp and reconstructing a portion of the existing ramp; replacing overhead signs; and lowering Coal Canyon Access Road (the "Project").

B. The Contract provides for the establishment and operation of a Disputes Review Board ("Board") to assist in resolving Disputes among RCTC and DB Contractor, and others in respect to the Project.

C. Capitalized terms used but not defined in this Agreement shall have the meanings set forth in Exhibit 1 to the Contract.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and agreements contained herein, the parties to the Agreement agree as follows:

SECTION 1. ESTABLISHMENT OF BOARD

1.1 The Board shall begin operation upon execution of this Agreement by RCTC and DB Contractor and shall terminate upon completion of all work required to be performed by the Board under this Agreement unless sooner terminated in accordance with this Agreement or applicable law. The Board shall initially consist of two members, one selected by RCTC and one selected by the DB Contractor. The first duty of the Board shall be to select its third member as provided in Section 24 of the Contract. A copy of Section 24 of the Contract is attached hereto as Exhibit A (and shall be applicable with respect to Disputes under the Contract).

1.2 Each member of the Board represents, warrants, and covenants on his/her behalf that he/she:

(a) Does not have an ownership interest in any DB-Related Entity, any Affiliate, the Project and Construction Manager ("PCM"), or the Contract, except for payment for serving on the Board;

(b) Has not been employed, and his/her employer has not been employed, by RCTC, the California Department of Transportation ("Department"), any DB-Related Entity, any Affiliate, or PCM, within two years prior to award of the Contract, except for fee-based consulting services on other projects which are disclosed to all parties and not objected to by any party;

(c) Has not had substantial prior involvement in the Project, and has not had any involvement in the Project or with RCTC, Department, any DB-Related Entity, any Affiliate, or PCM of a nature that could affect his/her ability to impartially resolve Disputes;

(d) Shall not accept employment by RCTC, Department, any DB-Related Entity, any Affiliate, or PCM during the term of the Contract and for as long thereafter as any Dispute submitted to the Board remains outstanding under the Contract, except as a member of other disputes boards; and

(e) Shall not discuss employment, nor make any agreement regarding employment with RCTC, Department, any DB-Related Entity, any Affiliate, or PCM during the term of the Contract and for as long thereafter as any Dispute submitted to the Board remains outstanding under the Contract, except as a member of other disputes boards.

1.3 Prior to hearing the first Dispute, and thereafter upon request of RCTC or DB Contractor from time to time, each Board Member shall provide RCTC and DB Contractor a declaration under penalty of perjury affirming that such member meets the qualifications set forth in Section 1.2 of this Agreement, and agrees to be bound by the terms of the Contract and this Agreement. Each Board Member shall promptly notify RCTC and DB Contractor if any circumstances are likely to prevent a prompt hearing and decision or if the member fails to meet such qualifications. Any Board Member failing at any time to meet such qualifications shall be removed from the Board.

SECTION 2. BOARD ORGANIZATION AND RESPONSIBILITIES

2.1 The Board is organized in accordance with Section 24 of the Contract, for the purposes described under the Contract. The Board shall fairly and impartially consider Disputes that arise under the Contract and shall provide written decisions for resolution of such Disputes ("Recommendations" or "final decisions," as applicable), in accordance with Section 24 of the Contract. The Board Members shall perform the services necessary to participate in the Board's actions in accordance with this Agreement.

2.2 The Board Members may visit the Site periodically to keep abreast of construction activities and to develop a familiarity with the work in progress, or as may be deemed desirable or necessary in the consideration of any Dispute. Any visits to the Site must be approved beforehand by DB Contractor and RCTC. All reasonable efforts shall be made to allow the parties to the Agreement to raise issues at such regularly scheduled site visits, except where a special visit is warranted due to special circumstances such as the need to observe site conditions before they are disturbed. In such a case, a special site visit shall be scheduled at the request of RCTC, DB Contractor, or any Board Member. Representatives of RCTC and DB Contractor shall have the right to accompany the Board on any such visit.

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2.3 All Board Members are to act independently in the consideration of facts and conditions surrounding any Dispute. Seeking the Board Members' advice or consultation, ex parte, is expressly prohibited; except that either party may seek such advice or consultation from the entire Board, at a Board meeting, after first giving Notice to all interested parties. A Disputes Board member who has ex parte contact with a party or party representative shall be subject to removal from the Disputes Board for cause.

2.4 Board Members may withdraw from the Board upon delivery of Notice of withdrawal to RCTC, DB Contractor and the other Board Members, which Notice shall specify a withdrawal date at least 30 days following the date of delivery of the Notice. In addition, a member may be terminated by RCTC or DB Contractor if at any time that member fails to meet the qualifications set forth in Section 24.3.1 of the Contract. Should the need arise to appoint a replacement Board Member, the replacement member shall be appointed in the same manner as provided by the Contract for appointment of the original member. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement and shall be completed within 30 days thereafter. The change in Board membership shall be evidenced by the new member's signature on this Agreement.

2.5 The Board Members acknowledge that RCTC and DB Contractor each have the right to require appointment of a new disputes review board to resolve future Disputes, which right may be exercised at any time by delivery of Notice to such effect to the other party and to the Board Members. In such event a new agreement in the same form as this Agreement will be executed establishing the new board, and except as otherwise mutually agreed by RCTC and DB Contractor, the work to be performed by the Board established under this Agreement shall be limited to Disputes submitted to the Board before delivery of the Notice requiring appointment of a new Board. Nothing shall prohibit a party from reappointing its current member.

2.6 The personal services of the Board Member are a condition to receiving payment under this Agreement. No Board Member shall assign any of his or her work pursuant to this Agreement without the prior written consent of both RCTC and DB Contractor.

2.7 Each Board Member, in the performance of his or her duties on the Board, is acting as an independent contractor and not as an employee of either RCTC or DB Contractor. No Board Member will be entitled to any employee benefits.

SECTION 3. HEARINGS AND DECISIONS

3.1 Each Party may elect to submit a Dispute under the Contract to be heard by the Board as provided in Section 28.3 of the Contract.

3.2 In general, the Board shall have the right to establish its own procedures and time limits, including the right to establish or to waive evidentiary rules and procedures. Each party shall retain the right to discovery as provided in the Contract and to present its witnesses and evidence in its own discretion, within the parameters established by the Board.

3.3 Upon receipt by the Board of a "complaint" pursuant to Section 28.3.3 of the Contract, either from DB Contractor or RCTC, the Board shall convene a hearing to review and consider the matter as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Both RCTC and DB Contractor are encouraged to provide exhibits, calculations, and any other pertinent material to the Board for review prior to the hearing. All such material shall concurrently be given to the other party.

3.4 The Board shall convene to consider questions presented to it and shall at the conclusion of each hearing either provide the Recommendation or final decision, as applicable, or advise the parties when the Recommendation or final decision will be forthcoming.

SECTION 4. PROVISION OF DOCUMENTS TO BOARD

4.1 RCTC shall furnish each Board Member one copy of the Contract and other documents RCTC has that are pertinent to the Board's work.

4.2 DB Contractor shall furnish to each Board Member one copy of all documents it might have, other than those furnished by RCTC, that are pertinent to the Board's work.

SECTION 5. EXPENSES

5.1 Payment for services rendered by each Board Member and for their direct, non-salary expenses shall be calculated in accordance with the payment schedule for such Board Member agreed to among RCTC, DB Contractor, and the Board Member, and RCTC and DB Contractor shall each pay its share of such payments in accordance with Section 24.8 of the Contract.

5.2 Invoices for payment for work completed shall be submitted no more often than once per month. Such invoices shall be in a format approved by RCTC and accompanied by a general description of activities performed during this period. The value of work accomplished for payment shall be established from the billing rate and hours expended by the Board Member together with direct, non-salary expenses. Billings for expenses shall include an itemized listing supported by copies of the original bills, invoices, expense accounts and miscellaneous supporting data.

5.3 Each Board Member shall keep available for inspection, for a period of five years after final payment, the cost records and accounts pertaining to this Agreement.

SECTION 6. DISPUTES INVOLVING OTHER PARTIES

6.1 The Parties to this Agreement acknowledge that certain third parties (including utility owners, Toll Services Provider, Other RCTC Contractors, public agencies, etc. with which RCTC is in contract ("Third Parties")) may subject themselves to the jurisdiction of the Disputes Board for certain disputes that affect such Third Parties.

6.2 In general, such disputes shall be heard by the then existing, three Board Members, appointed as described above and in accordance with the terms of the Contract, this Agreement, and the applicable contract between RCTC and the Third Party. Accordingly, the Third Party shall be deemed to have selected this option:

(a) Unless the Third Party delivers Notice to the Board that it intends to select a qualified consultant/Board Member with respect to such dispute, which Notice is delivered to the Board within seven days after delivery of Notice to Third Party describing the dispute and stating that Third Party is a necessary party to the dispute resolution procedure; or

(b) If Third Party fails to select a qualified consultant/Board Member, as described below, within seven days after delivery of Notice of intent to select such person.

6.3 If, however, the Third Party elects not to use the existing Board, then the parties to this Agreement shall modify the membership of the Board with respect to the dispute(s)

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involving the Third Party, as follows (but only if and to the extent the following rights are provided to the Third Party under its contract with RCTC):

(a) Third Party may select an advisor who shall act as a non-voting consultant to the Board with respect to the dispute; or

(b) Third Party may select a fourth Board Member who shall have the right to participate in the decision-making process under this Agreement with respect to such dispute; or

(c) With respect to disputes which do not involve DB Contractor, the Third Party shall have the right to appoint a Board Member who shall replace the Member appointed by the DB Contractor.

6.4 In selecting a non-voting consultant/Board Member, the Third Party shall be encouraged to appoint the same individual for all disputes, so that such individual will have the opportunity to develop expertise and familiarity regarding the Project.

6.5 Any non-voting consultant or Board Member selected by Third Party shall be required to meet the qualifications for Board Members set forth in this Agreement and the Contract and shall execute and agree to be bound by the terms of this Agreement as to disputes involving the Third Party. In the event the Third Party selects the option under clause (b) of Section 6.3, the fifth Board Member shall be selected by RCTC. Disputes regarding appointment of such Members shall be subject to the dispute resolution procedures set forth in Section 24.4 of the Contract.

6.6 Expenses of the Board payable by Third Party shall be as follows:

(a) If Section 6.2 applies, Third Party shall share equally the costs and expenses for the Board in accordance with Section 24.8 of the Contract; or

(b) If clauses (a), (b), or (c) of Section 6.3 apply, Third Party shall be responsible for paying the costs and expenses for the consultant or for the Board Member that it appointed, as well as a proportionate share of the costs and expenses of the third and fifth members (subject to the right to be reimbursed for such costs and expenses as the prevailing party, as may be awarded in accordance with Section 24.8 of the Contract, together with a proportionate share of any common costs allocable to the parties to a dispute under the Contract. In determining the amount of any such payment or reimbursement of costs and expenses, the Board Members are specifically directed to consider the benefit accruing to Third Party resulting from the Board's expertise and familiarity with the Project and the expenditures previously incurred by RCTC and DB Contractor to develop such expertise and familiarity.

6.7 The provisions set forth in this Section 6 shall supersede any provisions to the contrary contained in Section 19 of the Contract.

SECTION 7. TERM

This Agreement shall commence upon execution hereof by the DB Contractor, RCTC, and the first two members of the Board. The parties to this Agreement anticipate that the Board shall continue to operate on a regular basis through the Contract's Warranty Period. The foregoing is subject to the right of RCTC and DB Contractor to terminate the services of Board Members as specified in this Agreement.

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SECTION 8. MISCELLANEOUS

8.1 The parties intend for Section 24 of the Contract and the other terms of this Agreement to be complementary. Except as otherwise specifically provided in this Agreement, in the event of any conflict between this Agreement and Section 24, Section 24 shall control.

8.2 Notices under this Agreement shall be sent as provided in Section 27.11 of the Contract. The addresses for the Board Members are set forth on the signature pages of this Agreement.

8.3 This Agreement shall be governed by and construed in accordance with the law of the State of California.

DB CONTRACTOR:

Myers & Sons Construction, LLC
a California limited liability company

By:_____

Name:_____

Title:_____

RCTC

By:_____

Name:_____

Title:_____

ATTEST

By:_____

Name:_____

Title:_____

_____

Name:_____

Title:_____

APPROVED AS TO FORM:

By:_____

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BOARD MEMBERS

Address:

_____

_____

_____

_____

Address:

_____

_____

_____

_____

Address:

_____

_____

_____

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EXHIBIT 11

COST OF THE WORK

[Note to DB Contractor: Subject to review and update for Phase 2 to reflect final version of the Modified Standard Specifications]

1. Overview and General Principles

1.1 This Exhibit 11 (Cost of the Work) describes the methods for calculating Cost of the Work and Extra Maintenance Work Costs owing or payable from RCTC to DB Contractor under the Contract.

1.2 All payments made by RCTC to DB Contractor in accordance with this Exhibit 11 (Cost of the Work) will be made as and when incurred or in arrears in accordance with Section 18 or as otherwise expressly provided under this Contract.

1.3 Appropriate regard shall be given to the time value of money and timing of cash flows. All cash flows shall be discounted or inflated to reflect when they occur (if applicable).

1.4 No amounts shall be double counted.

2. Cost of the Work (Phase 2)

2.1 In Phase 2, Cost of the Work means the sum of all costs necessarily incurred and paid by DB Contractor in the proper performance of the Work. In determining the amount of any Relief Event adjusting the NTE or GMP for any Package, the Cost of the Work to be considered in that determination will be only those additional or incremental costs directly attributable to the Relief Event and that result in any Change to the Work or the Scope of Work.

2.2 Costs Included in Cost of the Work (Phase 2)

The Cost of the Work shall include only the:

(a) Items described in Section 9-1.04 of Exhibit 5 (Modified Standards Specifications);

(b) Any Allowance Item;

(c) The Cost of the Work Contingency; and

(d) Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by RCTC and not included in the DB Contractor's Contingency, DB Contractor Overhead (G&A) Rate, DB Contractor's Profit, or Lump Sum Scope of Work (as applicable).

2.3 Costs Excluded from Cost of the Work (Phase 2)

The Cost of the Work shall not include, and DB Contractor shall not be entitled to any compensation for:

(a) Items listed in Section 21.11 of the Contract**;**

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(b) Payroll costs and other compensation of DB Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by DB Contractor whether at the Site or in DB Contractor's principal or a branch office for general administration of the Work and not specifically and expressly included in the schedule of job classifications provided in the applicable Phase's RCTC-approved Table of Rates and Prices, all of which shall be considered administrative costs covered by the DB Contractor Overhead (G&A) Rate or DB Contractor's Profit;

(c) Expenses of DB Contractor's principal and branch offices other than its office at the Site;

(d) Any part of DB Contractor's capital expenses, including interest on DB Contractor's capital employed for the Work and charges against DB Contractor for delinquent payments;

(e) Except as set out in Section 17 of the Contract, amounts incurred and payable for correcting defects;

(f) Amounts (including damages) paid or payable by DB Contractor to any Subcontractor by reason of any breach of contract or other wrongful act or omission by DB Contractor including a breach by DB Contractor of this Contract, except to the extent that such breach or wrongful act or omission was directly caused by any breach of contract or other wrongful act or omission of RCTC;

(g) Costs due to the negligence of any DB-Related Entity (including correction of any unapproved construction, defective work or damaged materials or any other Work that fails to fully comply with this Contract covered) by any guaranty, disposal of materials or equipment wrongly supplied, and making good any damage to property;

(h) Other overhead or general expense costs of any kind, and the costs of any item not specifically and expressly included in Section 2 or the RCTC-approved NTE (Phase 1) or GMP (Phase 2) (as applicable);

(i) During Phase 2, any costs identified as Fixed General Conditions Costs in accordance with Section 2.4, even if such costs would otherwise be included in the Cost of the Work; and

(j) Other amounts not properly incurred in respect of the execution of the Subcontracted Work or which this Contract provides are to be borne by DB Contractor or to be a debt due from DB Contractor to RCTC.

2.4 Fixed General Conditions Costs.

If Phase 2 Approval is obtained or an earlier Package is approved under Section 7.8 of the Contract, the costs listed in this Section 2.4 shall be Fixed General Conditions Costs. Fixed General Conditions Costs shall not include the DB Contractor Overhead (G&A) Rate, DB Contractor's Profit (Phase 1) and shall only include the following items with respect to the subject Work:

(a) payroll costs for employees in the direct employ of DB Contractor in the performance of the subject Work, under schedules of job classifications agreed upon by RCTC and DB Contractor in advance of such performance. Such employees shall include

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superintendents, foremen, and other personnel employed full-time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the subject Work. Payroll costs shall include salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay applicable thereto. The expenses of performing the subject Work outside the hours or days permitted by this Contract shall be included in the above to the extent such performance of Work is authorized by RCTC.

(b) costs of special consultants (not including those consultants providing Design Work), including testing laboratories, attorneys, and accountants, retained for services specifically related to the subject Work.

(c) general administrative costs and supplemental costs, including:

(i) the proportion of necessary transportation, travel, and subsistence expenses of DB Contractor's employees incurred in discharge of duties connected with the Work;

(ii) notwithstanding Section 2.2(f)(iii), the reasonable costs and expenses incurred to establish, operate and demobilize DB Contractor's collocated onsite administrative office, including the cost of facsimile transmissions, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses;

(iii) the cost of utilities, fuel, and sanitary facilities at the Site, as applicable to the subject Work;

(iv) minor expenses such as long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work; and

(d) any other items from the Cost of the Work that the Parties designate to be included as Fixed General Conditions Costs.

2.5 Documentation

DB Contractor shall comply with all recordkeeping and other obligations in Section 9-1.04D(6) of Exhibit 5 (Modified Standards Specifications). DB Contractor will establish and maintain cost records on an Open Book Basis in accordance with generally accepted accounting practices and submit in a form acceptable to RCTC an itemized cost breakdown together with supporting data. These records shall be submitted to RCTC on a weekly basis and at such other times as may be required under the Scope of Work. DB Contractor shall make such data available to RCTC upon request in review of any Claim or Dispute.

3. Unit Prices for Change Order Work

RCTC may elect to price Change Order work using contract unit prices as described in Section 18.7 of the Contract. If RCTC and the DB Contractor do not agree on the use of contract unit prices, RCTC may negotiate with the DB Contractor in accordance with Section 4. The unit prices shall be deemed to include all costs for the Change, including labor, equipment, material, overhead, markups and profit, and shall not be subject to change regardless of any change in the

estimated quantities. The final price of Change Order may be lump sum or may be based upon a final determination of the quantities.

4. Negotiated Prices for Change Order Work

Lump Sum compensation shall be negotiated by the Parties as set out in Section 21.1 of the Contract.

5. Time and Materials Change Order

RCTC may issue a Time and Materials Change Order as set out in Section 21.1 of the Contract.

6. Applicable Overhead and Profit

The total mark-up for indirect costs, overhead, and profit as a percentage of the Extra Work Costs for Extra Work (to be allocated among DB Contractor and Subcontractors who design, undertake and/or perform Extra Work) shall comply with Section 9-1.04 of Exhibit 5 (Modified Standards Specifications), provided however such overhead and profits shall not exceed the Maximum DB Contractor Audited Overhead (G&A) Rate and Maximum DB Profit (as applicable).

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EXHIBIT 12

INSURANCE POLICY REQUIREMENTS

[Note to DB Contractor: Insurance requirements for Phase 2 may be subject to refinement by RCTC once the final scope for Phase 2 is finalized]

All insurance required under this Contract shall be procured from insurance companies authorized to do business in California, with an A.M. Best and Company rating level of A-: VI or better, or as otherwise approved by RCTC. All limits of liability set forth in this Exhibit 12 are in U.S. dollars.

1. Primary Commercial General Liability Insurance

(a) During the period beginning with the issuance of NTP Phase 1 and continuing until issuance of NTP Phase 2, DB Contractor may use its corporate insurance program or project-specific insurance to meet the requirements for primary commercial general liability insurance as specified below. During the period beginning with the issuance of NTP Phase 2 and ending upon Project Completion, or for such longer period as otherwise specifically provided for in Section 14 of the Contract or this Exhibit 12, DB Contractor shall obtain and maintain a project-specific commercial general liability insurance policy for bodily injury, property damage, personal injury, and advertising injury. Coverage shall be written on an occurrence form that shall provide coverage at least as broad as the coverage provided by ISO form CG 00 01. The Indemnified Parties shall be additional insureds using ISO form CG 20 10 10 01 for ongoing operations and ISO form CG 20 37 10 01 for completed operations. DB Contractor may use alternative forms, provided such form provides equivalent coverage, as approved by RCTC in its sole discretion. The policy or policies shall be endorsed to remove exclusions pertaining to railroads. There shall be no coverage-limiting endorsements unless reviewed and approved by the Indemnified Parties or their representatives. There shall be no endorsement or modification of the commercial general liability policy limiting the scope of coverage for liability assumed under an insured contract.

(b) The commercial general liability insurance coverage shall have limits of not less than $2,000,000 per occurrence, $4,000,000 general aggregate, $4,000,000 personal and advertising injury, and $4,000,000 products/completed operations aggregate. The general aggregate limit shall, by endorsement or otherwise, provide a designated aggregate limit solely for the Project using ISO form CG 25 03 05 09 or equivalent form, unless a project-specific insurance policy is purchased.

(c) Completed operations coverage shall extend for as long as there is any exposure to liability under a statute of repose or any other applicable statute. Completed operations coverage shall be endorsed with ISO form CG 20 37 10 01, or the equivalent, with the Indemnified Parties scheduled as additional insureds.

(d) All self-insured retentions for general liability insurance policies shall be disclosed to, and approved in writing by, RCTC. All general liability insurance policies shall allow, but not require, additional insureds, as applicable, to pay self-insured retentions if the named insured fails to do so; except that for each insurance policy that has an approved self-insured retention provision, DB Contractor shall be responsible for paying any applicable self-insured retentions for its insurance policy(ies) and shall be liable to RCTC for said payments in the same manner as those interests would have been protected had the policies not contained a self-insured retention

provision. Any deductible or self-insured retention amount shall be shown on any evidence of insurance provided to RCTC.

2. Workers' Compensation/Employer's Liability Insurance

During all phases of the Project, or for such longer period as otherwise specifically provided for in Section 14 of the Contract or this Exhibit 12, DB Contractor shall obtain and maintain and shall require all Subcontractors of all tiers to obtain and maintain, a policy or policies of insurance providing workers' compensation statutory benefits and employer's liability in conformance with the laws of the State. Employer's liability limits shall be no less than $1 million by accident, $1 million by disease, and $1 million policy limit by disease. DB Contractor, and any Subcontractors performing Plant Establishment Work, shall maintain such insurance through the expiration of the Plant Establishment Period. DB Contractor and/or Subcontractor, whichever is the applicable employer, shall be the named insured on these policies. The workers' compensation policies shall provide the following:

(a) A provision extending coverage to all states operations on an "if any" basis;

(b) Coverage for liability under the United States Longshore and Harbor Workers' Compensation Act, by adding a Longshore and Harbor Workers' Compensation Act coverage endorsement (WC 00 01 06 A) on an "if any" basis; and

(c) Coverage for liability under Title 46 of the United States Code § 688 ("Jones Act") on an "if any" basis, if appropriate.

3. Automobile Liability Insurance

(a) DB Contractor shall obtain and maintain and shall require all Subcontractors of all tiers to obtain and maintain, a business auto liability policy or policies using ISO form CA 00 01 or other form providing coverage at least as broad. Each policy shall cover accidental death, bodily injury, and property damage liability arising from the ownership, maintenance, or use of all owned, non-owned, and hired vehicles connected with performance of the Work, including loading and unloading. DB Contractor's auto liability policies shall cover "any auto" ("symbol 1"). For DB Contractor or any Subcontractor of any tier, who will be involved in any way with the transportation of Hazardous Materials using its own vehicles, pollution liability coverage at least as broad as that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be endorsed on the policy.

(b) DB Contractor's automobile liability coverage shall have a combined single limit per policy period of not less than $10,000,000 per accident and can be scheduled under the excess or umbrella liability policies. Excess or umbrella policies also shall cover "any auto" ("symbol 1"). Subcontractors' policies shall have a combined single limit of no less than $2,000,000 per accident. Such limit may be achieved through any combination of primary and following form excess insurance.

(c) DB Contractor and Subcontractors of all tiers shall maintain such insurance through Final Acceptance; except that such coverage shall be maintained for vehicles used in the performance of Warranty and any Plant Establishment Work until the expiration of the Warranty period and Plant Establishment Period, respectively. The required limits can be satisfied by a combination of a primary policy and an excess policy or policies.

4. Contractor's Pollution Liability Insurance

(a) During the period beginning with the issuance of NTP Phase 1 and continuing until issuance of NTP Phase 2, DB Contractor shall procure and maintain contractor's pollution liability insurance as specified below. Pollution liability insurance limits for the period prior to issuance of NTP Phase 2 shall be no less than $5,000,000 per occurrence and aggregate. Each of the Indemnified Parties shall be an additional insured under such a policy.

(b) During the period beginning with the issuance of NTP Phase 2 and ending upon Final Acceptance or for such longer period as otherwise specifically provided in Section 14 of the Contract or this Exhibit 12, DB Contractor shall obtain and maintain contractor's pollution liability (CPL) insurance with a total limit of liability of no less than $10,000,000 per occurrence and $10,000,000 in the aggregate. Coverage shall extend for as long as there is any exposure to liability under a statute of repose or any other applicable statute, either through continuous maintenance of completed operations coverage in DB Contractor's corporate insurance program or by purchase of extended completed operations for a project-specific policy

(c) The CPL policy shall be occurrence-based and include coverage for cleanup costs, third-party bodily injury and property damage, provided that the third-party property damage liability coverage includes loss of use of damaged property or of property that has not been physically injured or destroyed, resulting from pollution conditions caused by contracting operations. Coverage as required in this paragraph shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other irritants, contaminants, or pollutants. The CPL shall also provide coverage for transportation and off-Site disposal of materials and environmental or "natural resource" damage.

(d) Each of the Indemnified Parties shall be an additional insured under such a policy. The policy shall not contain any provision or exclusion (including any so-called "insured versus insured" exclusion or "cross-liability" exclusion) the effect of which would be to prevent, bar, or otherwise preclude any additional insured under the policy from making a claim which would otherwise be covered by such policy.

(e) DB Contractor shall require that any Subcontractor that performs environmental remediation work provide pollution and environmental impairment liability insurance with limits and scope of coverage appropriate to the exposure.

5. Umbrella or Excess Liability Insurance

(a) During the period beginning with the issuance of NTP Phase 1 and continuing until issuance of NTP Phase 2, DB Contractor may use its corporate program of insurance or project-specific insurance to meet the requirements for umbrella or excess liability insurance as specified below. Total liability insurance limits, including limits provided by umbrella or excess liability insurance in place prior to issuance of NTP Phase 2, shall be no less than $10,000,000. Each of the Indemnified Parties shall be an additional insured under such a policy.

(b) During the period beginning with issuance of NTP Phase 2 and ending upon Final Acceptance or for such longer period as otherwise specifically provided for in this Exhibit 12 or Section 14 of the Contract, DB Contractor shall obtain and maintain an umbrella or excess liability insurance program with project-specific limits of not less than $100,000,000 that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability and employer's liability in excess of the amounts set forth in Sections 1 and 2 of this Exhibit 12. RCTC reserves

the right to require higher or lower excess liability limits based on the actual scope, length, and construction value as determined by the project's milestone for NTP Phase 2.

(c) Such policy or policies shall include the following terms and conditions:

i. drop down feature requiring the policy to respond in the event that any primary insurance limits are exhausted or for occurrences covered by an umbrella policy but not covered in the underlying insurance;

ii. pay on behalf of wording as opposed to reimbursement;

iii. concurrency of effective dates with primary policies;

iv. the policies shall "follow form" to the underlying primary policies, including the provision of completed operations coverage to the additional insured Indemnified Parties as required under Section 1 of this Exhibit 12; and

v. there shall be no "contractors' limitation" endorsements, as described in Section 1, that have not been reviewed and approved by the Indemnified Parties or their authorized representatives.

6. Professional Liability Insurance

(a) During all phases of the Project, DB Contractor shall obtain and maintain a project-specific professional liability insurance with limits not less than $20,000,000 per claim and in the aggregate. DB Contractor may, at its discretion, require lower limits of professional liability insurance from lower-tier design Subcontractors (e.g., smaller design firms). No self-insured retention for DB Contractor shall exceed $500,000 without prior written approval from RCTC, in its good faith discretion. The policy shall provide for a total period of no less than ten (10) years, including policy period and extended reporting period.

(b) Coverage shall apply specifically to all professional activities performed under this Contract. The policy(ies) shall have a retroactive date consistent with the inception of design and/or project/construction management activities. If the DB Contractor subcontracts with other design professional service providers, it may include its subconsultants in the project-specific policy or require professional liability insurance commensurate with the inherent risks of that trade. If subconsultants are separately insured, DB Contractor shall require the design professional Subcontractors to agree to maintain this coverage for a period of no less than three years after Substantial Completion or to purchase an extended reporting period for no less than three years after Substantial Completion.

7. Builder's Risk

Upon commencement of construction and with approval of RCTC, DB Contractor shall obtain and maintain builder's risk insurance for the Project as specified below. The policy may be a DB Contractor corporate master builders risk insurance program or a stand-alone policy as long as the requirements of this Section 7 of Exhibit 12 are met. The named insureds shall be DB Contractor, all Subcontractors (excluding those solely responsible for design Work) of any tier, Suppliers, RCTC, and the Indemnified Parties. The status of the insureds under this requirement shall not be limited by the phrase "as their interests may appear" or similar language. DB Contractor is not required to maintain property insurance for any portion of the Project following acceptance thereof by RCTC, Department or a Local Agency.

(a) Minimum Scope

A builder's risk insurance policy on an "all risk" basis at full replacement cost basis, including appropriate sublimits for earthquake, flood, and windstorm for those portions of the Project comprising high value assets subject to loss from a single occurrence. Examples of such assets include materials, temporary buildings, falsework, bridges, connectors, off ramps, foundations, and other structures or items. DB Contractor may elect to cover all property using a probable maximum loss valuation if such a strategy would result in lower premium while still reasonably protecting the property as mutually agreed between RCTC and DB Contractor under the course of construction. Coverage for each asset should be applicable only for the period of construction of the specific asset and should end when the asset is put to its intended use or as otherwise approved and accepted by RCTC, which end of coverage must be approved by RCTC prior to termination.

Policy must include: (i) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications using a form that is no more restrictive than LEG 2; (ii) full collapse; (iii) coverage for removal of debris, subject to a sub-limit of no less than 25% of the loss or what is reasonably available in the insurance market, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (iv) transit coverage, including ocean marine coverage (unless insured by the Supplier or through a separate marine cargo policy), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (v) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site. Such insurance shall be on a form reasonably acceptable to RCTC to ensure adequacy of terms and sublimits.

8. Railroad Protective Liability

DB Contractor shall provide any coverage as may be required by any railroad as a condition of the railroad's consent for entry into railroad facilities or property. Such policy shall be effective during the period any Work is being performed within 50 feet of any railroad right of way. DB Contractor should obtain quotes for a master Railroad Protective Liability policy and choose the most practical and cost-effective alternative between such a policy versus typical RPL policies, provided that the chosen policy meets all requirements of the railroad.

9. Aircraft Liability

DB Contractor shall provide, or cause to be provided, aircraft liability insurance, with a limit of not less than $5,000,000 per occurrence or higher limits as may be required by RCTC, in all cases where any aircraft, including manned or unmanned, is used on the Project that is owned, leased or chartered by any DB-Related Entity, protecting against claims for damages resulting from such use. Any aircraft intended for use in performance of the Work, the aircraft crew, flight path and altitude, including landing of any aircraft on the Site or on any property owned by RCTC shall be subject to review and written acceptance by RCTC prior to occurrence of any such usage. If any aircraft are leased or chartered with crew and/or pilot, evidence of non-owned aircraft liability insurance will be acceptable but must be provided prior to use of the aircraft. For use of unmanned aircraft vehicles (UAV), DB Contractor or applicable subcontractor, may provide insurance either through an aircraft liability insurance policy, or by endorsement to the DB Contractor's commercial general liability insurance policy and excess liability policies. Use of unmanned aircraft must comply with all state and federal rules and regulations, including FAA requirements.

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EXHIBIT 13

STATE AND FEDERAL REQUIREMENTS

Exhibit 13-A	State Requirements
Exhibit 13-B	Public Contract Code Section 9204
Exhibit 13-C	Federal Requirements
Exhibit 13-D	Federal Prevailing Wage Rate
Exhibit 13-E	FHWA Form 1273

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EXHIBIT 13-A

STATE REQUIREMENTS

DB Contractor shall perform its obligations under the Contract in accordance with the following requirements.

1. WORKERS' COMPENSATION

1.1 Workers' Compensation

DB Contractor shall comply with 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.

1.2 Securing Workers' Compensation

In accordance with the provisions of Section 3700 of the California Labor Code, Contractor and its Subcontractors will be required to secure the payment of compensation to their employees.

1.3 Prevailing Wages

Pursuant to the provisions of section 1773 of the California Labor Code, RCTC has obtained the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided for in section 1773.1 of said Code, apprenticeship or other training programs authorized by section 3093 of said Code, worker protection and assistance programs or committees established under the Federal Labor Management Cooperation Act of 1978, industry advancement and collective bargaining agreements administrative fees), provided that these payments are required under a collective bargaining agreement pertaining to the particular craft, classification, or type of work within the locality or the nearest labor market area at issue and other similar purposes applicable to the Work to be done, for straight time, overtime, Saturday, Sunday, and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification or type of worker concerned; provided that if the prevailing wage rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid as provided in section 6700 of the California Government Code. Copies of the prevailing rates of wages are on file at RCTC's offices and will be furnished to DB Contractor and other interested parties on request. For crafts or classifications not shown on the prevailing wage determinations, DB Contractor may be required to pay the wage rate of the most closely related craft or classification shown in such determinations for the Work. Workers employed in the Work must be paid at the rates at least equal to the prevailing wage rates as adopted. The State prevailing wages to apply to Phase 1 shall be the DIR wage rates applicable upon the date when the final RFP is issued, being November 13, 2025. The State prevailing wages to apply to Phase 2 shall be the DIR wages applicable upon the date ten days before submittal of the GMP (Phase 2) and Phase 2 Proposal, except as otherwise directed by RCTC.

If the Division of Labor Standards Enforcement determines that employees of any Subcontractor were not paid the general prevailing rate of per diem wages, DB Contractor shall withhold an amount of moneys due to the Subcontractor sufficient to pay those employees the general prevailing wage rate of per diem wages if requested by the Division of Labor Standards Enforcement. DB Contractor shall pay any money retained from and owed such Subcontractor

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upon receipt of notification by the Division of Labor Standards Enforcement that the wage complaint has been resolved. Pursuant to section 1773.2 of the Labor Code, DB Contractor shall post prevailing wage rates at a prominent place at the Site.

1.4 Hours of Work

Eight hours labor constitutes a legal day's work.

1.5 Payroll Records

Work on the job site must comply with Labor Code sections 1720 et seq. and 8 CA Code of Regulations § 16000 et seq.

Payroll records include time cards, canceled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other information which reflect job assignments, work schedules by days and hours, and the disbursement of payment to workers (8 CA Code of Regs § 16000).

1.6 Apprenticeship

DB Contractor shall comply with the provisions of Labor Code Sections 1777.5 and 1777.6, and Title 8, Code of Regulations, Sections 200 et. seq., relating to apprentice employment and training. DB Contractor shall assume full responsibility for compliance with said sections with respect to all apprenticeable occupations on the Project. To ensure compliance and complete understanding of the law regarding apprentices, and specifically the required ratio thereunder, DB Contractor should, where some question exists, contact the Division of Apprenticeship Standards, Los Angeles Office, 320 West 4th Street, Suite 830, Los Angeles, CA 90013, prior to commencement of the Work.

1.7 Specific Labor Code Provisions

DB Contractor's attention is directed to the following requirements of the Labor Code. A copy of each such Code section (except 1810, 1811 and 1812) shall be included in each Subcontract hereunder:

Labor Code Section 1725.5

1725.5. A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars ($400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars ($2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty

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renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work.

Labor Code Section 1771

1771. Except for public works projects of one thousand dollars ($1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable to contracts let for maintenance work.

Labor Code Section 1775

1775. (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars ($40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars ($80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars ($120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

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(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

Labor Code Section 1776

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor,

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subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress

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payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

Regulations implementing Labor Code Section 1776 are located in Sections 16000, 16400, 16401, 16402, 16403, and 16500 of Title 8, California Code of Regulations.

Labor Code Section 1777.5

1777.5. (a) This chapter does not prevent the employment of properly registered apprentices upon public works.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry

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affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program.

"Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body.

Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of

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apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) (A) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

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(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars ($30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

All decisions of an apprenticeship program under this Section are subject to Section 3081.

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Labor Code Section 1810

1810. Eight hours labor constitutes a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, or control, or by the authority of any officer of this State acting in his official capacity, or under the direction, or control or by the authority of any municipal corporation, or of any officer thereof. A stipulation to that effect shall be made a part of all contracts to which the State or any municipal corporation therein is a party.

Labor Code Section 1811

1811. The time of service of any workman employed upon public work is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week, except as hereinafter provided for under Section 1815.

Labor Code Section 1812

1812. Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Standards Enforcement.

Labor Code Section 1813

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract and shall report them to the Division of Labor Standards Enforcement.

Labor Code Section 1815

1815. Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 11/2 times the basic rate of pay.

F. Labor Nondiscrimination

DB Contractor's attention is directed to Section 1735 of the Labor Code, which reads as follows:

> "A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public

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works who violates this section is subject to all the penalties imposed for a violation of this chapter."

DB Contractor's attention is directed to the following "Nondiscrimination Clause" that is required by Chapter 5 of Division 4 of Title 2, California Code of Regulations.

Nondiscrimination Clause

1. During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Admin. Code, Tit. 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

2. This Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract

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EXHIBIT 13-B

PUBLIC CONTRACT CODE SECTION 9204

Public Contract Code - PCC

9204.

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

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(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) “Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) “Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity’s written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of

the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.

(Amended by Stats. 2019, Ch. 489, Sec. 1. (AB 456) Effective January 1, 2020. Repealed as of January 1, 2027, by its own provisions.)

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EXHIBIT 13-C

FEDERAL REQUIREMENTS

[Note to DB Contractor: Changes may need to be made by way of Addendum or prior to Phase 2 to track any new changes in federal regulations, law or policy prior to execution.]

DB Contractor shall perform its obligations under the Agreement in accordance with the following requirements.

1. FEDERAL REQUIREMENTS FOR CONSTRUCTION PROJECT ON FEDERAL-AID HIGHWAY

GENERAL. — The Work herein is subject to the statutes, rules, regulations and required Contract provisions promulgated by the Federal Government included in this Exhibit 13-C. Whenever in said required contract provisions references are made to:

(a) "contracting officer" or "authorized representative" such references shall be construed to mean RCTC or its Authorized Representative;

(b) "contractor", "prime contractor", "bidder," "proposer," "Federal-aid construction contractor," "prospective first tier participant," or "First Tier Participant," such references shall be construed to mean DB Contractor or its Authorized Representative;

(c) "contract," "prime contract," "Federal-aid construction contract," or "design-build contract," such references shall be construed to mean the Contract between DB Contractor and RCTC for the Project;

(d) "subcontractor", "supplier", "vendor", "prospective lower tier participant, "lower tier prospective participant," "Lower tier participant," or "lower tier subcontractor," such references shall be construed to mean any Subcontractor or Supplier; and

(e) "department", "agency," "department or agency with which this transaction originated," "department or agency entering into this transaction," or "contracting agency," such references shall be construed to mean RCTC, except where a different department or agency is specified.

BUY AMERICA REQUIREMENTS – This Contract is subject to 23 CFR § 635.410, Buy America requirements. The provisions of 23 CFR § 635.410 are incorporated herein by reference.

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2. COMPLIANCE WITH BUY AMERICA REQUIREMENTS

DB Contractor shall comply with the Federal Highway Administration (FHWA) Buy America Requirement in 23 CFR 635.410, which permits FHWA participation in the Contract only if domestic steel and iron will be used on the Project. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes for these materials must occur in the United States, with the exception that pig iron and processed, pelletized and reduced iron ore manufactured outside of the United States may be used in the domestic manufacturing process for such steel and iron materials. The application of coatings, such as epoxy coating, galvanizing, painting and other coating that protects or enhances the value of steel or iron materials shall be considered a manufacturing process subject to Buy America requirements. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1% of the contract price under the Contract.

A Certificate of Compliance shall be furnished for steel and iron materials. The certificates, in addition to certifying that the materials comply with the specifications, shall specifically certify that all manufacturing processes for the materials occurred in the United States, except as for the above exception.

3. AMERICANS WITH DISABILITIES ACT

DB Contractor shall be responsible for familiarity and compliance with (as applicable) the Americans with Disabilities Act, 42 U.S.C. section 12101 et seq. and its implementing regulations. DB Contractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. DB Contractor will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any contract entered into by DB Contractor or any Subcontractor relating to the Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

4. VERIFICATION OF EMPLOYMENT ELIGIBILITY

By executing this Agreement, DB Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented persons, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all Subcontractors at all tiers, including sub-subcontractors, subconsultants, sub-subconsultants, and consultants to comply with the same. DB Contractor agrees that any of the following shall constitute a Default of DB Contractor: (1) failure of DB Contractor or its subcontractors at any tier to meet any of the requirements provided for in this Section 4; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any Person found not to be in compliance with such requirements.

5. SOLID WASTE DISPOSAL ACT

DB Contractor shall comply with all requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA). The requirements of section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of completion, where the

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purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in EPA guidelines.

DB Contractor shall include language equivalent to that in this Section 5 in each of its Subcontracts and require each Subcontractor to include equivalent language in each of its Subcontracts.

6. TRAFFICKING IN PERSONS

DB Contractor and its employees may not engage in severe forms of trafficking in persons during the term of this Agreement, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. DB Contractor shall provide immediate notice to RCTC of any information regarding a violation of the foregoing. DB Contractor recognizes that any failure to comply with this Section 6 may subject RCTC to loss of federal funds. DB Contractor agrees to compensate RCTC for any such funds lost due to its failure to comply with this Section 6 or the failure of any Subcontractor to comply with this condition.

DB Contractor shall include language equivalent to that in this Section 6 in each of its Subcontracts and require each Subcontractor to include equivalent language in each of its Subcontracts.

7. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS

(a) This Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on DB Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (FAR) 3.908.

(b) DB Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in FAR 3.908.

(c) DB Contractor shall insert the substance of this Section 7, including this subsection (c), in all Subcontracts over the simplified acquisition threshold, as defined in FAR 2.101 on the date of Subcontract award.

8. USE OF PROHIBITED PRODUCTS

(a) So long as section 889 of the National Defense Authorization Act of 2019 (H.R. 5515 at pp. 282-284; Pub. L. 115-232) or any comparable statute is effective, DB Contractor shall not commit any of the following actions:

(i) deliver, install, or include any Prohibited Product under this Agreement;

(ii) propose to deliver, install, or include any Prohibited Product under this Agreement; or

(iii) enter into a new contract to procure or obtain any Prohibited Product.

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(b) For the purpose of this Section 8, "Prohibited Product" is defined as any telecommunication or video surveillance equipment, systems, or services produced by any of the following entities:

(i) Huawei Technologies Company;

(ii) ZTE Corporation;

(iii) Hytera Communications Corporation;

(iv) Hangzhou Hikivision Digital Technology Company;

(v) Dahua Technology Company; or

(vi) Any subsidiary or affiliate of the entities mentioned in this Section 8(b)

(c) DB Contractor shall identify the known subsidiaries and affiliates of the entities listed in Section 6(b) from the following website: https://umd.service-now.com/itsupport?id=kb_article_view&sysparm_article=KB0014132&sys_kb_id=28015b70dbe0e3849382f1a51d96193f.

9. ENVIRONMENTAL COMPLIANCE

DB Contractor shall comply with: all applicable standards, orders, and requirements issued under the Clean Air Act (42 USC § 7401–7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1387). Any violations of this Section 9 shall be reported to RCTC and the applicable EPA regional office.

10. FEDERAL ANTI-DISCRIMINATION

(a) Pursuant to section (3)(b)(iv)(A), Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, DB Contractor agrees that its compliance in all respects with all applicable federal antidiscrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code.

(b) Pursuant to section (3)(b)(iv)(B), Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, by entering into this Agreement, DB Contractor certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable federal anti-discrimination laws.

11. FEDERAL LAW AND PUBLIC POLICY REQUIREMENTS

DB Contractor shall ensure that federal funding is expended in full accordance with the U.S. Constitution, federal law, and statutory and public policy requirements including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and DB Contractor will cooperate with federal officials in the enforcement of federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other federal offices and components of the Department of Homeland Security in the enforcement of federal immigration law.

12. PROHIBITION ON PROCUREMENT OR OPERATION OF COVERED UNMANNED AIRCRAFT SYSTEMS

Pursuant to Section 1825 of the American Security Drone Act of 2023 (Pub. L. 118-31) and Office of Management and Budget Memorandum M-26-02, the following prohibition applies to the use of funds provided through any federal grant, cooperative agreement, or other award.

(1) *Definitions.* The terms "FASC-prohibited unmanned aircraft system" and "unmanned aircraft system" have the definitions provided in 48 C.F.R. § 40.201, or successor regulation.

(2) *Prohibition.* Pursuant to the prohibition in Section 1825 of the Act, no federal funds awarded through a grant or cooperative agreement, or otherwise made available, may be used for the following:
   a. To procure a FASC-prohibited unmanned aircraft system; or
   b. In connection with the operation of a FASC-prohibited unmanned aircraft system.

13. DB CONTRACT SHALL COMPLY WITH THE FOLLOWING:

(a) Federal Fair Labor Standards Act – 29 U.S.C. 201, et seq.

(b) Hatch Act – 5 U.S.C. 1501, et seq.

(c) Section 106 of the National Historic Preservation Act of 1966 – 54 U.S.C. 306108

(d) Archeological and Historic Preservation Act of 1974 – 54 U.S.C. 312501, et seq.

(e) Native American Graves Protection and Repatriation Act – 25 U.S.C. 3001, et seq.

(f) Section 404 of the Clean Water Act, as amended – 33 U.S.C. 1344

(g) Coastal Zone Management Act, Pub. L. No. 92-583, as amended – 16 U.S.C. 1451, et seq.

(h) Section 102 of the Flood Disaster Protection Act of 1973 – 42 U.S.C. 4012a

(i) Age Discrimination Act of 1975 – 42 U.S.C. 6101, et seq.

(j) American Indian Religious Freedom Act, Pub. L. No. 95-341, as amended

(k) Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.

(l) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. No. 91-616, as amended – 42 U.S.C. 4541, et seq.

(m) Sections 523 and 527 of the Public Health Service Act of 1912, as amended – 42 U.S.C. 290dd through 290dd-2

(n) Architectural Barriers Act of 1968 – 42 U.S.C. 4151, et seq.

(o) Wild and Scenic Rivers Act, Pub. L. No. 90-542, as amended – 16 U.S.C. 1271, et seq.

(p) Single Audit Act of 1984 – 31 U.S.C. 7501, et seq.

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(q) Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681 through 1683 and 1685 through 1687

(r) The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)

(s) Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

(t) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not)

(u) Freedom of Information Act – 5 U.S.C. 552, as amended

(v) Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. 1855

(w) Farmland Protection Policy Act of 1981 – 7 U.S.C. 4201, et seq.

(x) General Bridge Act of 1946 – 33 U.S.C. 401 and 525

(y) Section 4(f) of the Department of Transportation Act of 1966 – 49 U.S.C. 303 and 23 U.S.C. 138

(z) Wilderness Act – 16 U.S.C. 1131-1136

(aa) The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. No. 109–282, as amended by section 6202 of Pub. L. No. 110–252)

(bb) Cargo Preference Act of 1954 – 46 U.S.C. 55305

(cc) Section 889 of the John D. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232

(dd) Build America, Buy America Act, Pub. L. No. 117-58, div. G §§ 70901–70927

(ee) Executive Order 11990 – Protection of Wetlands

(ff) Executive Order 12372 – Intergovernmental Review of Federal Programs

(gg) Executive Order 12549 – Debarment and Suspension

(hh) Executive Order 13513 – Federal Leadership on Reducing Text Messaging While Driving

(ii) Executive Order 14005 – Ensuring the Future is Made in All of America by All of America's Workers

(jj) Executive Order 14025 – Worker Organizing and Empowerment

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(kk) Executive Order 14149, Restoring Freedom of Speech and Ending Federal Censorship

(ll) Executive Order 14154, Unleashing American Energy

(mm) Executive Order 14151, Ending Radical and Wasteful Government DEI Programs and Preferencing

(nn) Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs – 49 CFR Part 24

(oo) Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 CFR Part 2

(pp) Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 CFR Part 28

(qq) Denial of Public Works Contracts to Suppliers of Goods and Services of Countries that Deny Procurement Market Access to U.S. Contractors – 49 CFR Part 30

(rr) Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 CFR Part 32

(ss) DOT's Implementing ADA Regulations for Transit Services and Transit Vehicles, Including the DOT's Standards for Accessible Transportation Facilities in Part 37, Appendix A – 49 CFR Parts 37 and 38

(tt) Brooks Act (for FHWA projects, this incorporates Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C. 1101-1104; 23 U.S.C. 112(b)(2)

(uu) Letting of Contracts, 23 U.S.C. 112

(vv) Highway Design and Construction Standards, 23 U.S.C. 109

(ww) Prevailing Rate of Wage, 23 U.S.C. 113

(xx) Planning, 23 U.S.C. 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)

(yy) Tolls, 23 U.S.C. 301 (to the extent the recipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. 129 and 166

(zz) Size, Weight, and Length Limitations – 23 U.S.C. 127, 49 U.S.C. 31101 et seq.

(aaa) Buy America – 23 U.S.C. 313 (see http://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm)

(bbb) Efficient Environmental Reviews - 23 U.S.C. 13

(ccc) Planning – 23 CFR Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)

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(ddd) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 CFR Parts 200, 1201

(eee) National Highway System Design Standards – 23 CFR Part 625

(fff) Preconstruction Procedures – 23 CFR Part 630 Subparts A and B

(ggg) Construction and Maintenance – 23 CFR Part 635

(hhh) Manual on Uniform Traffic Control Devices – 23 CFR Part 655

(iii) Environmental Impact and Related Procedures – 23 CFR Part 771

(jjj) Procedures for Abatement of Highway Traffic and Construction Noise – 23 CFR Part 772

(kkk) Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 CFR Part 774

(lll) Permitting Requirements under the National Pollutant Discharge Elimination System – 40 CFR Part 122

(mmm) External Programs – 23 CFR Part 230

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EXHIBIT 13-D

FEDERAL PREVAILING WAGE RATE

(SUBJECT TO CHANGE)

The federal prevailing wage rates for the Phase 2 Work or any applicable Package shall be those set forth under the general wage decision for projects in Riverside County, California as published on the Davis-Bacon wage determination website at https://sam.gov/wage-determinations on the date that is ten days before submission of the Phase 2 Proposal except as otherwise directed by RCTC. Such prevailing wage rates shall be incorporated in this Exhibit 13-D.

[Note: The wage decisions and labor classifications in this Exhibit 13-D shall be incorporated into this Contract at or before execution of the Phase 2 Amendment or any early Package (as applicable) with the wage decisions and labor classifications in effect ten days before submission of the Phase 2 Proposal, except as otherwise directed by RCTC. DB Contractor is not entitled to any change in the GMP (Phase 2) or any Package due to the differences between the wage decisions and labor classifications in this Exhibit 13-D and those in effect ten days before submission of the Phase 2 Proposal or as otherwise directed by RCTC.]

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EXHIBIT 13-E

REQUIRED PROVISIONS FOR FEDERAL-AID CONSTRUCTION PROJECTS

GENERAL. — The Work herein proposed will be financed in whole or in part with federal funds, and therefore all of the statutes, rules, and regulations promulgated by the federal government and applicable to Work financed in whole or in part with federal funds will apply to such Work. The "Required Contract Provisions Federal-Aid Construction Contracts," Form FHWA-1273 are included in this Exhibit 13-E. When utilized in the " Required Contract Provisions Federal-Aid Construction Contracts" Form FHWA-1273, the following terms will have the following meanings:

(A) "Contractor," "prime contractor," "bidder," or "prospective primary participant" shall be construed to mean DB Contractor or its authorized representative, including any of its Key Personnel;

(B) "Contract" or "prime contract" shall be construed to mean the Contract between DB Contractor and RCTC for the Project, including all of the documents referenced therein;

(C) "Subcontractor," "supplier," "vendor," "prospective lower tier participant," or "lower tier subcontractor" shall be construed to mean any Subcontractor or Supplier; and

EXECUTIVE ORDER 14173. — Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," executed January 21, 2025, revokes Executive Order 11246, "Equal Employment Opportunity" ("**EO 11246**"). The USDOL issued regulations implementing certain sections of EO 11246 at 41 C.F.R. Part 60. Until USDOL revokes these regulations, they remain effective law and compliance is required. Note that this Exhibit 13-E reference EO 11246 in several places. Though the language is required, any mention of EO 11246 can be disregarded.

EXECUTIVE ORDER 14168. — Executive Order 14168, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," signed January 20, 2025, ("**EO 14168**") requires federal agencies to rescind all guidance documents inconsistent with the requirement of EO 14168. Until the FHWA reissues Form FHWA-1273, the current Form FHWA-1273 (dated October 23, 2023) remains effective and compliance is required. Note that this Exhibit 13-E references gender identity in several places. Though the language is required, any mention of gender identity can be disregarded.

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REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

General
I. Nondiscrimination
II. Non-segregated Facilities
III. Davis-Bacon and Related Act Provisions
IV. Contract Work Hours and Safety Standards Act Provisions
V. Subletting or Assigning the Contract
VI. Safety: Accident Prevention
VII. False Statements Concerning Highway Projects
VIII. Implementation of Clean Air Act and Federal Water Pollution Control Act
IX. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
X. Certification Regarding Use of Contract Funds for Lobbying
XI. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 25, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 25, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

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1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

> "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

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d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. Wage rates and fringe benefits. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. Frequently recurring classifications. (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a

wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by the classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to *DBAconformance@dol.gov.* The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to *DBAconformance@dol.gov,* refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. Fringe benefits not expressed as an hourly rate. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. Unfunded plans. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. Interest. In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. Withholding requirements. The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed

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in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph 2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH–347.* The weekly submission of a properly executed certification set forth on the reverse side

of Optional Form WH–347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. Contracts, subcontracts, and related documents. The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. Required disclosures and access (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) Sanctions for non-compliance with records and worker access requirements. If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) Required information disclosures. Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) Fringe benefits. Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) Apprenticeship ratio. The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Reciprocity of ratios and wage rates. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. Apprentices and Trainees (programs of the U.S. DOT). Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Anti-kickback Act requirements. The contractor shall comply with the requirements of 18 U.S.C. 874, 40 U.S.C. 3145, and 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section,

in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. Withholding process. The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

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(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to ensure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

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Shall we be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant

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is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations' act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous because of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

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g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-built contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

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1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

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EXHIBIT 14

FORM OF GUARANTY

This Guaranty (the "**Guaranty**") is made by Myers & Sons Construction, LP, a California limited partnership ("**Guarantor**"), in favor of the Riverside County Transportation Commission, a public entity of the State of California ("**RCTC**").

WHEREAS, Myers & Sons Construction, LLC, a limited liability company ("**DB Contractor**"), and RCTC are parties to that certain Progressive Design-Build Contract (the "**Contract**") pursuant to which the DB Contractor has agreed to develop, design, and construct the Project. Unless the context otherwise requires, capitalized terms used but not separately defined in this Guaranty will have the meaning given to them in the Contract.

WHEREAS, to induce RCTC to (i) enter into the Contract; and (ii) consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.

WHEREAS, DB Contractor is a limited liability company. The Guarantor is a limited partnership.

WHEREAS, the execution of the Contract by RCTC and the consummation of the transactions contemplated by the Contract will materially benefit Guarantor. Without this Guaranty, RCTC would not have entered into the Contract with DB Contractor. In consideration of RCTC's execution of the Contract and consummation of the transactions contemplated by the Contract, Guarantor has agreed to execute this Guaranty.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. Guaranty.

a. Guarantor guarantees to RCTC and its successors and assigns the full and prompt payment and performance when due of all of the obligations of the DB Contractor arising out of, in connection with, under or related to the Contract (including, without limitation, the DB Contractor's obligation to make payment to RCTC for Liquidated Damages and indemnity). The obligations guaranteed pursuant to this Guaranty are collectively referred to in this Guaranty as the "**Guaranteed Obligations**."

b. Guarantor covenants to RCTC that if at any time the DB Contractor should default in the performance when due of, observance when due of, or should commit a breach of, any of the Guaranteed Obligations, Guarantor shall promptly, upon written notice by RCTC, perform or pay the Guaranteed Obligations or cause the performance or payment of the Guaranteed Obligations.

c. Guarantor agrees that, to the extent Guarantor's obligations under this Guaranty relate to obligations of the DB Contractor which require performance other than the payment of money, RCTC may proceed against Guarantor to effect specific performance of such obligations (to the extent that such relief is available). Guarantor agrees to assume or to procure the assumption of the Contract, and to perform or to procure the performance of all of the terms and

conditions under the Contract should the Contract be disaffirmed or rejected by a trustee or court in a bankruptcy proceeding involving the DB Contractor, or, at the option of RCTC, Guarantor shall, in the event of the DB Contractor's bankruptcy, make and enter into or have made and entered into, by one or more entities reasonably satisfactory to RCTC, new contract documents for the balance of the term of the Contract, which new contract documents shall be in form and substance identical to the replaced Contract.

2. Unconditional Obligations. This Guaranty is a guaranty of payment and performance and not of collection. Except as provided in Section 20 or to the limited extent that RCTC expressly and affirmatively reduces the obligations of DB Contractor under the Contract in writing by Change Order or otherwise, this Guaranty is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred, and whether or not enforceable against the DB Contractor. If any payment made by the DB Contractor or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor's obligations under this Guaranty will not be released, discharged or otherwise affected by:

a. except as to applicable statutes of limitation, failure, omission, delay, waiver or refusal by DB Contractor to exercise, in whole or in part, any right or remedy held by DB Contractor with respect to the Contract or any transaction under the Contract;

b. any change in the Contract or the obligations under the Contract, any change in the existence, structure or ownership of Guarantor or the DB Contractor, or any dissolution, winding up, liquidation, insolvency, bankruptcy, reorganization or similar proceeding affecting the DB Contractor, Guarantor or their respective assets or any defense that may arise in connection with or as a result of such dissolution, winding up, liquidation, insolvency, bankruptcy, reorganization or other proceeding;

c. the existence of any Claim or set-off which the DB Contractor has or Guarantor may have against RCTC, whether in connection with this Guaranty or any unrelated transaction, provided that nothing in this Guaranty will be deemed a waiver by Guarantor of any Claim or prevent the assertion of any Claim by separate suit;

d. any release of DB Contractor from any liability with respect to the Contract, except to the limited extent that RCTC expressly and affirmatively releases DB Contractor from liability under the Contract in writing by Change Order or otherwise;

e. any failure of consideration or lack of authority of the DB Contractor, any lack of validity or enforceability, illegality or defect or deficiency, or any other defense to formation of the Contract (or any term, condition or covenant thereof);

f. any change in the time, manner, terms, place of payment of, or any other term of all or any of the Guaranteed Obligations, or any other amendment, waiver of, or any consent to departure from any Contract executed in connection therewith;

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g. the incapacity or lack of power or authority of, or dissolution or change in, the members or shareholders of the DB Contractor;

h. any release or subordination of any collateral then held by RCTC as security for the performance by DB Contractor of the Guaranteed Obligations; or

i. any other circumstance that might otherwise constitute a defense available to, or a discharge of, Guarantor with respect to the Guaranteed Obligations, other than performance or payment in full of the Guaranteed Obligations.

This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Contract, Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefor or any other circumstances relating to the Guaranteed Obligations, except as provided in Section 20.

3. Independent Obligations. Guarantor agrees that the Guaranteed Obligations are independent of the obligations of the DB Contractor and if any default occurs under this Guaranty, a separate action or actions may be brought and prosecuted against Guarantor whether or not the DB Contractor is joined therein. RCTC may maintain successive actions for other defaults of Guarantor. RCTC's rights under this Guaranty will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been indefeasibly paid and fully performed.

a. Guarantor agrees that RCTC may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against the DB Contractor. Guarantor waives the right to require RCTC to proceed against the DB Contractor, to exercise any right or remedy under any of the Contract or to pursue any other remedy or to enforce any other right.

b. Guarantor will continue to be subject to this Guaranty notwithstanding: (i) any modification, agreement or stipulation between the DB Contractor and RCTC or their respective successors and assigns, with respect to any of the Contract or the Guaranteed Obligations; (ii) any waiver of or failure to enforce the Guaranteed Obligations or any of the terms, covenants or conditions contained in any of the Contract or any modification thereof; (iii) any release of the DB Contractor from any liability with respect to any of the Contract, except to the limited extent that RCTC expressly and affirmatively releases DB Contractor from liability under the Contract in writing by Change Order or otherwise; or (iv) any release or subordination of any collateral then held by RCTC as security for the performance by the DB Contractor of the Guaranteed Obligations.

c. The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Contract against RCTC or the pursuit by RCTC of any remedies which RCTC either now has or may hereafter have with respect thereto under the Contract.

d. DB Contractor and Guarantor acknowledge and agree that Guarantor's obligations and undertakings under this Guaranty are derivative of, and not in excess of, the Guaranteed Obligations and Guarantor shall be entitled to all rights and defenses of DB Contractor except as previously waived or disclaimed in this Guaranty. Notwithstanding any other term or provision of this Guaranty, in the event that the DB Contractor's obligations have been changed by any modification, agreement or stipulation between DB Contractor and RCTC or their respective

successors or assigns, the term "Guaranteed Obligations" as used in this Guaranty shall mean the Guaranteed Obligations as so changed, except that the Guaranteed Obligations shall be determined without regard to the effect of any such modification, agreement or stipulation in the context of a bankruptcy or insolvency proceeding in which DB Contractor is the debtor, unless otherwise specified in the modification, agreement or stipulation.

4. Liability of Guarantor.

a. RCTC may enforce this Guaranty upon the occurrence of a breach by the DB Contractor of any of the Guaranteed Obligations, notwithstanding the existence of any dispute between RCTC and the DB Contractor with respect to the existence of such a breach.

b. Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

c. RCTC, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability under this Guaranty, from time to time may (i) with respect to the financial obligations of the DB Contractor, if and as permitted by the Contract, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto, (iii) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment and performance of this Guaranty or the Guaranteed Obligations, (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (v) enforce and apply any security hereafter held by or for the benefit of RCTC in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that RCTC may have against any such security, as RCTC in its discretion may determine, and (vi) exercise any other rights available to it under the Contract.

d. This Guaranty and the obligations of Guarantor under this Guaranty will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than indefeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce an agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any Claim or demand or any right, power or remedy (whether arising under the Contract, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Contract or any agreement or instrument executed pursuant thereto; (iii) RCTC's knowledge of or consent to the change, reorganization or termination of the limited liability company or corporate structure or existence of the DB Contractor; (iv) any defenses, set-offs or counterclaims that the DB Contractor may allege or assert against RCTC in respect of the Guaranteed Obligations, except as provided in Section 20.

5. Waivers. To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of:

a. Any right to require RCTC to proceed against the DB Contractor or any other Person or to proceed against or exhaust any security held by RCTC at any time or to pursue any right or remedy under any of the Contract or any other remedy in RCTC's power before proceeding against Guarantor;

b. Any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereby by Guarantor, the DB Contractor or any other Person or the failure of RCTC to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person;

c. Any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof;

d. Any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof to Guarantor;

e. Any right or defense arising out of an election of remedies by RCTC even though the election of remedies, such as non-judicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor's rights of subrogation and reimbursement against the DB Contractor by the operation of Section 580d of the California Code of Civil Procedure or otherwise;

f. All notices to Guarantor or to any other Person, including, but not limited to, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of the DB Contractor under any of the Contract, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto;

g. Any defense based upon any act or omission of RCTC which directly or indirectly results in or aids the discharge or release of the DB Contractor, Guarantor or any security given or held by RCTC in connection with the Guaranteed Obligations;

h. Except the foregoing shall not apply to the limited extent that RCTC expressly and affirmatively releases DB Contractor from liability under the Contract in writing by Change Order or otherwise any duty on the part of RCTC to disclose to Guarantor any facts RCTC may now or hereafter know about the DB Contractor, regardless of whether RCTC has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume, has reason to believe that such facts are unknown to Guarantor, or has a reasonable opportunity to communicate such facts to Guarantor. Guarantor acknowledges that it is fully responsible for being and keeping informed of the financial condition of the DB Contractor and of all circumstances bearing on the risk of non-payment of any Guaranteed Obligations;

i. the fact that Guarantor may at any time in the future dispose of all or part of its direct or indirect ownership or economic interests in the DB Contractor; and

j. Any and all suretyship defenses under applicable law.

6. Waiver of Subrogation and Rights of Reimbursement. Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against the DB Contractor that arises from the

performance of Guarantor under this Guaranty, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of RCTC against the DB Contractor, or any other security or collateral that RCTC now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. All existing or future indebtedness of the DB Contractor or any shareholders, partners, members, joint venturers of the DB Contractor to Guarantor is subordinated to all of the Guaranteed Obligations until such time as all Guaranteed Obligations shall have been indefeasibly paid in full. Whenever and for so long as the DB Contractor shall be in default in the performance of a Guaranteed Obligation, no payments with respect to any such indebtedness shall be made by the DB Contractor or any shareholders, partners, members, joint venturers of the DB Contractor to Guarantor without the prior written consent of RCTC. Any payment by the DB Contractor or any shareholders, partners, members, joint venturers of the DB Contractor to Guarantor in violation of this provision shall be deemed to have been received by Guarantor as trustee for RCTC.

7. Cumulative Rights. All rights, powers and remedies of RCTC under this Guaranty will be in addition to and not in lieu of all other rights, powers and remedies given to RCTC, whether at law, in equity or otherwise.

8. Notices. All demands, notices and other communications provided for under this Guaranty shall, unless otherwise specifically provided herein, comply with Section 27.11.1 of the Contract.

9. No Waiver. Any forbearance or failure to exercise, and any delay by RCTC in exercising, any right, power or remedy under this Guaranty will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.

10. Assignability. This Guaranty is binding upon and inures to the benefit of the successors and assigns of Guarantor and RCTC, but is not assignable by Guarantor without the prior written consent of RCTC, which consent may be granted or withheld in RCTC's sole discretion. Any assignment by Guarantor effected in accordance with this Section 10 will not relieve Guarantor of its obligations and liabilities under this Guaranty.

11. Amendments. No amendment of this Guaranty shall be effective unless in writing and signed by Guarantor and RCTC. No waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless such waiver shall be in writing and signed by RCTC. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it was given.

12. Captions. The captions in this Guaranty are for convenience only and shall not be deemed part of this Guaranty or considered in construing this Guaranty.

13. Construction of Agreement. Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party, but will be construed in the manner that most accurately reflects the parties' intent as of the date hereof.

14. Representations and Warranties. In addition to the representations and warranties with respect to solvency set forth in Section 16, Guarantor represents and warrants that:

a. It is a limited partnership duly formed, validly existing, and in good standing under the laws of the State of California and qualified to do business and is in good standing under the laws of the State of California;

b. It has full power, right and authority to execute, deliver and perform this Guaranty;

c. The execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary partnership and corporate action on the part of Guarantor and proof of such authorization will be provided with the execution of this Guaranty;

d. This Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;

e. Neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an event of default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under: (1) the certificate of incorporation or by-laws of Guarantor, (2) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right, restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (3) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;

f. It now has and will continue to have full and complete access to any and all information concerning the transactions contemplated by the Contract or referred to therein, the financial status of the DB Contractor and the ability of the DB Contractor to pay and perform the Guaranteed Obligations;

g. I has reviewed and approved copies of the Contract and is fully informed of the remedies RCTC may pursue, with or without notice to the DB Contractor or any other Person, in the event of default of any of the Guaranteed Obligations;

h. I has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of the DB Contractor and will keep itself fully informed as to all aspects of the financial condition of the DB Contractor, the performance of the Guaranteed Obligations and of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of RCTC to disclose any matter, fact or thing relating to the business, operations or conditions of the DB Contractor now known or hereafter known by RCTC;

i. No consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date of this Guaranty;

j. There is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Entity which challenges the validity or enforceability of this Guaranty;

k. It is not subject to any outstanding judgment, rule, writ, injunction or decree of any Governmental Entity that adversely affects its ability to perform its obligations under this Guaranty; and

l. I derives a substantial direct or indirect economic benefit from the Contract.

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15. Limitation by Law. All rights, remedies and powers provided in this Guaranty may be exercised only to the extent that such exercise does not violate any applicable provision of law, and all the provisions of this Guaranty are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they will not render this Guaranty invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

16. Bankruptcy; Post-Petition Interest; Reinstatement of Guaranty; Solvency.

a. The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the DB Contractor or by any defense which the DB Contractor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. RCTC is not obligated to file any claim relating to the Guaranteed Obligations if the DB Contractor becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of RCTC so to file will not affect Guarantor's obligations under this Guaranty.

b. Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceedings had not been commenced) will be included in the Guaranteed Obligations because it is the intention of Guarantor and RCTC that the Guaranteed Obligations should be determined without regard to any rule of law or order which may relieve the DB Contractor of any portion of such Guaranteed Obligations. Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or any similar person to pay RCTC, or allow the claim of RCTC in respect of, any such interest accruing after the date on which such proceeding is commenced.

17. Governing Law. This Guaranty shall be governed by and construed in accordance with the law of the State of California, without regard to conflict of law principles. The venue of any court, judicial or referee proceeding under this Contract shall be in Riverside County, California, unless changed by the judicial officer.

18. Attorneys' Fees. Guarantor agrees to pay to RCTC without demand reasonable attorneys' fees and all costs and other expenses (whether by lawsuit or otherwise, and including such fees and costs of litigation, arbitration and bankruptcy, and including appeals) incurred by RCTC in enforcing, collecting or compromising any Guaranteed Obligation or enforcing or collecting this Guaranty against Guarantor or in attempting to do any or all of the foregoing.

19. Joint and Several Liability. If the Guarantor is comprised of more than one individual and/or entity, such individuals and/or entities, as applicable, shall be jointly and severally liable for the Guaranteed Obligations. If more than one guaranty is executed with respect to the DB Contractor and the Project, each guarantor under such a guaranty shall be jointly and severally liable with the other guarantors with respect to the obligations guaranteed under such guaranties.

20. Defenses. Notwithstanding any other provision to the contrary, Guarantor shall be entitled to the benefit of all defenses available to the DB Contractor under the Contract except (a) those expressly waived in this Guaranty, (b) failure of consideration, lack of authority of the DB Contractor and any other defense to formation of the Contract, and (c) defenses available to the DB Contractor under any federal or state law respecting bankruptcy, arrangement, reorganization

or similar relief of debtors. Action against Guarantor under this Guaranty shall be subject to no prior notice or demand.

21. Entire Agreement. This Guaranty contains the entire understanding of the parties with respect to the subject matter hereof and supersede all prior agreements, understandings, statements, representations and negotiations between the parties with respect to their subject matter.

22. Severability. If any clause, provision, section or part of this Guaranty is ruled invalid by a court having proper jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties. The invalidity or unenforceability of any such clause, provision, section or part shall not affect the validity or enforceability of the balance of this Guaranty, which shall be construed and enforced as if this Guaranty did not contain such invalid or unenforceable clause, provision, section or part.

23. Additional Guarantor Waivers and Acknowledgements.

a. Guarantor hereby waives any and all defenses it might have that liquidated damages or stipulated damages constitute a penalty or that they do not bear a reasonable relation to the actual damages.

b. GUARANTOR ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON EXECUTION OF THIS GUARANTY. NO FORMAL ACCEPTANCE BY RCTC IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE. THIS GUARANTY IS EFFECTIVE AS OF THE DATE HEREOF.

[SIGNATURES ON NEXT PAGE]

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IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed and delivered by its duly authorized officer effective as of this [____] day of [_____] 2026.

_____

a _____

By: _____

Name: _____

Title: _____

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Change Response / TSP Change Request
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
I-15 Toll Services Provider Contract

Change Order No. 52

Pursuant to: (check appropriate box)

☒ Written Change Notice No. 52 dated 6 July 2026, submitted by RCTC to TSP pursuant to Section 20.4.1 of the Contract

☐ TSP Change Request No._____, dated _____, submitted by TSP to RCTC pursuant to Section 20.6 of the Contract

☐ Directive Letter No. _____, dated _____, submitted by RCTC to TSP pursuant to Section 20.3 of the Contract

Reference is made to that certain Toll Services Contract (Contract No. 16-31-043-00) dated 26 January 2017, as amended, by and between Riverside County Transportation Commission ("RCTC"), a public entity of the State of California ("RCTC"), and Kapsch TrafficCom USA, Inc. f/k/a Kapsch TrafficCom Transportation NA, Inc., a corporation organized under the laws of Delaware ("TSP" or "Kapsch"), as amended, together with all Exhibits and prior amendments (the "Contract").

This Change Order amends the Contract.

Capitalized terms used, but not defined, in this Change Order have the meanings given in, and all Section and Exhibit references shall be to the Contract.

SECTION I – Narrative, Discussion of Additions, Deletions, Modifications to the Requirements of the Toll Services Contract

A. Evaluation of Change including whether TSP considers any RCTC-Initiated Change to constitute a Change and the specific provision(s) of this Contract which permit a Change Order (Section 20.4.3(a)(i)):

N/A – RCTC Initiated Change Order

Overview of scope of Change (Section 20.4.3(a)(iii)). For detailed scope of Change, please complete the Change Response Price Form:

All capitalized terms used in this Change Order #52 and not defined herein have the meanings given to such terms in the Toll Services Contract dated January 26, 2017 (as amended by this Change Order and the previous Change Orders), between the Riverside County Transportation Commission (**RCTC**) and Kapsch TrafficCom USA, Inc. (**TSP**) (together the **Contract**).

Background:

The Project is proposing operational and safety improvements by constructing a portion of the ultimate SR-91 Corridor Improvement Project (SR-91 CIP), which consists of adding an operational lane on eastbound SR-91 from State Route 241 general purpose connector to the State Route 71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing). The Project is intended to help alleviate the traffic congestion in this area (*see* Figure 1-1). The Project location and additional information can be found on the RCTC website at: 91 Eastbound Corridor Operations Project - Riverside County Transportation Commission (91 ECOP).

The Project consists of the following core components:

- Adding an operational lane approximately 3 miles in length in the eastbound direction on SR-91 from the SR-241 general purpose connector to the SR-71 connector auxiliary lane;
- Widening Coal Canyon Road UC (Bridge No. 55-0507R);
- Widening County Line Creek Bridge (Bridge No. 56-0366);
- Constructing new soil nail and non-standard retaining walls approximately 5 to 55 feet in height on the south side of SR-91;
- Constructing a two-lane exit ramp at the Green River Road eastbound exit ramp and reconstructing a portion of the existing ramp;
- Replacing overhead signs;
- Lowering Coal Canyon Access Road;
- Relocating existing toll infrastructure impacted by the proposed improvements; and
- Constructing debris and rock fall mitigation measures.

Potential utility relocations include:

- Southern California Edison electric poles and overhead lines;
- AT&T telecommunications underground conduit, manholes, and utility pole with overhead lines; and

- Extension of the encasement of an underground inactive high-pressure gas line with protect-in-place design requirements for the MountainWest Southern Trails Pipeline owned by the Williams Companies, Inc.

Figure 1-1
Project Map



The Project may affect existing tolling-related infrastructure. DB Contractor will construct the civil elements of the electronic toll infrastructure that require modification or relocation as part of the Project, as described in the Contract and the Technical Provisions. DB Contractor shall coordinate and work with TSP to deliver the Work.

RCTC has identified a basic concept for the Project and its delivery. The Project will be divided into the following phases:

Phase 1 – Preliminary design, project pricing, and pre-construction services appropriate to define and evaluate the Project elements; continued design and development, preliminary project pricing, pre-construction services and investigations of the Project and analysis of traffic impact (as applicable), sub-surface investigations, air quality and noise and other environmental effects (as applicable) (but not including final design plans or specifications), as appropriate, to evaluate and perform analyses to comply with CEQA and NEPA; and further design and pre-construction services appropriate for the development of a non-binding proposal and commercial terms that

includes a GMP, edits to the Technical Provisions, limited portions of the Contract and project schedule.

Phase 2 – Final design, construction, and acceptance to complete the Project. RCTC does not guarantee that Phase 2 of the Contract will occur or that any specific segment or amount of construction will occur pursuant to Phase 2 of the Contract.

Change Order #52 D&D Work Milestones:

The key milestone dates under this Change Order #52 are:

1) Provide Design Support to the 91 ECOP DB Contractor, as described in the Change Order, from approximate November 2, 2026 (or when the DB receives their NTP for Phase 1 design) through approximately 14 months of Design (completion of Phase 1 work).
2) Provide preliminary high-level Bill of Materials and pricing for future Change Order #YY (new Change Order number to be assigned when this proposed change order is executed) work.

Change Order #52 Deliverables:

TSP shall deliver the following Change Order #52 Deliverables by the applicable Delivery Date:

Deliverable	Delivery
High-level design input	Monthly – November 2026 to January 2028

TSP shall deliver the following Deliverables, in support of development of Change Orders #YY (Implementation) and #ZZ (Operations & Maintenance) by the applicable Delivery Date:

Deliverable	Format for Update	Delivery
Preliminary CO# YY Bill of Materials	Stand-alone BOM	January 2028
Monthly Status Report	monthly report of activities	Delivered with Monthly Invoice
Pricing for CO# YY – Installation during DB Phase 2 – Construction	Using Change Order pricing forms	January 2028

NOTE: Change Order designator #YY is a temporary placeholder used for reference only. An actual Change Order number will be assigned at the time of execution for the proposed change order.

NOTE: Change Order #YY will be developed, as necessary, based on design support work during Phase 1.

Part 2: O&M Work

1) There is no O&M work associated with this Change Order 52. O&M will be a part of a separate Change Order, executed at a future date.

Part 3: Other Material Terms

1) For purposes of this Change Order, DB Contractor in the Contract and Technical Provisions shall mean the 91 ECOP DB Contractor selected by RCTC through a separate contract process.

2) For ease of reference, the following Contract Provisions from the TSP Contract apply to this Change Order's scope of Work:

>>>>>>> From the TSP Contract >>>>>>>>

7.9 Integration with DB Work

7.9.1 TSP shall:

Comply with its obligations to coordinate and cooperate with DB Contractor in accordance with Section 4.2, TP Section 2.12 and the Demarcation Matrix;

If requested by RCTC, (i) review and comment on submissions DB Contractor makes to RCTC under the DB Contract or inspect any work RCTC is required to inspect under the DB Contract, and (ii) provide written comments to RCTC, in the form requested by RCTC, no later than two Business Days before RCTC is required to respond to the applicable submission or inspection under DB Contract, or if the DB Contract provides no applicable response time, ten Business Days after RCTC makes the request.

Promptly provide DB Contractor requested information in connection with D&D Work;

Participate with and assist RCTC in inspection, testing and acceptance of elements of the DB Work that interface or integrate with the D&D Work;

Except as otherwise expressly provided under this Contract, prior to proceeding with that portion of the D&D Work that depends on performance of the DB Work, inspect and promptly report to RCTC any defects in such DB Work that impact proper execution of the D&D Work; and

Subject to Section 7.9.3 and notwithstanding the division of responsibilities as shown in the Demarcation Matrix, be responsible for validating that all of the D&D Work integrates with the DB Work and any other work performed by others to produce a comprehensive TCS that is in accordance with this Contract, including providing the TSP Ready for Construction Certification pursuant to Section 8.7 and completion of the Civil Site
Acceptance Checklist and the Communications Network Acceptance Checklist pursuant to Section 8.9.4.

7.9.2 RCTC shall reasonably coordinate with TSP in connection with any inspections required under Section 7.9.1(d) and shall reasonably attempt to have such inspections done reasonably efficiently.

7.9.3 TSP shall not have any liability with respect to the design, construction and performance of the portions of DB Work undertaken by DB Contractor provided TSP has undertaken the D&D Work in compliance with this Contract, including its obligations under this Section 7.9 and Section 4.2. and further provided that once TSP has obtained RCTC approval of the TCS Infrastructure Design Document, any changes to the TCS Infrastructure Design Document shall be subject to RCTC approval, in its sole discretion, and shall not entitle TSP to any Claim, Change or Change Order.

3) For reference, the following Technical Provisions from the TSP Technical Provisions, apply to this Change Order:

>>>>>>> From the TSP Technical Provisions >>>>>>>>

2.2.3 Task Force Meetings

TSP shall attend the DB Contractor's weekly tolling task force meetings during the D&D Phase. The meetings will be held at the Co-located Office with the DB Contractor. The DB Contractor will be

responsible for the agenda and meeting notes for the weekly tolling task force meetings. TSP shall cause its Subcontractors to be present at any tolling task force meetings as reasonably requested by RCTC.

2.2.5, Paragraph 1 Partnering Meetings

TSP Key Personnel shall attend all partnering meetings with DB Contractor and RCTC as scheduled by the DB Contractor. Partnering meetings shall be held quarterly at a site in Riverside County to be determined by RCTC.

2.6.4.2 Baseline Schedule

22) Interface Milestones. An interface milestone denotes the transition of work from one contractor to another. TSP activities that relate to DB Contractor activities shall be preceded and/or followed by an interface milestone. This interface milestone shall be used to link DB Contractor activities to TSP activities. TSP shall work with DB Contractor to define interface milestones. By way of example, if DB Contractor requires information regarding the placement of conduit from TSP, an interface milestone shall be set up in both TSP's and DB Contractor's respective schedules to identify the delivery of drawings from TSP to DB Contractor for each bridge and roadway package. Similarly, if TSP needs to inspect infrastructure completed by DB Contractor, there shall be an interface milestone in both TSP's and DB Contractor's respective schedules related to inspection and acceptance of such infrastructure.

2.12 Coordination of the Work

Specifically:

2.12.2 Review of DB Contractor's Design

2.12.3 Civil Coordination Meetings

4) For reference, the following Technical Provisions from the DB Technical Provisions, apply to this Change Order:

From Section 19.2.2 of the Proposed TPs for the DB Contractor:

"The design and construction of the Project's roadway and all necessary support systems require coordination among DB Contractor, RCTC, OCTA, the TSP, the Department, and other third parties.

Coordinate Work for the TCS Infrastructure as described in this TP Section 19 (Toll Collection System Infrastructure). RCTC shall require TSP to review the DB Contractor's designs for the adjusted TCS Infrastructure.

DB Contractor shall obtain a TSP Concurrence with Concept Validation for DB Contractor's approved Sign, Tolling, and Utility Service Concept Plan and provide to RCTC prior to approval of the concept.

In Phase 2, before submitting to RCTC any Release for Construction Package that includes design elements for the TCS Infrastructure, obtain from TSP the TSP Release for Construction Certification. As a condition to obtaining TSP Release for Construction Certification, TSP shall have five Business Days after initial receipt of relevant Design Documents to either: (a) review and issue the corresponding TSP Release for Construction Certification; or (b) identify Errors in the Design Documents that DB Contractor must correct in order for TSP to issue the TSP

Release for Construction Certification, in which case TSP shall have an additional five Business Days after subsequent receipt of the relevant Design Documents to repeat this process until TSP issues the corresponding TSP Release for Construction Certification. All Release for Construction Packages that include design elements of the TCS Infrastructure must include the applicable TSP Release for Construction Certifications."

Part 4:

Payments based on labor, overhead, margin, ODC, and subcontract costs will be invoiced monthly, on a Time and Materials basis, with a Not-to-Exceed price as shown in Attachment 1.

Part 5: ROW Access

For purposes of this Change Order, no ROW access is required.

Part 6: Additional Definitions (Exhibit 1 to the Contract)

91 ECOP DB Contractor/DB Contractor – to be selected by RCTC

Part 7: Impacts on Existing Definitions and Contract Provisions

For purposes of this Change Order #46, the Setting Date, the Effective Date and similar reference dates under the Contract will be the date of issuance of this Change Order.

Except as specifically provided otherwise in this Change Order:

1) Defined terms previously applying generally to the ELP Project (such as "Project," "D&D Work," "Toll Services," "Work," "Completion Deadlines," "Total Capital Cost," etc.): (a) will retain the same names and the definitions will be revised to include 91 ECOP; but (b) corresponding ELP Project-specific defined terms will also be created so as to distinguish from ELP, SR-91, ELC, ELPSE, and 91 ECOP as needed.

2) Provisions in the Contract of general application to the ELP Project (such as TSP's indemnities, events of default) will also apply to ELSPE.

B. Analysis of (impact of the Change on the performance of other aspects of the D&D Work, O&M Work, RCTC or RCTC's toll operations (as applicable); (Section 20.4.3(a)(v)):

All impacts of the Change are reflected in this Change Order #52, and there are no other impacts of the Change on the performance of other aspects of the D&D Work, O&M Work, RCTC or RCTC's toll operations.

C. Proposed plan for mitigating impacts of the Change (Section 20.4.2(a)(x)):

N/A

D. Additions / deletions / modifications to the requirements of the Contract including KPIs (if any) (Section 20.4.3(a)(viii)):

N/A

SECTION II – Cost Impact(s)

A. Summary

Compensation under this Change Order is to be paid (check the applicable boxes below):

☐ n/a[1] $0.00 ("no cost") Change Order.

☐ as a lump sum adjustment to the Contract Price in the amount of _____ dollars ($ _____).

☐ as a series of milestone payments in the following amounts:

☐ as an adjustment to Total O&M Years 1 and 2 Cost or Total O&M Years 3, 4 and 5 Cost

See Section I, Subsection B (Overview of Scope), Part 4, Item C for the Monthly Payment Schedule for O&M for the SR-91 (Phase 1) Pre-ELP O&M Work.

☐ as a Unit Price Change Order for increases or decreases in the Contract Price [not to exceed] / [in the amount of] _____ dollars ($ _____))

☒ as a Time and Materials Change Order, [not to exceed Two Hundred, Ninety-Five Thousand dollars ($295,000)]

☐ as is set forth below, under Section II(B)([2] / [3]).***[select the proper reference]***

☐ If more than one box has been checked, also check this box and summarize terms here:

_____
_____
_____
_____

Documentation supporting the Change Order is attached as Annex[es]_____[through_____].

B. Special Considerations

1. Delay and disruption damages for Excusable Delay (Section 20.10). ☒ n/a

Compensation available for Change Orders are (only) extra Work Costs and delay Costs directly attributable to the proposed Change and exclude certain costs and expenses.

- Total extra Work Costs: $_____

- Total delay and disruption damages: $ _____

Discussion (if any):

_____
_____
_____
_____

[1] If $0 (i.e., a "no cost" Change Order), leave remainder of Section II blank.

2. Deductive RCTC Changes. ☒ n/a

If this Change Order is a deductive change

Net Cost[2] Savings attributable to the deductive change $ _____

Amount due to RCTC attributable to the deductive Change (or which can be used by RCTC, in its sole discretion, to offset payment to TSP) $ _____

Discussion (if any):

_____
_____
_____
_____
_____
_____

[2] When both additions and reductions are involved in any one Change Order, the adjustment shall be determined on the basis of net increase or decrease. TSP Margin will be allowed only for the net increase in labor Cost in order to establish the amount to be added to the Contract Price. In determining a deductive change order, any deduction will include the amount of TSP Margin and Audited Overhead which would have been payable on such amounts by RCTC in accordance with Section 20.

SECTION III – Completion Deadline Impacts (Applicable to All Change Orders)

The status of the CSC Commencement Deadline is as follows:

☒ Unaffected by this Change Order

☐ Affected by [extending] / [accelerating] the date of the CSC Commencement Deadline by _____calendar days to _____ calendar days prior to Revenue Service Commencement.

The status of the Revenue Service Commencement Deadline is as follows:

☒ Unaffected by this Change Order

☐ Affected by [extending] / [accelerating] the date of the Revenue Service Deadline by _____calendar days to _____ Days after the Package 4 Turnover Date**.**

The status of the total Float is as follows:

☒ Unaffected by this Change Order

☐ Affected by this Change Order as follows:

_____
_____
_____
_____

If this Change Order is issued as a result of, or relating to, an Excusable Delay or a shortening time, TSP's Critical Path time impact delay analysis is attached as Annex _____ (Section 20.4.3(a)(vi)). ☒ n/a

SECTION IV - (Reviewed and recommended agreed by TSP's [Project Manager-D&D Work] or [Project Manager-O&M Work])

By: _____

Name: William J. DeSena

Title: Senior Project Manager

Date: _____

Comments: _____
_____
_____
_____

SECTION V - (Reviewed and agreed by TSP)

The undersigned Authorized Representative of TSP hereby certifies, under penalty of perjury, as follows:
1. Sections I, II and III of this Change Order, including all Worksheets and Annexes, collectively represent a true, accurate and complete summary of all aspects of this Change Order.

2. The amounts of time and/or compensation set forth in this Change Order (a) are, in each case, justified as to entitlement and amount, (b) reflect all changes to compensation for and scheduling of the Project (inclusive of all Subcontractor and Supplier amounts, impacts), (c) is complete, accurate and current and (d), in each case, the amounts of time, if any, and/or compensation, if any, agreeable to, and is hereby agreed by, TSP.

3. This Change Order includes all known and anticipated impacts or amounts, direct, indirect and consequential, which have been and may be incurred, as a result of the event, occurrence or matter giving rise to this Change Order. This Change Order constitutes a full and complete settlement of all Losses, Claims, matters, issues and disputes existing as of the effective date of this Change Order, of whatever nature, kind or character relating to the event, occurrence or matter giving rise to this Change Order and the performance of any extra Work that this Change Order documents or relates, including all direct and indirect costs for services, equipment, manpower, materials, overhead, profit, financing, delay and disruption arising out of, or relating to, the issues set forth herein. TSP acknowledges that it shall not be entitled to assert any Claim for relief under the Contract for delay, disruption costs or any other adverse financial or Project Schedule impacts existing as of the effective date of this Change Order and arising out of, or relating to, the event, occurrence or matter giving rise to this Change Order or such extra Work.

4. If the foregoing Change Order includes claims of Subcontractors or Suppliers, TSP represents that authorized representatives of each Subcontractor and Supplier, if any, reviewed such claims, this Change Order and accept this Change Order as dispositive on the same, subject to separate Contract between TSP and each such Subcontractor and Supplier, as applicable. Furthermore, TSP has determined in good faith that such claims are justified as to both entitlement and amount.

5. The cost and pricing data forming the basis for the Change Order is complete, accurate and current, with specific reference to the California False Claims Act (Government Code section 12650 et. seq.) and the U.S. False Claims Act (31 USC § 3729 et seq.)

6. It is understood and agreed that this Change Order shall not alter or change, in any way, the force and effect of the Contract, including any previous amendment(s) thereto, except insofar as the same is expressly altered and amended by this Change Order.

7. This Change Order supersedes all prior commitments, negotiations, correspondence, conversations, Contracts or understanding applicable to the issues addressed herein. No deviation from the terms hereof shall be predicated upon any prior representations or Contracts, whether oral or written, other than the Contract, as amended in accordance with its terms.

8. This Change Order is binding upon, and shall insure to the benefit of, each of the parties and their respective heirs, personal representatives, successors and assigns.

IN WITNESS, WHEREOF, TSP, intending to be legally bound, has executed this Change Order as of the date below.

TSP:
Kapsch TrafficCom USA, Inc.

Date: _____

By: _____
Name: Jim Kriwin
Title: Vice President, Tolling Delivery

SECTION VI - (Reviewed and recommended by RCTC)

By:_____
Name: Mark Linsenmayer

Title: Toll Operations Director

Date: _____

Comments: _____
_____
_____
_____

SECTION VII - (Agreed by RCTC's Authorized Representative)

IN WITNESS WHEREOF, RCTC, intending to be legally bound, has executed this Change Order as of the date first written above.

Date: _____

(the effective date of this Change Order)

RCTC

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____

Name: Aaron Hake

Title: Executive Director

ATTACHMENT 1
CHANGE ORDER #52 PRICE

Payments based on labor, overhead, margin, ODC, and subcontract costs will be invoiced monthly, on a Time and Materials basis, with a Not-to-Exceed price of $295,000.

Agreement No. 09-31-081-19

AMENDMENT NO. 18
TO PROFESSIONAL SERVICES AGREEMENT FOR PROJECT AND CONSTRUCTION MANAGEMENT SERVICES FOR THE SR-91 CORRIDOR IMPROVEMENT PROJECT

1. PARTIES AND DATE

This Amendment No. 18 to the Agreement for Project and Construction Management Services is made and entered into as of November 10, 2026, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("Commission") and PARSONS TRANSPORTATION GROUP INC., an Illinois corporation ("Consultant").

2. RECITALS

2.1 The Commission and the Consultant entered into an agreement, dated October 14, 2009, for the purpose of providing project and construction management services for the State Route 91 Corridor Improvement Project (the "Master Agreement") for a maximum not to exceed ("NTE") amount of $35,539,299. The Commission Board of Directors' ("Commission Board") approval of the relevant agenda item also included approval of a contract contingency amount of $4,260,701 to address additional, unanticipated scope and-or costs.

2.2 The Commission authorized the Consultant to proceed with the Services associated with the Master Agreement, and additional unanticipated work, using Limited Notices to Proceed (LNTPs).

2.3 LNTP No. 5, on file at the offices of the Commission, authorized the provision of additional Services, subject to the terms of the Master Agreement, and the release of Commission Board approved contingency funds for such Services in the amount of $3,564,378. LNTP No. 5 increased the NTE value of the Master Agreement, including all prior LNTP's, to $39,103,677.

2.4 The Commission and the Consultant entered into an Amendment No. 1 to the Master Agreement, dated as of July 3, 2012, in order to amend the Master Agreement, consistent with LNTP No. 6, by amending the Scope of Services of the Master Agreement to include additional Project Management, Planning and Design, Tolling and Operations, Contracts and Procurement, Contract Administration, and Construction Management Services required to: 1) complete and issue the Request for Proposal **(RFP),** 2) receive, evaluate and make a recommendation for award of a Design Build Contract, 3) and issue a Notice to Proceed for the State Route 91 Corridor Improvement Project, by including a Schedule of Services for the additional Services, and by providing compensation for the additional Services in the amount of $18,434,545, and to include certain additional terms to the Master Agreement related to attorney-client privilege and subpoenas and court orders. Amendment No. 1 increased the NTE value of the Master Agreement to $57,538,223.

2.5 The Commission and the Consultant entered in an Amendment No. 2 to the Master Agreement, dated as of March 18, 2013, in order to add services within the scope of the original procurement, including, but not limited to, right of way architectural and engineering mitigation services, to amend the indemnification provision and to provide additional compensation for the additional services in the amount of $1,760,000. Amendment No. 2 increased the NTE value of the Master Agreement, including all prior amendments, to $59,298,223.

2.6 The Commission and the Consultant entered into an Amendment No. 3 to the Master Agreement, dated May 20, 2013, in order to extend the term of the Master Agreement, to include the Phase 2 Services, as that term is generally described in the Master Agreement, to include a new Phase 2 Scope of Services and Schedule of Services, to provide additional compensation for the Phase 2 Services, and to include certain additional terms to the Master Agreement applicable to Phase 2.

2.7 The Commission and the Consultant entered into an Amendment No. 4 to the Master Agreement, dated October 9, 2017, to extend the term and to include additional services required to relocate the existing SR-91 Express Lanes Customer Service Center.

2.8 The Commission and the Consultant entered into an Amendment No. 5 to the Master Agreement, dated October 22, 2019, to extend the term, to add a new Scope of Services for project development services related to the State Route 91 Corridor Operations Project ("91 COP") and to provide additional compensation.

2.9 The Commission and the Consultant entered into an Amendment No. 6 to the Master Agreement, dated May 31, 2019, to extend the term, to add additional services to complete the Project closeout, to provide additional compensation and to reinstate certain elements of the indemnification provisions included under the Master Agreement, and unintentionally omitted under Amendment No. 5.

2.10 The Commission and the Consultant entered into an Amendment No. 7A to the Master Agreement in order to extend the term, include additional services required to close- out the remaining right of way and environmental activities for the Project, and to include funding for such services.

2.11 The Commission and the Consultant entered into an Amendment No. 7 to the Master Agreement in order to clarify that the Scope of Services includes preparation of an Engineer's Technical Report ("ETR"), and to update and add a Limitation of Liability and Expiration Date, an Indemnification provision and Waiver of Consequential Damages with respect to the Independent Engineer Services and ETR Services.

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2.12 The Commission and Atkinson-Walsh Joint Venture ("AWJV"), the Project design-builder, entered into a Settlement and Release Agreement dated as of October 21, 2021 ("Settlement Agreement") pursuant to which *AWN* agreed to complete, in two phases, certain remediation work required on the Project. Phase 1 of the remediation work is referred to herein as the soil improvement work("AWN Phase 1 Work").

2.13 The Commission and the Consultant entered into an Amendment No. 8 to the Master Agreement, dated March 7 2022, in order to include additional Consultant support and oversight services of the *AWN* Phase 1 Work, and to include funding for such services.

2.14 The Commission and the Consultant entered into Amendment No. 9 to the Master Agreement, dated June 29, 2022, in order to include additional Consultant support and oversight services of the *AWN* Phase 2 Work, referred to as the "91 Refresh" Project, and to include funding for such services.

2.15 The Commission and Consultant entered into Amendment No. 10 to the Master Agreement, dated January 1, 2023, in order to extend the term.

2.16 The Commission and Consultant entered into Amendment No. 11 to the Master Agreement, dated June 21, 2023, in order to amend the scope of services for Consultant support and oversight services and to add additional compensation.

2.17 The Commission and Consultant entered into Amendment No. 12 to the Master Agreement, dated November 3, 2023, in order to add additional compensation to complete consultant support and oversight services.

2.18 The Commission and Consultant entered into Amendment No. 13 to the Master Agreement, dated December 31, 2023 in order to extend the term.

2.19 The Commission and Consultant entered into Amendment No. 14 to the Master Agreement, dated June 24, 2024, in order to extend the term through December 31, 2025, amend the scope of services, and add additional compensation.

2.20 The Commission and Consultant entered into Amendment No. 15 to the Master Agreement, dated April 1, 2025, in order to amend the scope of services and add additional compensation.

2.21 The Commission and Consultant entered into Amendment No. 16 to the Master Agreement, dated July 1, 2025, in order to extend the term, amend the scope of services and add additional compensation.

2.22 The Commission and Consultant entered into Amendment No. 17 to the Master Agreement, dated August 13, 2025, in order to extend the term, amend the scope of services and add additional compensation.

2.23 The Commission and the Consultant now desire to amend the Master Agreement in order to extend the term, amend the scope of services to include additional Project and Construction Management (PCM) Services for SR-91 Corridor Improvement Project (91 ECOP), and add additional compensation.

3. TERMS

3.1 The term of the Master Agreement is hereby extended through December 31, 2028, unless terminated earlier as provided in the Master Agreement.

3.2 The Services, as that term is defined in the Master Agreement, shall be amended to include PCM Services for 91 ECOP, as further described in the Scope of Services attached to this Amendment No. 18 as Exhibit "A" and incorporated herein by reference.

3.3 The maximum compensation to be provided under this Amendment No. 18 for the Services shall not exceed Three Million, Seven Hundred Sixty-Six Thousand, Nine Hundred Two Dollars ($3,766,902), as set forth in Exhibit "B" attached to this Amendment No. 18 and incorporated herein by reference. Work shall be performed at the rates set forth in the Master Agreement, as previously amended.

3.4 The Consultant fixed fee for Services under this Amendment No. 18 shall not exceed Two Hundred Ninety Thousand Three Hundred Forty Dollars ($290,340).

3.5 The total not-to exceed amount of the Master Agreement, as amended by this Amendment No. 18, shall be increased from One Hundred Sixty-Four Million, Two Hundred Eighty-Four Thousand, One Hundred Thirty-Nine Dollars ($164,284,139) to One Hundred Sixty-Eight Million, Fifty-One Thousand, Forty-One Dollars ($168,051,041).

3.6 This Amendment No. 18 may be signed in counterparts, each of which shall constitute an original. Facsimile signatures, including signatures transmitted by electronic mail, shall have the same force and effect as original signatures. This Amendment No. 18 may be signed using an electronic signature.

3.7 The recitals set forth above are incorporated into this Amendment No. 18 by reference as though fully set forth herein.

3.8 This Amendment No. 18 shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.9 Except as amended herein, all provisions of the Master Agreement, as previously amended, including without limitation the indemnity and insurance provisions, shall remain in full force and effect and shall govern the actions of the parties under this Amendment No. 18.

[Signatures on following page]

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SIGNATURE PAGE TO
AGREEMENT NO. 09-31-081-19

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 18 as of the date first herein above written.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____
Aaron Hake, Executive Director

PARSONS TRANSPORTATION GROUP,INC.

By: _____
Signature

T. Rick Grebner
Name

Vice President
Title

APPROVED AS TO FORM:

Best Best & Krieger LLP
Counsel to Riverside County
Transportation Commission

ATTEST:

By: N/A
Its: _____

* A corporation requires the signatures of two corporate officers.

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

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

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EXHIBIT A
SCOPE OF SERVICES

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Executive Summary
Amendment 1 - 91 ECOP PCM Fee Estimate
October 8, 2026

Parsons is assisting the Commission in the planning; procurement of a design and construction contract; and general management and oversight of the SR-91 Eastbound Corridor Operations Project (91 ECOP) during Phase 1, also commonly referred to as the pre-construction period, for the Progressive Design Build implementation of the 91 ECOP.

Project Description

The Riverside County Transportation Commission (RCTC), in cooperation with the California Department of Transportation (Caltrans), is proposing operational and safety improvements by constructing a portion of the SR-91 CIP Ultimate Project on eastbound SR-91, which consists of adding an operational lane on eastbound SR-91 from SR-241 general purpose connector to the SR-71 Connector auxiliary lane (in the vicinity of the Green River Road Overcrossing). The project will help alleviate the traffic congestion in this area. This portion of the Ultimate SR-91 CIP is titled the 91 ECOP.

Key Reasons for Amendment 1:

1. The overall Project and Construction Manager (PCM) contract duration has increased by approximately 12 months:
    - The Phase 1 Procurement Schedule was extended by approximately 4 months.
    - A DB Contractor has been selected and a draft Phase 1 schedule has been prepared. Using the DB Contractor's schedule, the Phase 1 duration has increased by approximately 8 months.

Original Contract Duration		Updated Contract Duration		Duration Increase
September 2025	June 2027	September 2025	June 2028	12 months

2. Amendment 1 will be separated into three major milestones to match the DB Contractor's contract approach:
    - "Baseline" (NTP to Design Complete to Support GMP)
    - "Option 1" (Design continues for 4 months until GMP Agreement)
    - "Option 2" (Design and Contractor continue for 4 months up to Phase 2 award)

3. The longer schedule will result in additional hours to manage and deliver the Phase 1 contract.

4. The lengthening of the schedule will require adjustments to staff rates based on yearly increases.

5. Costs for establishing a co-located office space with a 5-year lease, and a project vehicle.

6. Increased hours to provide full-time involvement from the Project Manager and Design Manager, and part-time involvement from the Project Support Lead.

7. Public Outreach firm added to the contract, to provide Phase 1 support.

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8. Additional design and environmental effort expended during the Procurement Phase for various tasks, including:
    - Design concepts, costs, and coordination for future RCTC project compatibility,
    - Updated Visual Impact Assessment based on Caltrans request,
    - Additional analysis of the Landform Grading area,
    - Utility coordination, and
    - Right-of-way acquisition and engineering.

9. Preparation of an additional Environmental Revalidation for future project compatibility and design changes being made during Phase 1. This includes supplemental environmental studies including visual, noise, cultural, etc.

10. Since the DB Contractor's Phase 1 contact will be on a Time & Materials (T&M) basis, there will be effort needed to track the Contractor's work activities, which will include:
    - Monthly tracking of earned value, schedule, and expended budget,
    - Monitoring "spot checking" of field activities, which will require a new subconsultant (RT Engineering) added to the PCM contract to perform and validate the field work, and
    - Review and backup of designer's activities.

11. Added ODC budget to develop a Sharepoint Platform for document control.

12. Utilizing leftover budget from the Procurement Phase and transferring it into other tasks.

Cost Estimate and Staffing:

1. Current 2026 hourly rates were used for staff.
2. Escalation rate of 4% per year was assumed.
3. Previously used overhead rate of 175.80% was used.
4. A profit rate of 10% was used to compute the fee.

Fee Summary:

A cost to complete analysis was conducted, and compared to the budget balance of the tasks, to determine the delta to reach the end of Phase 1 (see the next page). The Cost to Complete is from 10/1/26 to June 2028. The Remaining Budget includes the charges from the September 2026 invoice.

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EXHIBIT B

Compensation

[attached behind this page]

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EXIBIT "B"
COMPENSATION

COMPENSATION SUMMARY[1]

FIRM	PROJECT TASKS/ROLE	Cost
Prime Consultant		
Parsons	91 ECOP additional Project and Construction Management (PCM)	$3,812,295
Sub Consultants		
Albert Risk Management	91 ECOP additional Project and Construction Management (PCM)	$12,144
Krebs Corp		$170,727
ECORP		$35,335
EGP		$166,077
GCAP		$11,370
Group Delta		$92,691
Unico		$4,994
WSP		-$4,887
CPOG		$135,043
RT Engineering		$116,157
		$4,551,947
	PCM Holdback Accounts (Escalation, ODCs, Subs)	($785,045)
	Amendment Total	**$3,766,902**

[1]Commission authorization pertains to total contract award amount. Compensation adjustments between consultants may occur; however, the maximum total compensation authorized may not be exceeded.

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RCTC Agreement No. 26-31-095-00
OCTA Agreement No. X-XXXX

COOPERATIVE AGREEMENT
BETWEEN
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND
ORANGE COUNTY TRANSPORTATION AUTHORITY

FOR SR-91 EASTBOUND CORRIDOR OPERATIONS PROJECT

This Cooperative Agreement ("Cooperative Agreement") is made and entered into this XX day of XXXX, 2026 by and between the Riverside County Transportation Commission ("RCTC") and the Orange County Transportation Authority (the "OCTA"). RCTC and OCTA are sometimes referred to herein individually as ("Party"), and collectively as ("Parties").

RECITALS

WHEREAS, a sixth operational lane is proposed to be added along eastbound State Route (SR) 91 from the SR-241/SR-91 eastbound general purpose (GP) connector to the SR-71 connector auxiliary lane in the cities of Corona, Yorba Linda, and Anaheim Hills and, if approved, necessary modifications will be made between these limits, as depicted in the attached Exhibit "A" ("Project").

WHEREAS, the proposed Project has a total estimated cost of $268,366,393 ("Total Project Cost"), as more particularly described in Exhibit "B" attached hereto and incorporated herein by reference.

WHEREAS, OCTA has agreed to provide a fair share contribution to the cost of the design, preconstruction, and construction of the Project, as further set forth herein.

WHEREAS, certain betterments are required to be added to the 241/91 Express Connector Project ("241/91 EC") for the Project. The following betterments are included under that certain Master Agreement for the 241/91 EC, Agreement No. 26-31-006-00 ("241/91 EC Master Agreement"), amongst the California Department of Transportation ("Caltrans"), OCTA, RCTC and the Transportation Corridor Agencies ("TCA"): (i) replacing miscellaneous section with full depth shoulder section in front of EB 91 Retaining Walls (RW484 & RW 514); (ii) additional full depth traveled way pavement to accommodate the Project design including additional grading and drainage modifications; and (iii) overhead sign width extension to accommodate the Project design ("241/91 Betterments"). The cost for the 241/91 Betterments is included as part of the Total Project Cost as defined above.

WHEREAS, it is the intent of the Parties to enter into this Cooperative Agreement to establish and coordinate the responsibilities of the Parties with respect to the proposed Project, all as further set forth herein.

WHEREAS, pursuant to the terms of this Cooperative Agreement, and if the Project is approved, RCTC shall engage the services of a Progressive Design-Build contractor ("Contractor") to complete design and construction of the Project.

WHEREAS, the Parties acknowledge that RCTC's full compliance with the California Environmental Quality Act ("CEQA") and all other applicable laws are a precondition to any construction of the Project.

WHEREAS, the Parties agree that the execution of this Cooperative Agreement does not constitute either Party's approval of, or commitment to, the Project under CEQA and the National Environmental Policy Act ("NEPA"). Furthermore, nothing in this Cooperative Agreement shall be considered to restrict either Party's full and complete consideration of the Project's potential environmental impacts, mitigation measures, or alternatives under CEQA and NEPA - expressly including the no project/no build alternative.

WHEREAS, the Parties acknowledge and agree that nothing in this Cooperative Agreement commits OCTA or RCTC to approving or constructing the proposed Project.

WHEREAS, OCTA's approval of this Cooperative Agreement is based, in part, on RCTC's commitment to utilize the Progressive Design-Build ("PDB") method of procurement for implementation of the project in accordance with the terms herein.

WHEREAS, the PDB contract is intended to be carried out in two phases, with Phase 1 of the PDB contract encompassing preliminary engineering, construction estimating, and Phase 2 scope and cost negotiations which are intended to result in agreement on a guaranteed maximum price ("GMP"); and Phase 2 of the PDB contract encompassing final design and construction activities.

WHEREAS, OCTA is the owner and operator of the 91 Express Lanes in Orange County ("Toll Facility"); and

WHEREAS, RCTC has requested the closure of the Toll Facility for approximately thirteen (13) nights in the Eastbound direction and four (4) nights in the Westbound direction for the purpose of installing temporary and final striping and installing/removing overhead signs in the median during the construction of the Project; and

WHEREAS, Permitted Closures, as defined in Section 4.3, and as generally identified below, are further detailed, including costs and approved closure windows, in the schedule set forth in Section 5.12.

WHEREAS, the thirteen (13) Toll Facility closures in the Eastbound direction are anticipated to occur in 2027/2028 and 2028/2029 from the hours of 9:00 p.m. through 5:00 a.m. on weekday nights (Sunday from 9:00 p.m. through Friday at 5:00 a.m.) and from the hours of 9:00 p.m. through 5:00 a.m. on the weekend nights (Friday at 9:00 p.m. through Sunday at 5:00 a.m.); and

WHEREAS, the four (4) Toll Facility closures in the Westbound direction are anticipated to occur in 2027/2028 and 2028/2029 from the hours of 8:00 p.m. through 4:00 a.m. on weekday nights (Sunday from 8:00 p.m. through Friday at 4:00 a.m.) and from the hours of 9:00 p.m. through 5:00 a.m. on the weekend nights (Friday at 9:00 p.m. through Sunday at 5:00 a.m.); and

WHEREAS, the Parties acknowledge that the closure of the Toll Facility will have a financial impact on OCTA through lost toll revenues; and

WHEREAS, RCTC has agreed to reimburse OCTA for the lost toll revenues associated with the requested closure pursuant to the terms of this Cooperative Agreement.

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

TERMS

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

2. Term. This Cooperative Agreement shall be effective as of the date first set forth above, and shall continue in effect until the Project is complete, as evidenced by both RCTC's recording of a notice of completion for the Project and OCTA's payment of all outstanding reimbursements, or until a decision is made not to approve the Project.

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

4. Obligations of OCTA.

4.1 **OCTA Project Costs**. OCTA shall pay its share for the cost of the Project, as further described below.

A. The Parties agree that OCTA's fair share contribution shall be forty percent (40%) of the actual design, right-of-way, legal, Project and construction management services, preconstruction costs, final design and construction costs associated with the Project including all costs incurred under the PDB contract and all costs for any other services identified in and as further detailed in Exhibit "B" ("OCTA Fair Share Contribution").

B. The total OCTA Project costs for the OCTA Fair Share Contribution and for the 241/91 Betterments are estimated at this time to be approximately $111,861,969 ("OCTA Project Cost Estimate"), which amount shall be used to reimburse RCTC for its actual costs of the Project, and for no other purpose. The OCTA Project Cost Estimate may be updated following GMP negotiations to be completed in Phase 1 of the PDB contract, as further set forth in Section 4.2(B) below, or as otherwise addressed in Section 6.

4.2 **OCTA Payments**. OCTA shall make quarterly payments to RCTC based on the OCTA Project Cost Estimate, and in accordance with the OCTA Funding Plan attached as Exhibit "D".

A. The payments shall commence upon execution of this Cooperative

Agreement, and receipt by OCTA of the first invoice from RCTC for OCTA's share of Project costs.

B. Upon final negotiation of the GMP, the OCTA Project Cost Estimate shall be updated, as needed, to account for anticipated changes in the total Project costs during Phase 2 of the PDB contract, and this Cooperative Agreement shall be amended to reflect an updated OCTA Project Cost Estimate and quarterly payment.

C. OCTA's payment obligations shall continue through completion of the Project. Final reconciliation of OCTA Project costs shall be completed at close out of Phase 2 of the PDB contract. If it is determined that the OCTA Project Cost Estimate was in excess of the amount due to RCTC based on Section 4.1(A) and (B), RCTC shall reimburse OCTA for any overpayment. If it is determined that the OCTA Project Cost Estimate was less than the OCTA Project costs, OCTA shall reimburse RCTC for any underpayment.

4.3 **OCTA Agreed Upon Closures**. OCTA hereby agrees, subject to Section 5.13.3 below (which addresses notice of Permitted Closures of the Toll Facility), to allow closure of the Eastbound lanes of the Toll Facility for approximately thirteen (13) nights and the Westbound lanes of the Toll Facility for approximately four (4) nights during the hours as detailed in the schedule in Section 5.12 below. RCTC and/or its Contractor may access the Toll Facility during the below referenced hours, herein referenced as "Permitted Closures," to perform the required work. Any closure that does not occur according to the schedule set forth below shall be referred to herein as an "Unpermitted Closure."

4.4 **OCTA Participation in the Finalization of GMP.** OCTA shall participate in reviewing pricing packages and evaluating the costs necessary to reach agreement on the GMP

4.5 **OCTA Participation in Design Review.** OCTA shall, within the timeframes agreed upon by the Parties and to avoid delay to the Contractor, timely review and provide approval of final design documents for construction work in Orange County prior to commencement of such work. If OCTA does not provide approval within the agreed upon timeframes, the final design documents shall be deemed approved by OCTA.

5. Obligations of RCTC

5.1 **Project Services**. RCTC shall be responsible for performing right-of-way acquisition and procuring all design and construction management services necessary and providing staff resources necessary to complete the Project. RCTC shall be responsible for the process of selecting and contracting with a right-of-way, design, and construction management firms. RCTC shall be responsible for procuring, advertising, awarding, and administering the PDB contract to complete the Project in compliance with all applicable local, state and federal laws including, without limitation, the California Public Contract Code and the California Labor Code. RCTC shall be responsible for complying with CEQA and, if the Project is approved, for obtaining all applicable environmental clearances and permits necessary to complete the Project.

A. RCTC shall invite OCTA to participate in review and approval of the final design documents for construction work in Orange County prior to commencement of such work.

5.2 **Invoicing**. Following execution of this Cooperative Agreement, RCTC shall commence providing quarterly invoices to OCTA for Project costs in accordance with the OCTA

Funding Plan attached as Exhibit "D". Invoices shall be in a form approved by OCTA and shall include all backup documentation reasonably requested by OCTA.

5.3 **Recordation of Notice of Completion**. Upon completion of any Project construction, RCTC shall record a notice of completion for the Project.

5.4 **RCTC Project Costs.**

A. The Parties agree that RCTC shall be responsible for sixty percent (60%) of the actual design, right-of-way, legal, Project and construction management, preconstruction costs, final design and construction costs associated with the Project including all costs incurred under the PDB contract and all costs for any other services identified in Exhibit "B" ("RCTC Fair Share Contribution").

B. The total RCTC Project costs for the RCTC Fair Share Contribution are estimated at this time to be approximately $135,139,758 ("RCTC Project Cost Estimate"). The RCTC Project Cost Estimate may be updated following GMP negotiations to be completed in Phase 1 of the PDB contract, or as otherwise addressed in Section 6.

C. RCTC shall make all reasonable efforts to ensure Project-related expenses stay within applicable budgets. RCTC shall award and approve all contracts and contract amendments (e.g., change orders) within the approved budget, including any contingency amounts. During the term of this Agreement OCTA shall designate in writing a representative to receive and sign an acknowledgment form for each change order from RCTC. This representative will be responsible for keeping the OCTA informed of any change orders and for assisting in the tracking and management of the available budget throughout the duration of the Project.

5.5 **GMP Negotiations**. RCTC shall provide OCTA the opportunity to review and provide input on pricing packages and to evaluate the costs necessary to reach agreement on the GMP.

5.6 **PA&ED Costs**. RCTC shall be responsible for one hundred percent (100%) of the Project Approval and Environmental Document (PA&ED) costs associated with the Project, estimated at this time to be approximately $4,573,158.

5.7 **Required Permits**. RCTC shall obtain or shall require the Contractor to obtain all required permits and approvals for all Project work.

5.8 **Timely Completion**. RCTC shall use its best efforts to complete the design and construction of the Project in a timely manner so as to avoid adverse effects to the public.

5.9 **Indemnity and Insurance**. RCTC shall include, in its contract with the Contractor, a requirement that the Contractor include OCTA, its directors, members, officers, employees and agents as additional insureds and as indemnified parties under said contract. Insurance shall be in the same amounts and with the same provisions as provided for the benefit of RCTC.

5.10 **Oversight**. As between OCTA and RCTC, RCTC and its consultants shall be responsible for performing design reviews and construction inspection of the Project work to ensure conformance with Caltrans standards and the construction contract including, but not limited to, the technical provisions of said contract.

5.11 **Payment for Closures**. In consideration for the financial impact of the closures of the OCTA Toll Facility as described herein, RCTC agrees to offset such impacts of the construction of the Project on OCTA by making payments pursuant to the following schedule:

Eastbound Direction

For the Eastbound direction, the "Weekday" is Sunday from 9:00 p.m. through Friday at 5:00 a.m. The "Weekend" is Friday from 9:00 p.m. to Sunday at 5:00 a.m.

Permitted Weekday Closure	Sunday 9:00 p.m. to 5:00 a.m.	$4,400.00/night
	Monday 9:00 p.m. to 5:00 a.m	$4,100.00/night
	Tuesday 9:00 p.m. to 5:00 a.m	$5,100.00/night
	Wednesday 9:00 p.m. to 5:00 a.m	$5,300.00/night
	Thursday 9:00 p.m. to 5:00 a.m	$6,100.00/night
Permitted Weekend Closure	Friday 9:00 p.m. to 5:00 a.m	$11,400.00/night
	Saturday 9:00 p.m. to 5:00 a.m	$8,500.00/night
Unpermitted Weekday Closure	Monday 5:01 a.m. to 8:59 p.m. Tuesday 5:01 a.m. to 8:59 p.m. Wednesday 5:01 a.m. to 8:59 p.m. Thursday 5:01 a.m. to 8:59 p.m. Friday 5:01 a.m. to 8:59 p.m.	$22,600/for every partial or full 10- minute increment[1]
Unpermitted Weekend Closure	Saturday 5:01 a.m. to 8:59 p.m. Sunday 5:01 a.m. to 8:59 p.m.	$22,600/for every partial or full 10- minute increment[1]

[1] Closures during this period are not permitted, unless otherwise approved in writing by OCTA. Unpermitted Closure amounts shown are for each ten (10)-minute period (or portion thereof) the closure continues beyond the Permitted Closure period.

Westbound Direction

For the Westbound direction, the "Weekday" is Sunday from 8:00 p.m. through Friday at 4:00 a.m. The "Weekend" is Friday from 9:00 p.m. to Sunday at 5:00 a.m.

Permitted Weekday Closure	Sunday 8:00 p.m. to 4:00 a.m	$5,100.00/night
	Monday 8:00 p.m. to 4:00 a.m	$2,100.00/night
	Tuesday 8:00 p.m. to 4:00 a.m	$2,200.00/night
	Wednesday 8:00 p.m. to 4:00 a.m	$2,300.00/night
	Thursday 8:00 p.m. to 4:00 a.m	$2,600.00/night
Permitted Weekend Closure	Friday 9:00 p.m. to 5:00 a.m	$2,200.00/night

	Saturday 9:00 p.m. to 5:00 a.m	$2,700.00/night
Unpermitted Weekday Closure	Monday 4:01 a.m. to 7:59 p.m. Tuesday 4:01 a.m. to 7:59 p.m. Wednesday 4:01 a.m. to 7:59 p.m. Thursday 4:01 a.m. to 7:59 p.m. Friday 4:01 a.m. to 8:59 p.m.	$22,600/for every partial or full 10- minute increment[1]
Unpermitted Weekend Closure	Saturday 5:01 a.m. to 8:59 p.m. Sunday 5:01 a.m. to 7:59 p.m.	$22,600/for every partial or full 10- minute increment[1]

[1] Closures during this period are not permitted, unless otherwise approved in writing by OCTA. Unpermitted Closure amounts shown are for each ten (10)-minute period (or portion thereof) the closure continues beyond the Permitted Closure period.

RCTC agrees to pay OCTA all amounts due and owing within thirty (30) days of the receipt of a written invoice for payment from OCTA. Should RCTC dispute any of the charges shown on the invoice, such dispute shall be resolved pursuant to the Dispute Resolution process set forth in Section 7, below.

5.12 As it relates to work performed in the Toll Facility:

5.12.1 RCTC and its Contractor shall take all reasonable steps to minimize any impacts to OCTA's operations, including, without limitation, conducting all work on the Toll Facility only between the Permitted Closure hours during the timeframes identified in Section 5.11 above.

5.12.2 RCTC and/or its Contractor, at their sole cost and expense, shall before the end of any closure promptly remove from the Toll Facility all equipment and any soil, material and waste generated during the work. OCTA shall not be identified as the generator of any such soil, material or waste on any manifests or similar documents generated in connection with the work; provided, however, that this provision shall not be construed as preventing the identification of the property if required on such manifests or similar documents.

5.12.3 RCTC and/or its Contractor shall deliver to OCTA notice of any Permitted Closures of the Toll Facility, not less than seven days prior to the proposed commencement date of the Permitted Closure. Any such closure shall be subject to the approval of OCTA. If RCTC's Contractor wishes to withdraw or amend a previously submitted notice of Permitted Closure(s), the Contractor shall provide further notice (in the same manner as the original notice) of such withdrawal or amendment not less than five (5) days prior to the proposed commencement date of the Permitted Closure. If RCTC and/or its Contractor fail to deliver such withdrawal or amendment not less than seventy-two (72) hours prior to the proposed commencement date of the Permitted Closure, RCTC shall still be responsible for payment of the Permitted Closure even though said Permitted Closure was not utilized by RCTC and/or its Contractor.

5.12.4 RCTC and/or its Contractor shall provide further notice as soon as they have knowledge that a Permitted Closure will be late in reopening. In the event that a Permitted Closure does not reopen on time, OCTA will not authorize any further lane closures until RCTC's Contractor submits to OCTA a corrective action plan to avoid recurrences and OCTA approves, in writing, said corrective action plan.

5.12.5 Closures of the Toll Facility shall not be allowed during the following weekends: (i) New Year's weekend; (ii) on Martin Luther King Jr. weekend; (iii) Presidents Day weekend; (iv) Easter weekend; (v) Mother's Day weekend; (vi) Memorial Day weekend; (vii) Independence Day(4^{th} of July) weekend; (viii) Labor Day weekend; (ix) Veteran's Day weekend; (x) weekend before and weekend after Thanksgiving; and (xi) weekend before and weekend after Christmas Day.

5.12.6 The work shall be conducted only under the supervision of persons and entities licensed and certified to perform the work. Furthermore, an authorized representative of RCTC, XXXXXX, or the future roadside services Contractor shall be present at all times during the work.

5.12.7 RCTC represents and warrants to OCTA that RCTC is legally insured for property damage and personal injury, in the amount of $1,000,000 per occurrence/$2,000,000 aggregate with additional limits of $25,000,000 per occurrence in Excess Liability. In addition, RCTC shall cause its Contractor performing the work who enter upon the Toll Facility to maintain, at least $5,000,000 per occurrence in insurance coverage under all of the following types of policies: automobile liability insurance, commercial general liability insurance-(which shall include coverage for both bodily injury and abroad form property damage), and Professional Liability insurance, Pollution Liability insurance, as well as all workers' compensation insurance required by law including a waiver of subrogation in favor of OCTA, its officers, directors, employees or agents. The foregoing coverage limits may be met through a combination of the Contractor's underlying policies and umbrella or excess liability insurance. OCTA shall be named as an additional insured on all such policies maintained by RCTC's Contractor except for the workers' compensation and professional liability policies. In no event shall the amount of such insurance coverage serve as a limitation on RCTC's or its Contractor's liability.

5.12.8 RCTC and its Contractor shall, at their sole cost and expense, repair all damage to the Toll Facility caused by the work, it being the intent of this Cooperative Agreement that upon completion of the work, business activities on the Toll Facility may promptly resume without hindrance, obstruction or delay, and the Toll Facility shall be in the same condition as existing prior to the work.

5.12.9 OCTA shall have absolutely no obligation for advising or informing RCTC or its Contractor as to the location(s) of any underground utilities, structures, equipment at or beneath the Toll Facility. The responsibility for determining and confirming the location(s) of any underground utilities, structures and equipment shall be solely of RCTC and its Contractor. In the event any underground utilities, structures or equipment are damaged by the work, it shall be RCTC's and its Contractor's responsibility to promptly repair, at their sole cost and expense, the same, regardless of the reason(s) why such utilities, structures or equipment were damaged, it being the intent of the Parties hereto

that the risk of the same shall be borne solely by RCTC.

5.12.10 RCTC shall be responsible for providing all safety measures during the work.

5.12.11 If the performance of the work causes damage to the Toll Facility or any adjacent structures, facilities, underground utilities or equipment that results in the Toll Facility not being fully available for use during the repair, RCTC shall reimburse OCTA lost toll revenue for the entirety of time it takes to effectuate the repair, to be calculated based on the prior six week's toll revenue for the affected portion of the Toll Facility.

6. **Notification to OCTA of Anticipated Cost Increases; Good Faith Negotiation of Significant Scope Changes.**

A. RCTC shall notify OCTA of any anticipated increase in Project costs that may cause OCTA's costs to exceed the OCTA Project Cost Estimate upon becoming aware of such anticipated increases. Following such notification, RCTC and OCTA shall meet and confer in good faith to review the causes and impacts of the anticipated increase and to determine an appropriate and agreed upon course of action.

B. In the event of a significant change in the Project scope, the Parties shall review and reassess the cost share percentages currently identified in this Cooperative Agreement and negotiate, in good faith, potential changes to such percentages in order to fairly allocate Project costs between the Parties.

7. Time is of the Essence. Each Party warrants that it shall make its best efforts to perform all obligations assigned to it related to the Project in such a manner as to allow the Project to progress as scheduled.

8. Dispute Resolution. Unless otherwise specified herein, the Parties shall submit any unresolved dispute first to RCTC's Toll Project Delivery Director and OCTA's Capital Program Executive Director (collectively, "Project Level Representatives") for negotiation. The RCTC and OCTA Project Level Representatives agree to undertake good faith attempts to resolve the dispute, claim or controversy within ten (10) days after receipt of written notice from the Party alleging that a dispute, claim or controversy exists. If the Project Level Representatives are unable to resolve the dispute, the dispute shall be submitted to RCTC's Executive Director and OCTA's Chief Executive Officer for negotiation. The Executive Director and the Chief Executive Officer agree to undertake good faith attempts to resolve said dispute, claim or controversy within fifteen (15) calendar days after the receipt of written notice from the Party alleging that a dispute, claim or controversy exists, unless a longer period is agreed upon by the Parties. The Parties additionally agree to cooperate with the other Party in scheduling negotiation sessions. However, if said matter is not resolved within thirty (30) calendar days after conducting the first negotiating session, either Party may, but is not required to, request that the matter be submitted to further dispute resolution procedures, as may be agreed upon by the Parties.

9. Legal Action. If a matter is not resolved within thirty (30) calendar days after the first negotiating session between the Executive Director and the Chief Executive Officer, unless

otherwise agreed upon in writing by the Parties, either Party may proceed with any other remedy available in law or in equity. Notwithstanding the foregoing, during the pendency of any dispute proceeding pursuant to Section 8 that is not resolved within thirty (30) calendar days after conducting the first negotiating session, any Party may bring a proceeding seeking only preliminary injunctive relief in any state court located in San Diego County, California until the Dispute is resolved.

10. Indemnification.

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

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

10.3 [RESERVED.]

10.4 The provisions set forth in this Section 10 shall survive any expiration or termination of this Cooperative Agreement.

11. Notices. Except as may otherwise be expressly provided for in this Cooperative Agreement, any notices or the like required hereunder shall be in writing and shall be deemed delivered, provided or received, as required by applicable provision, (i) when delivered if personally delivered, (ii) when emailed to the addresses listed below with return receipt, (iii) upon written fax confirmation if sent via fax, (iv) the next business day if sent via overnight carrier for guaranteed delivery the next business day with delivery confirmation, or (v) three (3) business days after being sent by United States first class certified mail - return receipt requested, postage prepaid, if mailed. Any notices or the like required hereunder shall be sent as follows:

RCTC:

Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Attn: David Thomas, Toll Project Delivery Director
dthomas@rctc.org
951-787-7141

OCTA:

Orange County Transportation Authority
550 S. Main Street
Orange, CA 92868
Attn: Kirk Avila, General Manager
kavila@octa.net
714-560-5674

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

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

14. Assignment of Cooperative Agreement. Neither Party may assign or transfer its respective rights or obligations under this Cooperative Agreement without the express written consent of the other Party. Any purported assignment or transfer by one Party without the express written consent of the other Party shall be null and void and of no force or effect.

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

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

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

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

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

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

21. Electronically Transmitted Signatures. A manually signed copy of this Cooperative Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Cooperative Agreement for all purposes.

22. Ownership of Documents, Maintenance of, and Access to Records. Each Party shall maintain records associated with its responsibilities under this Cooperative Agreement. Upon reasonable notice, each Party shall permit the authorized representatives of the other Parties and the State of California such access to the Party's accounting books, records, payroll documents and facilities of the Party which are directly pertinent to this Cooperative Agreement for the purposes of examining, auditing and inspecting them in connection with the Party's performance of this Cooperative Agreement. The Parties shall make available the books and records of their subcontractors and consultants which are directly pertinent to this Cooperative Agreement for audit and inspection upon the request of another Party. Each Party shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the Party's performance hereunder and for a period of four (4) years from their date of creation, except in the event of litigation or settlement of claims arising from the performance of this Cooperative Agreement, in which case the Party agrees to maintain same until the disposal of all such litigation, appeals, claims, or other exceptions related thereto. Each Party shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary. Each Party agrees to include these requirements in all subcontracts at any tier.

[Signature on following page]

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SIGNATURE PAGE
TO
COOPERATIVE AGREEMENT
BETWEEN
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND
ORANGE COUNTY TRANSPORTATION AUTHORITY

FOR SR-91 EASTBOUND CORRIDOR

OPERATIONS PROJECT AGREEMENT NO.

.....

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

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	**ORANGE COUNTY TRANSPORTATION AUTHORITY**
By:_____	By:_____
Signature	Signature
Aaron Hake	Darrell E. Johnson
Executive Director	Chief Executive Officer
Approved as to Form:	Approved as to Form:
By:_____	By:_____
Best Best & Krieger LLP	James M. Donich
General Counsel	General Counsel

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EXHIBIT "A"
DEPICTION OF PROJECT

[attached behind this page]

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Exhibit A



PROJECT VICINITY - 91 Eastbound Corridor Operations Project in Riverside County and Orange County, California

Exhibit A

EXHIBIT "B"
PROJECT COSTS

[attached behind this page]

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91 ECOP PROJECT COSTS

Legal Services Support costs, as shown below, include legal costs for Nossaman LLP legal services only. These costs relate to Nossaman LLP legal services for preparation of the PDB procurement documents, contract drafting, procurement support, negotiations, and other related costs. The Project and Construction Management (PCM) line item covers soft costs including RCTC General Counsel legal costs related to PDB procurement support, review of PDB proposals for Public Records Act purposes, negotiation of agreement(s) with Caltrans required for the Project, construction claim administration, and other similar legal costs directly related to and required for the Project. RCTC General Counsel costs related to negotiation of any agreements with OCTA shall not be included as shared Project costs.

RCTC/OCTA COOP EXHIBIT "B" PROJECT COSTS

Description	Cost	RCTC		OCTA	
		% share	Fair Share Contribution	% share	Fair Share Contribution
Project Approval and Environmental Document (PA&ED)	$4,573,158	100%	$4,573,158	0%	-
Design	$30,791,895	60%	$18,475,137	40%	$12,316,758
Right of Way	$4,600,000	60%	$2,760,000	40%	$1,840,000
Project and Construction Management	$48,900,000	60%	$29,340,000	40%	$19,560,000
Caltrans Oversight	$5,565,000	60%	$3,339,000	40%	$2,226,000
Construction	$159,000,000	60%	$95,400,000	40%	$63,600,000
Legal Services Support	$2,750,000	60%	$1,650,000	40%	$1,100,000
Subtotal	**$256,180,053**		**$155,537,295**		**$100,642,758**
241/91 EC Betterment	$1,123,000	60%	$673,800	40%	$449,200
Wildlife Light/Noise Barrier	$2,578,942	60%	$1,547,365	40%	$1,031,577
91 ECOP share for Green River Rd/Foothill Pkwy Traffic Related Improvement	$393,522	60%	$236,113	40%	$157,409
TOTAL	**$260,275,516**		**$157,994,573**		**$102,280,943**

*Estimated project cost is based on the 11 -page estimate dated Jan 2026 and includes 4.2% cost escalation. OCTA shall contribute 40% of the actual project costs, excluding the PA/ED phase. The percentage share shall be revisited if significant changes to the project scope occur in the future. PA&ED phase - 100% funded by RCTC

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EXHIBIT "C"

241/91 EC Betterments for 91 ECOP

241/91 Express Connector Betterments for 91 ECOP

Description	Purpose	Cost*	Total Betterment Cost	RCTC Share	OCTA Share
Separate fiber optic line	Toll system enhancement	$521,270	$1,644,270	$521,270	$0
Full depth shoulder section	Compatibility with 91 ECOP	$223,000		$0	$223,000
Full depth traveled way**	Compatibility with 91 ECOP	$750,000		$0	$750,000
Overhead sign extension**	Compatibility with 91 ECOP	$150,000		$0	$150,000
				$521,270	**$1,123,000**

* Costs provided on the table above are estimates. The betterment cost amounts will be determined after 241/91 EC Project Construction Closeout based on item bid prices or negotiated change orders, as applicable, and agreed to in writing by RCTC, OCTA and TCA prior to accounting for payment and/or credits to TCA

**Full depth traveled way and Overhead sign extension costs are solely for estimation purposes, actual cost will be determined based on the bid results.

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EXHIBIT D

OCTA FUNDING PLAN

RCTC/OCTA COOP EXHIBIT "C" OCTA Funding Plan

Project Delivery Phases/ Component			Estimated Cost[1]	RCTA Cost Share (60%[2])	OCTA Cost Share (40%[2])	Grants/Funding[5] OCTA Share	OCTA Invoice Amount (Approximate)	Invoice Date
Project Approval and Environmental Document (PA&ED)			$4,573,158	$4,573,158	$0	$2,800,000	$1,668,248	1/1/2027[3]
91 ECOP PDB Phase 1	Project Construction and Management (PCM)		$16,626,000	$9,975,600	$6,650,400		$1,668,248	4/1/2026
							$1,668,248	7/1/2026
	Legal Services Support		$2,125,000	$1,275,000	$850,000		$1,668,248	10/1/2026
							$1,668,248	1/1/2027
	PDB Contract (Preliminary Engineering & GMP Development)		$29,252,300	$17,551,380	$11,700,920		$1,668,248	4/1/2027
							$1,668,248	7/1/2027
	Right of Way		$4,480,000	$2,688,000	$1,792,000		$1,668,248	10/1/2027
							$1,668,248	1/1/2028
91 ECOP share for Green River Rd/Foothill Pkwy Traffic Related Improvement			$393,522	$236,113	$157,409		$1,668,248	4/1/2028
							$1,668,249	7/1/2028
91 ECOP PDB Phase 2	Project Construction and Management (PCM)		$32,274,000	$19,364,400	$12,909,600	$10,000,000	$7,903,357	10/1/2028
							$7,903,357	1/1/2029
	Legal Services Support		$625,000	$375,000	$250,000		$7,903,357	4/1/2029
							$7,903,357	7/1/2029
	PDB Contract	Final Design and Construction[4]	$160,539,595	$96,323,757	$64,215,838		$7,903,357	10/1/2029
		Wildlife Light/Noise Barrier	$2,578,942	$1,547,365	$1,031,577		$7,903,357	1/1/2030
	Right of Way		$120,000	$72,000	$48,000		$7,903,357	4/1/2030
	Caltrans Oversight		$5,565,000	$3,339,000	$2,226,000		$7,903,357	7/1/2030
241/91 EC Betterment			$1,123,000	$673,800	$449,200		$7,903,358	10/1/2030
			$260,275,516	**$157,994,573**	**$102,280,943**	**$12,800,000**	**$89,480,943**	

[1] Estimated project cost is based on the 11-page estimate dated Jan 2026 and includes 4.2% cost escalation. OCTA shall contribute 40% of the actual project costs, excluding the PA/ED phase. The percentage share shall be revisited if significant changes to the project scope occur in the future.

[2] OCTA's share of the project cost is 40%, excluding the PA/ED phase. RCTC is responsible for 100% of the PA/ED costs

[3] The first invoice shall be processed 30 days following the award of the Cooperative Agreement

[4] Included the cost associated with Debris/Rockfall Mitigation

[5] RCTC provides 40% of the $7,000,000 Earmark and $25,000,000 Build Grant towards OCTA's share of the project costs. This funding allocation may be revised as additional grants become available.

AGENDA ITEM 8

RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
DATE:	November 10, 2026
TO:	Riverside County Transportation Commission
FROM:	Western Riverside County Programs and Projects Committee Ernesto Salinas, Facilities Administrator Erik Galloway, Project Delivery Director
THROUGH:	Aaron Hake, Executive Director
SUBJECT:	Agreement for Landscape Maintenance Services at the Commuter Rail Stations and Toll Facilities

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:

This item is for the Commission to:

1) Award Agreement No. 26-26-074-00 to Tropical Plaza Nursery, Inc., to provide landscape maintenance services at the commuter rail stations and toll facility, for a three-year term and two, one-year options to extend the agreement, in the amount of $5,724,961 plus a contingency amount of $572,496 for a total amount not to exceed $6,297,457;
2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement on behalf of the Commission;
3) Authorize the Executive Director, or designee, to approve the use of the contingency amount as may be required for these services; and
4) Authorize the Executive Director, or designee, to execute task orders issued to the contractor under the terms of the agreement.

BACKGROUND INFORMATION:

The Commission owns and operates nine commuter rail stations: Riverside-Downtown, Jurupa Valley-Pedley, Riverside-La Sierra, Corona-West, Corona-North Main, Riverside-Hunter Park, Moreno Valley-March Field, Perris-Downtown, and Perris-South. The Commission also maintains a toll operations storage and maintenance facility. These facilities require recurring landscape maintenance, repairs, and related grounds services to preserve safe, clean, attractive, and usable public spaces.

Landscape maintenance services include tree care, pruning and trimming, weed abatement, vegetation and brush control, planting, debris and litter removal, turf mowing, landscape bed maintenance, bioswale upkeep, irrigation monitoring and repairs, plant disease control, pest abatement, and other general grounds maintenance activities.

The Commission's most recent agreement with Tropical Plaza Nursery, Inc. was Agreement No. 22-24-007-00, which was approved by the Commission on November 10, 2021. This agreement covered routine and on-call landscape maintenance services for a five-year term from January 1, 2022, through December 31, 2026. The agreement was originally approved for an amount not to exceed $3,759,000 and was later amended by $420,000, increasing the total amended contract value to $4,179,000.

The current agreement is funded primarily with Measure A funds. Certain maintenance tasks and task-order services are eligible for reimbursement through Federal Transit Administration funds when the work meets applicable funding requirements. The new agreement will continue to support routine maintenance and task-order services, including emergency or urgent landscape work associated with weather events, vandalism, irrigation failures, or other facility needs.

Procurement Process

Staff determined the weighted factor method of source selection to be the most appropriate for this procurement as it allowed the Commission to identify the most advantageous proposal with price and other factors considered. Non-price factors included elements such as qualifications of the firm, proposed staffing, project understanding and approach and the ability to respond to the Commission's needs for Landscaping Services for its Commuter Rail Stations and Toll Facilities as set forth under the terms of Request for Proposals (RFP) No. 26-26-074-00.

RFP No. 26-26-074-00 was released by staff on April 8, 2026. The RFP was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Utilizing PlanetBids, emails were sent to 134 firms, 33 of which are located in Riverside County. Through the PlanetBids site, 20 firms downloaded the RFP. A pre-proposal conference was held on April 14, 2026, and attended by 5 firms. At the pre-proposal conference, staff provided prospective proposers with an overview of the contract requirements, service locations, operational expectations, and procurement procedures. Staff also reviewed the expanded scope of services which will be added to the new landscape maintenance services agreement. Some examples of the expanded scope include increased litter collection frequency, new pressure washing work tasks, pest control, and expanded sweeping/blowing of sidewalks and walkways, to list a few. Information shared at the pre-proposal conference and responses to proposers' questions were subsequently made available to all prospective proposers through written addenda on the PlanetBids site.

Staff responded to all written questions submitted by potential proposers prior to the April 29, 2026, clarification deadline. The questions and responses addressed the expanded service requirements under the new agreement, including increased frequencies for several maintenance activities, additional facility cleaning responsibilities, reporting obligations, and the Commission's expectations for staffing, responsiveness, and overall service quality. The questions and responses were made available to all prospective proposers through the PlanetBids site. Seven firms – Greenfield Landscaping and Maintenance, Inc. (Hacienda Heights), Integrity Arborist and Ecoscape Inc. (Riverside), JAS Landscape LLC (Oxnard), Leafwise Landscape

LLC (Moreno Valley), Mariposa Landscapes, Inc. (Irwindale), Robles Tree Service and Landscaping, Inc. (Temecula), and Tropical Plaza Nursery, Inc. (Villa Park) submitted proposals prior to the 2:00 p.m. submittal deadline on May 20, 2026. Of the seven proposals submitted, four were deemed responsive and responsible. Staff determined that three proposals were considered non-responsive due to material defects. Utilizing the evaluation criteria set forth in the RFP, the four responsive and responsible proposals were evaluated and scored by an evaluation committee comprised of Commission and Bechtel staff.

Based on the evaluation committee's assessment of the written proposals and pursuant to the terms of the RFP, the evaluation committee recommends contract award to Tropical Plaza Nursery, Inc. to provide Landscaping Services for its Commuter Rail Stations and Toll Facilities, as this firm earned the highest total evaluation score. The overall evaluation ranking of written proposals, based on highest to lowest total evaluation score, and the total price are presented in the following table:

Table 1. Summary of Bidder's Proposals and Ranking

Firm	Price	Overall Ranking
Tropical Plaza Nursery, Inc.	$5,724,961	1
Mariposa Landscapes, Inc.	$5,546,752	2
Integrity Arborist and Ecoscape Inc.	$2,735,840	3
Leafwise Landscape LLC	$2,330,578	4

Accordingly, staff recommends awarding Agreement No. 26-26-074-00 (Attachment 1) to Tropical Plaza Nursery, Inc. to provide Landscaping Services for its Commuter Rail Stations and Toll Facilities, for a three-year term, and two, one-year options to extend the agreement, in the amount of $5,724,961 plus a contingency amount of $572,496 for a total amount not to exceed $6,297,457 (5-year total).

Justification for Selected Proposer

Staff recommends award to Tropical Plaza Nursery, Inc. because its proposal demonstrated the strongest understanding of the scope, the greatest confidence in successful contract performance, and the best overall value to the Commission. Tropical Plaza Nursery, Inc. directly addressed the expanded service requirements in the new contract, including daily litter collection, pressure washing, enhanced maintenance activities, and other tasks intended to improve the cleanliness, appearance, and customer experience at Commission facilities.

Tropical Plaza Nursery, Inc. also provided a specific staffing and service plan to support the expanded scope, including dedicated caretaker crews, trimming detail crews, an irrigation specialist, pressure washing support, pest management services, and supplemental field

supervision. The firm's relevant experience maintaining RCTC properties and its record of landscape beautification work at commuter rail stations further supported its higher overall score.

Cost Analysis

The evaluation panel reviewed the cost proposals in relation to the independent cost estimate of approximately $6.6 million for the five-year contract term, current market conditions, and the scope of services required under the new agreement. Based on that review, the panel found the proposals submitted by Tropical Plaza Nursery, Inc. and Mariposa Landscapes to be reasonable and generally aligned with the expected cost of performing the work.

By contrast, the proposals submitted by Leafwise Landscape and Integrity Arborist were significantly lower than both the independent cost estimate and the pricing submitted by the two highest-ranked proposers. Although both firms met the minimum qualifications for consideration, the evaluation panel had concerns regarding the realism and long-term sustainability of proposals in the $2 million range for a contract of this size, complexity, and five-year duration.

The evaluation panel's concerns were based on several factors:

- Limited staffing detail to demonstrate how the required services would be delivered across all Commission facilities;
- Insufficient cost assumptions to support the proposed pricing over the full five-year term;
- Lack of a clear work plan showing how each firm would perform the expanded scope and increased service frequencies; and
- The potential risk of under-resourcing a public-facing maintenance contract with daily, weekly, monthly, and as-needed service requirements.

The recommended contract amount also reflects the expanded scope and operational complexity of the new agreement. The current landscaping services contract was established at approximately $4.179 million. The proposed five-year agreement is higher than the current contract value; however, the increase is reasonable when considered in light of inflationary pressures, increased labor and material costs, additional maintenance responsibilities, higher service frequencies, and the geographic scale of the work. The contract encompasses approximately 120 acres across multiple Commission facilities, including more than 1,200 trees, 340 landscape medians, 80 bioswales, 475,000 square feet of concrete requiring pressure washing/sweeping/blowing, 650 amenities such as benches, canopies, and monuments requiring cleaning, and 147,500 linear feet of irrigation lines requiring maintenance and inspection, along with other related assets. The facilities are also dispersed throughout the service area, requiring the contractor to mobilize crews, vehicles, equipment, and materials to multiple station and facility locations to complete recurring and as-needed work. The recommended pricing therefore provides added value by supporting a broader, more proactive, and logistically demanding

maintenance program designed to meet the Commission's evolving facility maintenance needs and operational expectations.

Expanded Scope of Services

The recommended agreement for award includes a significant expansion in both the number of required maintenance activities and the frequency at which those services must be performed. Under the new agreement, the Contractor will be responsible for twenty-four (24) recurring work tasks encompassing landscape maintenance, groundskeeping, irrigation system maintenance, pest control, litter collection, pressure washing, facility inspections, and other appearance-related services. Several existing maintenance activities have increased service frequencies to improve overall cleanliness, safety, functionality, and appearance at RCTC facilities. Additionally, new services have been incorporated into the routine maintenance program, including specialized pressure washing activities, expanded litter collection requirements, pest management, storm drain maintenance, and facility inspection tasks.

These enhanced service requirements were developed to support a more proactive maintenance approach, reduce deferred maintenance issues, improve asset preservation, and strengthen the customer experience at Commission-owned properties. The evaluation panel considered these increased service levels and additional responsibilities when assessing the reasonableness of proposed pricing and determining best value. Accordingly, the higher contract cost reflects not only inflationary market conditions but also a broader scope of services and increased maintenance frequencies compared with the current agreement. The table below summarizes the twenty-four recurring work tasks and identifies whether each item reflects an existing service, an enhanced frequency requirement, or a new recurring service.

Table 2: Summary of Expanded Landscape Maintenance Services

Task No.	Work Task	Required Frequency	Status
1.	Litter collection from turf/grounds	Daily by 11 a.m.	Enhanced Frequency
2.	Litter collection from trash cans	Every two days	Enhanced Frequency
3.	Mowing/edging	Every two weeks	Existing Service
4.	Mulch replacement/repair	As needed	Existing Service
5.	Sidewalk sweeping/blowing	Daily by 11 a.m.	Enhanced Frequency
6.	Plant/bush/shrub trimming	Every three months	Existing Service
7.	Fertilization of plants and bushes	Every three months	Existing Service
8.	Weed abatement	Every two weeks	Existing Service
9.	Light pole inspection and cleaning	Weekly	New Service
10.	Irrigation inspection/repair	Daily by 3 p.m.	Enhanced Frequency
11.	Backflow inspection	Daily by 3 p.m.	New Service
12.	Landscape bed raking	Every two weeks	Enhanced Frequency
13.	Pest control	As needed	New Service

14.	Mole hill flattening / hole filling	As needed	New Service
15.	Minor tree trimming	Every six months	Existing Service
16.	Locks/gates inspection	Daily by 3 p.m.	New Service
17.	Platform pressure washing	Monthly by the 30th	New Service
18.	Bench/bike rack pressure washing	Weekly by Friday	New Service
19.	Plant replacement	As needed	Existing Service
20.	Dog waste bag replacement and trash collection	Daily by 11 a.m.	New Service
21.	Sidewalk pressure washing	Monthly by the 30th	New Service
22.	Canopy pressure washing	Monthly by the 30th	New Service
23.	Monument/sign pressure washing	Monthly by the 30th	New Service
24.	Storm drain exterior cleaning	Monthly by the 30th	New Service

Note: "Existing Service" means the activity is included in the current agreement at substantially the same frequency. "Enhanced Frequency" means the activity is currently performed but will be required more frequently or to a higher service standard. "New Service" means the activity is being added to the recurring scope under the proposed agreement.

Selection of Tropical Plaza Nursery vs. Mariposa Landscapes

Mariposa Landscapes was the second highest-ranked proposer and submitted a competitive cost proposal. However, Tropical Plaza Nursery, Inc. provided a more comprehensive explanation of its service approach and a stronger plan for delivering the expanded contract requirements. Tropical Plaza Nursery's proposal also demonstrated stronger familiarity with RCTC commuter rail station properties and the operational requirements associated with maintaining public-facing transportation facilities.

Based on the evaluation criteria, the evaluation panel determined that Tropical Plaza Nursery offered the stronger overall proposal, provided the best value to the Commission, and presented the lowest overall performance risk for continued delivery of landscape maintenance services at RCTC facilities.

FISCAL IMPACT:

Funding for this agreement will consist primarily of Measure A Western County Rail funds and a very minimal use of toll revenue for the toll facility. Certain costs may be eligible for reimbursement using Federal Transit Administration Section 5307 grant funds, depending on the nature of the work and applicable grant requirements. The funding information is summarized on the following page.

Financial Information						
In Fiscal Year Budget:	Yes	Year:	FY 2026/27+	Amount:	FY 2026/27: $629,746 FY 2027/28+: $5,667,711	
Source of Funds:	2009 Measure A Western County Rail, Toll Revenues, Federal Transit Administration Section 5307 Grant			Budget Adjustment:		No
GL/Project Accounting No.:	244001-73312-00000-0000 265-24-73301 244002-73312-00000-0000 265-24-73301 244003-73312-00000-0000 265-24-73301 244004-73312-00000-0000 265-24-73301 244006-73312-00000-0000 265-24-73301 244010-73312-00000-0000 265-24-73301 244020-73312-00000-0000 265-24-73301 244021-73312-00000-0000 265-24-73301 244022-73312-00000-0000 265-24-73301 244024-73312-00000-0000 265-24-73301 004011-90701-0XXXX-4XXX 265-33-90501 001599-73312-00000-0000 515-31-73301 009199-73312-00000-0000 591-31-73301					
Fiscal Procedures Approved:				Date:	10/16/2026	

Attachment: Draft Agreement No. 26-26-074-00 with Tropical Plaza Nursery, Inc.

Approved by the Western Riverside County Programs and Projects Committee on October 26, 2026

In Favor: 10 Abstain: 0 No: 0

Agreement 26-26-074-00

RIVERSIDE COUNTY TRANSPORTATION COMMISSION LANDSCAPE MAINTENANCE SERVICES FOR THE COMMUTER RAIL STATIONS AND TOLL FACILITIES

1. PARTIES AND DATE.

This Agreement is made and entered into this ……..day of ……, 2026 by and between the Riverside County Transportation Commission ("Commission") and TROPICAL PLAZA NURSERY INC., a CORPORATION with its principal place of business at 9642 Santiago Blvd., Villa Park, CA 92861 ("Contractor"). Commission and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

2. RECITALS.

2.1 Commission is the Transportation Commission for the County of Riverside and organized under the laws of the State of California with the power to contract for services necessary to achieve its purpose.

2.2 Commission owns and operates nine (9) commuter rail stations, one transit center, and one toll facility serving Riverside County, the addresses and descriptions of which are set forth in Exhibit "A", attached hereto and incorporated herein by reference ("Commuter Rail Stations and Toll Facility").

2.3 On or about April 8, 2026, Commission issued a Request for Proposals 26-26-074-00 ("RFP"), pursuant to which Commission sought proposals from contractors to provide routine and on-call landscape maintenance services for the Commuter Rail Stations and Toll Facility.

2.4 Contractor desires to perform and assume responsibility for the provision of certain routine and on-call landscape maintenance services required by Commission on the terms and conditions set forth in this Agreement and, for the on-call portions of the services, in the task order(s) to be solicited, awarded and authorized by Commission as further described in this Agreement ("Task Order").

2.5 The work generally includes the complete landscape maintenance of the Commuter Rail Stations and Toll Facility including, but not limited to, controlling plant, disease and pests, irrigation material, maintaining and repairing irrigation systems, removing trash and debris, and other maintenance required to maintain the Commuter Rail Stations and Toll Facility in a safe attractive and useable condition. Contractor represents that it is a professional Contractor, experienced in providing routine and on-call landscape maintenance services to public clients, and is familiar with the plans of Commission.

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2.6 Commission desires to engage Contractor to render routine and on-call landscape maintenance services for the Commuter Rail Stations and Toll Facility. Routine landscape maintenance services shall be as set forth in Exhibit "A", attached hereto and incorporated herein by reference. On-call landscape maintenance services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein. The routine services set forth in Exhibit "A" and each individual project ordered under a Task Order shall be referred to, herein, collectively, as the "Project".

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to Commission all labor materials, tools, equipment, services, and incidental and customary work, as necessary, to fully and adequately provide the routine landscape maintenance services for the Commuter Rail Stations and Toll Facility as set forth in Exhibit "A" and any on-call landscape maintenance services for the Commuter Rail Stations and Toll Facility required by Commission, as shall be set forth in a Task Order, collectively referred to herein as the "Services".

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

All Services shall be subject to, and performed in accordance with this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from **January 1, 2027 to December 31, 2029 plus two (2) one-year options for a total of five (5) years**, unless earlier terminated as provided herein. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of Commission and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services

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under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the routine landscape maintenance Services expeditiously, within the term of this Agreement. Contractor shall perform any on-call Services in accordance with the schedule that shall be set forth in the Task Order (collectively, "Schedule of Services").

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

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

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of Commission.

3.2.4 Commission's Representative. The Commission hereby designates Executive Director or his or her designee, to act as its representative for the performance of this Agreement ("Commission's Representative"). Commission's Representative shall have the power to act on behalf of the Commission for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the Commission's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates Leslie T. Fields or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with Commission staff in the performance of Services and shall be available to Commission's staff, consultants and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and

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approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibit "A" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the Commission will suffer damage.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the Commission. If Contractor disputes the Commission's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Contractor shall be solely responsible for all costs arising therefrom. Commission is a public entity of the State of California subject to, among other rules and regulations, the Public Utilities Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a county transportation commissions are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold Commission, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

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3.2.10.1 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the Commission or its representatives for inspection and copy at any time during normal business hours. The Commission shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.2.10.2 Employment Eligibility; Subcontractors, Sub-subcontractors and consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the Commission to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

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

3.2.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of

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Commission's Disadvantaged Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall comply, and shall ensure all subcontractors comply, with all applicable requirements of the most current version of the regulations imposed CARB including, without limitation, all applicable terms of Title 13, California Code of Regulations Division 3, Chapter 9 and all pending amendments ("Regulation"). Throughout the Project, and for three (3) years thereafter, Contractor shall make available for inspection and copying any and all documents or information associated with Contractor's and its subcontractors' fleets including, without limitation, the Certificates of Reported Compliance ("CRCs"), fuel/refueling records, maintenance records, emissions records, and any other information the Contractor is required to produce, keep or maintain Contractor shall be solely responsible for, and shall defend, indemnify, and hold harmless the District, its officials, officers, employees, and authorized volunteers from and against, any and all claims, liabilities, fines, penalties, interest, damages, losses, or costs (including, without limitation, costs of compliance) imposed CARB or any other governmental or regulatory agency, arising out of or related to any violation or alleged violation of applicable laws, rules, regulations, or the CARB Regulations by Contractor, its subcontractors, or any other persons or entities for whom Contractor is responsible under this Agreement.

3.2.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the Commission's rules regarding discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or Commission to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or

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active negligence of the Commission, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by Commission, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, Commission will provide Contractor with a list of training programs that meet the requirements of this paragraph.

3.2.11 Insurance.

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

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

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

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

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

(A) General Liability.

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

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

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

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

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

(C) Workers' Compensation and Employers Liability Coverage.

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

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

(D) All Coverages.

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

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

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

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

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

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

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

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

Each insurance policy required by this Agreement shall be endorsed to state that:

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

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

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

3.2.11.7 Subcontractor Insurance Requirements. Contractor shall not allow any subcontractors or subcontractors to commence work on any subcontract until they have provided evidence satisfactory to the Commission that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such

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subcontractors or subcontractors shall be endorsed to name the Commission as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Contractor, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subcontractors.

3.2.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of Commission during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.2.14 Bonds

3.2.14.1 Performance Bond. If required by law or otherwise specifically requested by Commission as part of a Task Order for repair work over $25,000, Contractor shall execute and provide to Commission concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in the Task Order, and in a form provided or approved by the Commission. If such bond is required, no payment will be made to Contractor until it has been received and approved by the Commission.

3.2.14.2 Payment Bond. If required by law or otherwise specifically requested by Commission as part of a Task Order for repair work over $25,000, Contractor shall execute and provide to Commission concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the Commission. If such bond is required, no payment will be made to Contractor until it has been received and approved by the Commission.

3.2.14.3 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the District. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the Commission.

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3.3 Fees and Payments; Labor Code Requirements.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. The total compensation to be provided under this Agreement, including all Task Orders issued pursuant to this Agreement shall not exceed **Three million three hundred thirty-one thousand four hundred thirty seven ($ 3,331,437)**. The total compensation per Task Order shall be set forth in the relevant Task Order, and shall not exceed said amount without the written approval of the Commissioner's Executive Director. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to Commission a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Commission shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by Commission.

3.3.4 Extra Work. At any time during the term of this Agreement, Commission may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by Commission to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from Commission's Representative.

3.3.5 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Commission shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.6 Payroll Records. In accordance with the requirements of California Labor Code Section 1776, Contractor shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information

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required by such forms. Responsibility for compliance with California Labor Code Section 1776 shall rest solely with Contractor, and Contractor shall make all such records available for inspection at all reasonable hours.

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

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

If California Labor Code Section 1777.5 applies to the Services, Contractor and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Contractor or any sub-contractor for the employment and training of apprentices. Upon issuance of this certificate, Contractor and any sub-contractor shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

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

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

3.4 Termination of Agreement.

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3.4.1 Grounds for Termination. Commission may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to Commission, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, Commission may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Commission may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

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

CONSULTANT:	**COMMISSION**:
Tropical Plaza Nursery, Inc.	Riverside County
9642 Santiago Blvd	Transportation Commission
Villa Park, CA 92861	4080 Lemon Street, 3rd Floor
	Riverside, CA 92501
Attn: Leslie T. Fields	Attn: Executive Director

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

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity**.** To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Contractor, its officials, officers, employees, subcontractors, contractors or agents in connection with the performance of the Services, the Project, this Agreement or any Task Order, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

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Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with Counsel of Commission's choosing and at Contractor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.5.2.1 that may be brought or instituted against Commission or its officials, officers, employees, volunteers and agents. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse Commission for the cost of any settlement paid by Commission or its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for Commission's attorneys' fees and costs, including expert witness fees. Contractor shall reimburse Commission and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Commission, its officials officers, employees, agents, or volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the Commission. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the Commission.

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

3.5.5 Commission's Right to Employ Other Contractors. Commission reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

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

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assignment, hypothecation or transfer. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to Commission include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

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

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

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

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the Commission's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, Commission shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Commission, during the term of his or her service with Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

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3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

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

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.18 Federal Provisions. Funding for the Services is provided, in whole or in part, by Caltrans or the Federal Transportation Administration ("FTA"). Contractor shall also fully and adequately comply with the provisions included in Exhibit "C" (Federal Requirements) attached hereto and incorporated herein by reference ("Federal Requirements"). With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

[SIGNATURES ON NEXT PAGE]

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SIGNATURE PAGE FOR
LANDSCAPE MAINTENANCE SERVICES AGREEMENT FOR THE COMMUTER RAIL STATIONS AND TOLL FACILITIES
BETWEEN THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND TROPICAL PLAZA NURSERY, INC.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first set forth above.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

_____
Aaron Hake
Executive Director

Approved as to form:

Best Best & Krieger LLP

_____
General Counsel

TROPICAL PLAZA NURSERY, INC.

_____
Signature

_____
Name

_____
Title

ATTEST:

_____
Signature

_____
Name

_____
Title

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

EXHIBIT "A"

SCOPE OF SERVICES

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STATEMENT OF SERVICES

I. BACKGROUND

A. Introduction

The Contractor will furnish all materials, supplies, equipment, tools, removal, installation, labor, coordination, permits, supervision, freight, and incidentals (including tax) as necessary to perform and complete landscape maintenance, inspection, and repair services pursuant to the Request for Proposal (RFP) and the Agreement.

The Contractor will perform landscape maintenance and related maintenance services that primarily focus on the general cleanliness and upkeep of landscape elements at our commuter stations and other properties. This organization must also have sufficient staffing, expertise, applicable licenses, and supervisory/quality control measures. The organization will have the ability to be contacted on-demand via a dispatch service using cell phones or other mobile technologies during the workday and after-hours.

In general, the work will involve, (but is not limited to), weed abatement, litter collection from grounds, plant care, disease and pest management/control, irrigation system operation (inspection, repair, and maintenance), walkway clearing, pressure washing, brush/vegetation removal, water fountain repair, hardscape maintenance, and tree care/maintenance.

On-call or emergency services shall be requested in response to weather or other unprojected events.

B. Locations

Work will be performed at the locations listed below and as depicted in *Attachment 2, Landscape Maintenance Areas of Responsibility, Maps and Grids.*

Station/Facility	Location
Riverside Downtown	4066 Vine St, Riverside, CA 92507
Hunter Park/UCR	1101 Marlborough Ave, Riverside, CA 92507
Pedley/Jurupa Valley	6001 Pedley Rd, Riverside, CA 92509
Moreno Valley/March Field	14160 Meridian Parkway, Riverside, CA 92518
La Sierra	10901-A Indiana Ave, Riverside, CA 92503
North Main Corona (NM Corona)	250 E. Blaine St., Corona, CA 92879
Perris Downtown	121 South C Street, Perris, CA 92570
Perris South	1304 Case Rd, Perris, CA 92510
Corona West	155 S. Auto Center Drive, Corona, CA 92880
Facilities and Maintenance Bldg. (FAM)	120 N. Joy Street, Corona, CA 92879

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C. Description of Work (Landscape Maintenance Work Tasks and Frequency)

Attachment 1 (Station Landscape Maintenance Work Tasks and Frequency) provides a list of general work tasks and frequencies required for work performance. It is crucial to the scope of work required and will be used to evaluate Contractor performance. A detailed description of each task is further expanded in *Section III (Station Landscape Maintenance Work Task Descriptions)* of this document. The Contractor is tasked with ensuring all landscaping and grounds at commuter stations and RCTC-owned properties are kept in good condition, free from debris/hazards, are aesthetically pleasing, and maintained efficiently to maximize utility savings.

II. STAFFING

A. Staffing Requirements (Field Work)

The Contractor must have sufficient crews with multiple supervisors on site. It is expected that at least 12-14 employees (though not limited to this amount) will form various crews that will perform landscaping and clean-up tasks at geographically separated commuter stations.

A qualified field supervisor/foreman with demonstrated management skills is required to be available daily to respond to inquiries or requests from the Contract Administrator or designee. This individual must be able to communicate effectively in-person and via other communication methods.

All work must be performed by skilled, experienced personnel, directly employed, supervised, and trained to work with materials and equipment of the trade in a safe and workmanlike manner.

The Contractor will also identify an irrigation specialist who will be responsible for making necessary irrigation repairs and serve as the chief overseer of the irrigation system. This individual will also be available to provide USA (dig alert) markings (internally) for any dig requests in landscape areas.

B. Staff Licenses and Certifications

Pesticide licenses, HAZWOPER (Hazardous Waste) certification, and any other state-mandated licensing is required of Contractor staff performing work tasks requiring special licenses or certification. The Contractor shall have a qualified person on staff with a Qualified Applicator Certificate (QAC) in category Q or B applying any chemical. The Contractor is not exempted from federal, local, or state licensing/certification requirements (existing or future) should it not be listed in this document.

C. Staff Administrative Support/Customer Service

The Contractor will have dedicated staff available to respond to administrative requests related to invoicing or other customer service needs.

The Contractor will also ensure staff is available to respond to after-hour, on-call, or emergency requests from the Contract Administrator or designee. Additional on-call/emergency details are specified in *Section VIII. Emergency Service/On-Call Duties* of this document.

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D. Other Staff Requirements

The Contractor will ensure all employees are U.S. citizens or legal residents authorized to work in the United States. Failure to comply with this requirement may result in termination of the services agreement.

At the request of the Contract Administrator, the Contractor shall replace any person in its employ deemed to be unqualified to perform the work.

III. EQUIPMENT/MATERIALS/SUPPLIES

The Contractor must provide a listing of available equipment and materials/supplies to reassure RCTC of its ability to perform required work tasks.

A. Equipment/Powered Tools/Hand Tools

The Contractor shall submit a list to the Contract Administrator of all equipment that will be used in the execution of the landscape and grounds clean-up services requested. While no specific equipment is mandated, it is generally expected that the organization will possess the following:

- 2-3 large stake bed trucks (for green waste/debris at multiple locations)
- 3 extended cab/passenger vehicles with trailer mounting capabilities
- Rakes, blowers, weed-whackers, litter pickers, hand pruners, chainsaws
- Traffic control equipment/devices (cones, caution tape, barricades, etc)
- Toro riding mower (or similar)
- Irrigation trouble-shooting equipment, iron crowbars (for opening concrete control valve covers, etc.), standard PVC piping, and related components.
- Pressure washers (trailer mounted or portable)
- Small landscape dump trailers
- Tree stakes, tree ties, guy wires

B. Materials

The Contractor shall submit a list to the Contract Administrator of all materials/supplies that will be used in landscape services including Safety Data Sheet (SDS). The list shall include the chemical analysis, recommended usage, and any other pertinent information from the manufacturer of the material or chemical. This list includes (but is not limited to), fertilizers, insecticides, fungicides, herbicides, rodenticides. Contractor shall maintain (subject to request and inspection) a record of all chemical applications and active ingredients used at all locations.

C. Other Supplies

The Contractor will provide a list of available resources (or on-hand inventory) of tree stakes, weed-barrier fabric, decorative rock, mulch, replacement trees, replacement shrubs, guy wires, ground cover, irrigation supplies (nozzles, sprinkler components, control wires, timers, valve

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boxes, hose bibs, quick connects, riser pipers—elbows, tees, slip fix, nipples, couplers, adapters, etc.), and any other irrigation system components.

IV. SCHEDULING OF WORK

A. Hours of Operation

All work will be performed Mondays to Friday within the hours of 6:30 a.m. and 5:30 p.m. unless otherwise exempted by the Contract Administrator**. No maintenance operations that may cause excessive noise shall be allowed before 7:30 a.m. Quiet work such as hand work, irrigation inspections, work site prep, litter collection from grounds may be performed between 6:00 a.m and 7:30 a.m. so long as the work tasks do not create excessive noise. Work will be performed in a manner as to not interfere with pedestrian or vehicular traffic on adjacent streets and/or parking lots. At active commuter rail stations, the Contractor will ensure to work away from metrolink patrons/riders during peak times.** Special maintenance projects or larger activities (such as pruning) will require posted notifications in the area(s) where work is to be performed at least four days in advance. All proper traffic control devices (cones, caution tape, barricades) will be utilized as required.

B. Work Reporting and Notification/Communication

The Contract Administrator or designee will be contact points for the Contractor, of which requests, direction, coordination, and authorization will be communicated through. The Contractor shall, at all times, provide a working lead person/foreman who shall be responsible for accepting and executing such instructions as are conveyed by the Contract Administrator or designee during the contract period. Instructions conveyed verbally or in writing shall be binding upon the Contractor.

The Contractor will also be required to provide the Contract Administrator or designee with a schedule of weekly work tasks prior to the work week beginning. The Contractor will also provide the Contract Administrator (via email) weekly progress reports and inform him/her of any work delays or complications.

V. COMMUNICATION AND CUSTOMER SERVICE (Public)

A. Requests from the Public

The Contractor is prohibited from taking direct requests from any residents, elected officials, or RCTC staff (not affiliated with the Contract Administrator or his/her designee). The Contractor will make every effort to politely inform the requesting individual to contact the Contract Administrator or RCTC's main phone line. Any instance of work performed as a result of a direct request outside of the Contract Administrator or his designee will be cause for termination of the maintenance services agreement.

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B. Customer Service

Any customer service complaints or inquiries regarding landscape maintenance and station groundskeeping shall be forwarded by the Contractor to the Contract Administrator for resolution.

VI. WORK PROTECTION ZONES/SAFETY/DAMAGE TO PROPERTY

A. Work Protection Zones

The Contractor will ensure work protection zones are established as needed in areas where vegetation or trees may be damaged by equipment. Damage to landscape beds or grass-turf, parking lots, curbs, etc. by Contractor equipment will be immediately reported and resolved. This includes tire-tracks, water run-off that causes soil erosion, collisions with infrastructure, and the like.

The Contractor assumes all responsibility for damaged or lost property and must resolve any such issues within 30 days of discovery through replacement, repair or reimbursement. The Contractor must work with the Contract Administrator or designee in doing so. In no event will RCTC be responsible for any damages to any of the Contractor's equipment, either lost, damaged, destroyed or stolen.

B. Safety and Personal Protective Equipment (PPE)

The Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property and shall submit to RCTC their company Safety Plan prior to work.

The Contractor shall ensure that their employees are provided with and utilize the proper Personal Protective Equipment (PPE) while performing the work.

The Contractor shall designate at least one (1) Safety Representative acceptable to RCTC, provided that acceptance may be withdrawn at any time, who shall be responsible for ensuring that the work is performed in accordance with the requirements set forth in the Contract, the Contractor's Safety Plan, and all applicable laws and regulations.

The Contractor shall have at least one individual on site who is First Aid and CPR trained. The individual shall be identified, and the Contractor will provide copies of their safety training certifications.

The Contractor shall post and ensure all employees are aware of the name, location, phone numbers of local doctors, hospitals, ambulance services, and emergency services that they contact in the event of an on-site emergency.

In carrying out its work, the Contractor shall always 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 perform.

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C. Damage to Property

The Contractor shall preserve from damage all property along the line of work or which is in the vicinity of or is in any way affected by the work. This applies to, but is not limited to, public and private property, vehicles, utilities, trees, shrubs, signs, grounds including sprinkler systems, etc. Whatever such property is damaged due to the activities of the Contractor, it shall be immediately restored to a condition equal to or better than that existing before such damage was done by the Contractor and at the Contractor's expense. *Refer to Section X, Paragraph B. Other Requirements* for detailed information on replacement of damaged plants and related materials.

VII. DISPOSAL AND RECYCLING

A. Disposal

The Contractor is responsible for disposing of any items reasonably considered as trash/debris. Trash enclosures at commuter stations will be made available for minor trash and green waste; however, large accumulations of green waste/trash are the responsibility of the Contractor to dispose of at an off-site location. Tires, batteries, paints, biohazards, and other similar items must be discarded using proper chain of custody for disposal.

B. Recycling

The Contractor will ensure that all recyclables are properly disposed of regardless of on-site or off-site disposal. Metal, aluminum, plastics, glass and other recyclable materials must either be sorted on-site as litter collection occurs or off-site prior to transport to a waste and recycling facility. Green waste must be properly separated into appropriate green bins/totes at station or transferred in separate haul trailers by the Contractor. The Contractor may chip green waste or tree branches for re-use as mulch where applicable or for Contractor use.

VIII. EMERGENCY SERVICE/ON-CALL DUTIES

Twenty-four (24) hours per day, seven (7) days per week, the Contractor shall be able to receive and respond (with appropriate staffing) to the Contract Administrator or his or her designee's call for emergency service. Response time shall be less than two (2) hours to remove or eliminate a public safety hazard. Contractor shall provide the Contract Administrator with a local telephone number where Contractor can be contacted twenty-four (24) hours per day, seven (7) days per week. Failure to respond to an emergency call-out will be grounds for termination of the services agreement.

IX. HOMELESS ENCAMPMENT DISCLAIMER(S)

Both parties agree that should litter and/or illegally dumped items be reasonably considered by the Contractor to be the personal property of homeless individuals, the Contractor will elect not to disturb said items and will notify the Contract Administrator or designee immediately.

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X. STATION LANDSCAPE MAINTENANCE DETAILED WORK DESCRIPTIONS/FREQUENCIES AND OTHER REQUIREMENTS

A. Work Tasks and Frequencies (from Bid Schedule B) Detailed Descriptions

The following work task descriptions shall be cross-referenced with *Attachment 1, Station Landscape Maintenance Work Task and Frequency:*

1. Litter Collection from Turf — Frequency A (daily by 11 AM)

The Contractor will collect and remove all litter and debris from grounds, turf areas and adjacent edges, including curbs, tree wells, parking lots, platforms, landscape beds, and bioswale beds as applicable. Bag and dispose of waste off-site and ensure all areas are litter-free. This will also include any unauthorized signs, posts, stakes, for political or commercial purposes found on grounds. After heavy windstorms, the entire area shall be cleaned of litter, fallen branches, etc., which are more than normal amounts. All trash and debris shall be removed from all work sites as work is being performed.

2. Litter Collection from Cans — Frequency C (every two days)

The Contractor will empty all refuse and recycling cans, replace liners, wipe exterior surfaces, and clean surrounding areas. The Contractor will ensure cans are upright, clean, and serviced.

3. Mowing/Edging — Frequency E (every two weeks)

The Contractor will mow designated turf to an even height, avoid scalping, and remove all clippings from sidewalks and hardscapes. The Contractor will also maintain mower patterns to avoid ruts and ensure a consistent appearance. The Contractor will edge turf boundaries along sidewalks, curbs, platforms, and planter interfaces to maintain clean lines. Remove all debris produced and blow hardscapes clean.

Edging of ground cover beds is also required and the Contractor must ensure plants are not encroaching onto sidewalks or pedestrian walkways. Ground cover shall also not be permitted to encroach onto lawns, shrubs, amenities, etc. Please Note: Mowing is only required at La Sierra, North Main Corona, and the FAM facility.

4. Mulching — Frequency K (as needed)

The Contractor will top-off and add mulch to landscape beds as needed. They will ensure the same type of mulch is used or completely replace all mulch to match. The Contractor will also ensure weed-barrier fabric is not visible and replaced as necessary. A minimum of (2) inches of mulch is required. Areas around plants shall be cultivated every two weeks.

5. Sidewalk Sweeping/Blowing — Frequency A (daily by 11 AM)

The Contractor will sweep or blow sidewalks and hardscapes to remove debris, focusing on corners, platforms, and high-traffic areas. This includes exterior elevator corridors and exterior walkways. The Contractor will not blow debris into storm drains or tracks. The Contractor shall remove all leaves that have fallen and or accumulated in the parking lot curb corners and in the parking lot drain inlets.

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6. Plant/Bush/Shrub Trimming — Frequency L (every three months)

The Contractor will trim shrubs and plants to maintain natural form and visibility, clearing any encroachment onto walkways or signage. Dead or damaged limbs or branches shall be removed and cut cleanly with no projections or stubs remaining. Severe hedging or severe pruning of plants (to include drought tolerant trees) shall not be permitted unless authorized by the Contract Administrator. Pruning shall be done in a manner that permit plants to grow naturally. Should the Contractor shear hedge or severely prune plants, the Contractor shall be responsible for replacing those plants with like kind as determined by the Contract Administrator.

7. Fertilization (Plants, Bushes) -- Frequency G (quarterly)

The Contractor will apply appropriate fertilizers quarterly, ensuring correct dosage and preventing product spread onto hardscapes. Rate of application shall be (2) pounds of actual nitrogen per 1,000 square feet unless exempted by the Contract Administrator. The Contractor will water as needed and document applications.

8. Weed Abatement — Frequency H (every two weeks)

The Contractor will remove or treat weeds in turf, landscape beds, planters, and DG areas using manual or approved chemical methods. The Contractor will avoid overspray and conduct follow-up as needed. The Contractor will remove and treat weed in pavement cracks, curbs, fence lines, tree wells, gates, and any other hard surfaces at the stations or FAM. Weeds shall be controlled by hand, weed barrier, and/or approved chemical methods. Chemical application must be in accordance with California and/or local state regulations regarding the use of herbicides.

9. Light Poles Inspection & Cleaning — Frequency B (weekly)

The Contractor will inspect and clean poles, removing bird droppings and dirt and report any damage or electrical hazards immediately to Contract Administrator. This work task only involves inspecting and cleaning at the base of the pole and five feet upwards as needed--no electrical work is authorized nor audit of the functionality of the light pole is expected.

10. Irrigation Inspection/Repair/Maintenance — Frequency I (daily by 3PM)

The Contractor is responsible for the operation of our entire irrigation system at all stations and is expected to appoint an irrigation specialist who will oversee the irrigation system. The Contractor will inspect irrigation systems for leaks, breakage, overspray with a visual walk-by. The Contractor will perform minor repairs immediately and report major issues. **Minor repairs will be covered (at no extra cost)** by the Contractor and include nozzle breaks, dislodged fittings, damaged valve covers, exposed lines, cracked lines, small connectors (elbows, T's, etc.), leaking spigots, breaks in non-main lines *(see 10a. below for additional description of minor repairs).* Major repairs include breaks to main lines, motherboard/controller failures for irrigation systems, backflow preventer failures, irrigation controller (timers/clocks), irrigation controller cabinets, electrical power connections to cabinets, repairs requiring 18" excavation and repairs to lines under concrete requiring saw cutting. **All major repairs will be brought to the attention of the Contract Administrator for approval prior to work commencing** at an extra cost (unless the repair is a result of Contractor negligence) and will be considered as supplemental work (cost estimate will be requested).

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10a. The Contractor will repair, replace, clean and adjust, straighten, raise and lower the following sprinkler system components as needed, for no additional cost, under normal wear conditions as determined by the Contract Administrator or designee:

Sprinkler heads
Sprinkler head risers
Valve covers
Quick coupler valves
Bubblers/emitters/nozzle
Sprinkler system lateral
(Pressure Line) sprinkler
Control valves sprinkler
Ball and gate valves
Drip irrigation system tubing, and emitters

10b. At no additional cost to RCTC, repair or replace any damaged irrigation system components due to Contractor negligence.

11. Backflow Inspection — Frequency I (daily by 3PM)

The Contractor will inspect backflow devices for leaks, vandalism, and obstruction and ensure cages and locks are secure and report deficiencies promptly to Contract Administrator. Repair is not required but valve shut off is a requirement when leaks are present.

12. Landscape Bed Raking — Frequency E (every two weeks)

The Contractor will rake and level landscape beds, mulch, decorative rocks, and DG areas, removing debris and redistributing material to maintain a neat appearance. The Contractor will correct low spots and clear edges and ensure debris is removed between decorative rocks. Debris also includes palm fronds or sap/seeds/blooms from bushes and trees.

13. Pest Control — Frequency K (as needed)

The Contractor will monitor and treat for insects or rodents using approved and safe practices and prioritize non-chemical methods and document findings and treatments. The Contractor will ensure chemical agents do not flow into storm drains or other openings. Approved control measures shall be continued until the insect or rodent is controlled to the satisfaction of the Contract Administrator. The Contractor shall utilize all safeguards necessary during insect or rodent control operations to ensure safety of the public and the employees of the Contractor. Cages may not be placed at any location without the approval of the Contract Administrator.

14. Mole Hill Flattening / Hole Fill — Frequency K (as needed)

The Contractor will flatten mounds and fill tunnels or holes resulting from moles or ground squirrels to restore grade in conjunction with pest control efforts to prevent recurrence.

15. Minor Tree Trimming (Tree Care) — Frequency H (every six months)

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The Contractor will perform light tree pruning to clear signage, lighting, and walkways, removing small dead or unsafe branches and will dispose of debris off-site. Tree canopy (trimming) must allow for at least 8 feet clearance from ground for trees near walkways or pedestrian areas. The Contractor will notify the Contract Administrator of any insect/borer infestation of trees. While full tree trimming is required every six months, the Contractor is required to trim tree that present obstacles or obtrusions onto walkways and rights of way or exhibit dead/decaying branches.

The Contractor will also provide palm tree trimming (all species) and ensure palm fronds are properly disposed on an annual basis. This service agreement will reimburse the cost of aerial device or bucket truck rental for annual palm tree trimming should contractor require rental of specialized aerial equipment. Reimbursement is based on equipment rental rates noted in this document.

16. Locks/Gates Inspection — Frequency I (daily by 3pm)

The Contractor will inspect exterior locks, gates, and hardware for alignment, function, and security and will immediately report any damages, vandalism, or missing components to the Contract Administrator and on-site Security Contractor.

17. Platform Pressure Washing — Frequency F (monthly by the 30th)

The Contractor will pressure-wash platforms to remove stains, spills, gum, and debris while controlling overspray and protecting riders and equipment. Cleaning agents must be non-toxic and run-off may not flow onto storm drains or any other stormwater runoff systems.

18. Bench/Picnic Table Pressure Washing — Frequency B (weekly by Friday)

The Contractor will wash benches and tables thoroughly, removing stains and residues. Cleaning agents must be non-toxic, and run-off may not flow onto storm drains or any other stormwater runoff systems.

19. Plant Replacement — Frequency K (as needed)

The Contractor will replace dead or missing plants, (to include ground-cover vegetation), with matching species and sizes and will ensure proper spacing, watering, and fertilizer is applied when planting a replacement plant. The Contractor will not attempt to restore plants that have more than fifty percent dead limbs—but is required to replace them in-kind as much as possible. All plants shall be maintained in good condition with accepted horticulture standards for growth and appearance.

20. Doggie Bag Replacement / Pet Station Can Collection — Frequency A (daily by 11AM)

The Contractor will restock pet waste stations with bio-degradable doggie bags, clear any jams, verify dispensing function, and clean surroundings and will report any damaged equipment. This only applies at La Sierra station, but other stations may be added in the future.

21. Sidewalk Pressure Washing — Frequency F (monthly by 30th)

The Contractor will pressure wash sidewalks to remove grime, gum, staining, organic buildup, and other residues. This includes walkways, exterior corridors, steps, and ramps. The Contractor will protect nearby electrical components from run-off along with storm drains or any other stormwater runoff systems. Cleaning agents must be non-toxic.

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21a. Pressure Washing Expectations:

- **Pre-Inspection:**
    - The Contractor will inspect all sidewalk and walkway areas prior to washing to identify stains, gum accumulation, slick surfaces, algae growth, and any trip hazards that may require targeted cleaning.
    - The Contractor will identify sensitive areas such as electrical cabinets, lighting fixtures, signage posts, and vending machines to ensure proper protection during cleaning.
- **Preparation & Protection:**
    - The Contractor will sweep or blow loose debris before pressure washing so that washing focuses on adhered material rather than loose litter.
    - The Contactor will install protective barriers, covers, or plastic sheeting over electrical components, sensors, fare equipment, elevator thresholds, or outlets adjacent to the work areas.
    - The Contractor will apply non-toxic degreaser or pretreatment solution to heavily stained sections prior to washing when necessary.
- **Operational Requirements:**
    - The Contractor will use equipment with a minimum pressure of 2,500–3,500 PSI and appropriate nozzles to clean effectively without damaging concrete or surface coatings.
    - The Contractor will maintain consistent cleaning patterns to avoid striping or uneven surface appearance.
    - The Contractor will avoid directing water toward pedestrian traffic, vehicles, or active station operations.
    - The Contractor will ensure that run-off is continuously controlled using mats, berms, or containment methods so that no water enters storm drains or tracks.
    - The Contractor will use hot-water pressure washing when necessary for gum or petroleum-based stains.
- **Safety Requirements:**
    - The Contractor must place cones, caution tape, and “Wet Floor” signage around the work perimeter to alert pedestrians as applicable.
    - The Contractor will ensure that all hoses, equipment, and materials do not obstruct walkways or create slip/trip hazards.

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- The Contractor will ensure all operators use proper PPE including waterproof boots, protective eyewear, and gloves.

- **Post-Cleaning Expectations:**
  - The Contractor will ensure all cleaned areas present a uniform and streak-free appearance.
  - The Contractor will ensure all gum is removed completely—no residual smears or partial removal is acceptable.
  - The Contractor will ensure steps and ramps are fully cleaned with added focus on slip-risk areas.
  - The Contractor must conduct a post-inspection with photos documenting completion and cleanliness.

22. Canopy Pressure Washing — Frequency F (monthly by 30th)

The Contractor will wash canopy structures and undersides to remove dirt, soot, and droppings and will ensure ceilings, plexi-glass, and columns are pressure-washed. The Contractor will use low pressure as needed to protect coatings and light fixtures. Cleaning agents must be non-toxic and run-off may not flow onto storm drains or any other stormwater runoff systems.

23. Monument/Sign Pressure Washing — Frequency F (monthly by 30th)

The Contractor will clean monuments and signage without damaging graphics or finishes. Cleaning agents must be non-toxic and run-off may not flow onto storm drains or any other stormwater runoff systems. Please Note: Bronze plaques must be cleaned by low pressure or by-hand.

24. Storm Drain Exterior Clearing — Frequency F (monthly by 30th)

The Contractor will clear debris around storm drain exteriors and grates to maintain water flow. This includes drains at or near bioswales/tree wells, gutters, dry wells. Debris will not be pushed into drains. All defects must be reported. Please Note: The Contract Administrator may request special pre-clearing of storm drains prior to weather events.

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B. Other Requirements/Water Conservation

1. Replacement of plants, mulch, and related materials

The Contractor shall remove and replace, shrub or ground cover (to include weed-prevention fabric) which is lost or damaged due to Contractor negligence or when plants die due to attrition at no cost to RCTC.

The Contractor shall replace, at Contractor's own expense, any trees, plants, hedges, or other plant materials requiring replacement as a result of normal attrition due to infestation or to negligence resulting from the Contractor's failure to provide maintenance and/or inspection of landscaped areas. This includes weed-barrier fabric which may be damaged due to normal wear or rodents.

The replacement plants will be of the same species and size unless otherwise exempted by the Contract Administrator.

2. Water Conservation

The Contractor shall turn off the irrigation system during periods of rainfall and times when suspension of irrigation is desirable to conserve water while remaining within the guidelines of good horticulture practices. When the Contract Administrator acknowledges the necessity to turn on the water again, all controllers shall be activated within 24 hours. Contractor shall be responsible for any fines levied by regulatory agencies for water usage infractions due to Contractor negligence or non-performance of duties.

XI. COLLABORATION/CONSULTATION SERVICES/AS BUILTS/DIG ALERTS

The Contractor shall provide limited design consultation services as needed for landscape upgrade projects or drought tolerant conversion. The Contractor shall also update all as-built drawings and related files at least annually to reflect all new and relocated irrigation system lines and any other relocated landscape related facilities. The Contractor shall also provide location services (dig alerts) for all irrigation system lines they maintain.

XII. ACCESS AND SECURITY

The Contractor shall protect the security of irrigation systems, backflows, trash enclosures, and any other secured structures utilized for landscape maintenance by keeping such structures and systems locked. The Contractor shall not duplicate any code key furnished for the operation of irrigation controllers. The Contractor may not duplicate and distribute (hard copy) keys to any persons other than those providing landscape services within this services agreement. Keys will be retrieved from any terminated employees upon separation.

XIII. CONTRACT ADMINISTRATOR INSPECTIONS AND EVALUATIONS

The Contract Administrator or designees shall inspect all work areas to ensure landscape maintenance standards and work task frequencies are being met; however, this does not relieve the Contractor from performing continuous inspections as required by the service agreement.

The Contractor will work with the Contract Administrator to develop an inspection checklist that will be used to evaluate Contractor conformance or non-conformance. This checklist will be based on *Attachment 1, Station Landscape Maintenance Work Task and Frequency.* All items on this document will be inspected for quality and for timeliness of work as applicable regardless of checklist established by the Contractor.

XIV. STORM WATER POLLUTION PREVENTATION PROGRAM (SWPPP)

Contractor shall ensure that all employees are trained and are aware of the following Site-Specific Storm Water Pollution Prevention Requirements:

- No discharge of fertilizers, pesticide, and wastes into street or storm drains
- No blowing or sweeping debris into street or storm drains
- No hosing down of the parking lot
- No vehicle washing or maintenance on site

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- Dumpster lids must be closed at all time
- No disposing of wash water into street or storm drains
- All foreign objects (leaves, cans, cigarette butts, paper etc.) must be removed from the front of drainage inlets and gutter areas
- Properly dispose all chemical container per label of said chemical used

The Contractor must also provide annual refresher training at its own cost on the Site Specific Storm Water Pollution Prevention Requirements and will document the training on a Site Specific Storm Water Pollution Prevention Training Log and provide it annually to RCTC.

XV. SPECIAL PROJECTS/SUPPLEMENTAL WORK

The Contract Administrator may determine if special landscaping or grounds maintenance projects that are not within the normal scope of the services agreement are required. In such cases, a cost estimate will be requested for the desired work performed and work may begin once approved and a purchase order is issued. Some examples may include clearing brush/vegetation from vacant lots/basins at commuter stations, removing oversized and "fixed" built-in amenities, landscape upgrades or drought-tolerant conversions, holiday-related decoration installation, modifying planting areas, irrigation system upgrades, installation of benches, grass-turf removal projects, and the like.

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- END OF STATEMENT OF SERVICES -

Attachment 1 - Riverside County Transportation Commission, Station Landscape Maintenance Work Tasks and Frequency

Station Name	*Work Task Codes (see legends below for task and frequency)* *(Example: 1A = litter collection from turf daily by 9am)*																											
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24				
1. RIVERSIDE DOWNTOWN	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
2. HUNTER PARK/UCR	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
3. PEDLEY/JURUPA VALLEY	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
4. LA SIERRA	A	C	E	K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K	A	F	F	F	F				
5. NORTH MAIN CORONA	A	C	E	K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
6. WEST CORONA	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
7. PERRIS DOWNTOWN	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
8. SOUTH PERRIS	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
9. MORENO VALLEY/MARCH FIELD	A	C		K	A	L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				
10. 120 N. JOY STREET (FAM)	A		E	K		L	L	E	E	I	I	E	K	K	H	I	F	B	K		F	F	F	F				

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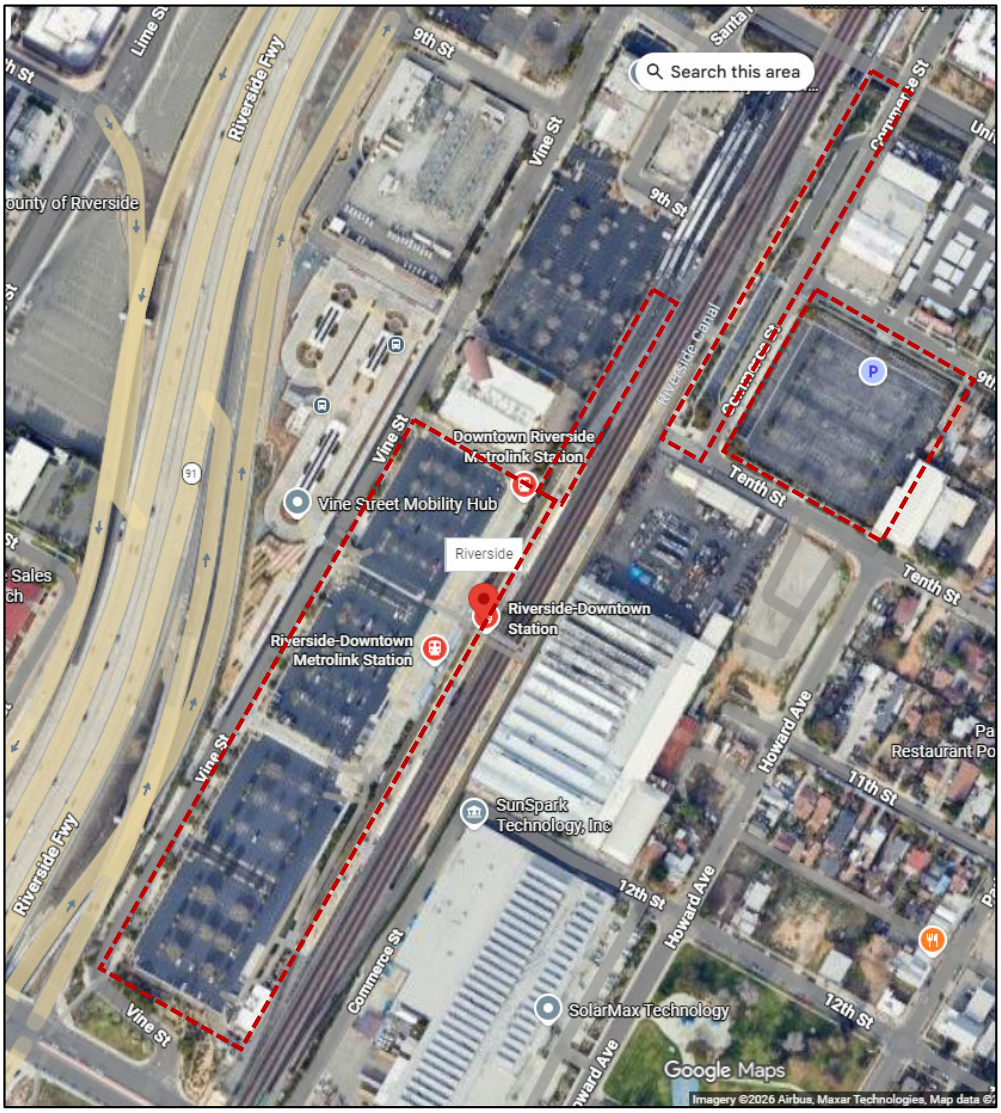
Work Task Code

1	litter collection from turf/grounds	13	pest control
2	litter collection from cans	14	mole hill flattening / hole fill
3	mowing/edging	15	minor tree trimming
4	mulch replacement/repair	16	locks/gates inspection
5	sidewalk sweeping/blowing	17	platform pressure washing
6	plant/bush/shrub trimming	18	bench/bike racks pressure washing
7	fertilization (plants, bushes)	19	plant replacement
8	weed abatement	20	doggie bag replacement/trash collection from dog station can
9	light poles inspection and cleaning (bird droppings, etc)	21	sidewalk pressure washing
10	irrigation inspection/repair	22	canopy pressure washing
11	backflow inspection	23	monument/sign pressure washing
12	landscape bed raking	24	storm drain exterior clearing

Work Task Frequency

A	daily by 11am
B	weekly by Friday
C	every two days
D	3x a week
E	every two weeks
F	monthly (by 30th)
G	annually
H	every 6 months
I	daily by 3pm
J	daily by 12 noon
K	as needed
L	every 3 months

Landscape Maintenance Areas of Responsibility
Riverside Downtown Station



Location: 4066 Vine St, Riverside CA 92507

Acreage: 26.5 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
Hunter Park/UCR Station



Location: 1101 Marlborough Ave, Riverside, CA 92507

Acreage: 9.35 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
Pedley / Jurupa Valley Station



Location: 6001 Pedley Rd., Riveside, CA 92509

Acreage: 4.5 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
Moreno Valley / March Field Station



Location: 14160 Meridian Parkway, Riverside, CA 92518

Acreage: 14.47 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
La Sierra Station



Location: 110901-A Indiana Ave, Riverside CA 92518

Acreage: 24.69 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

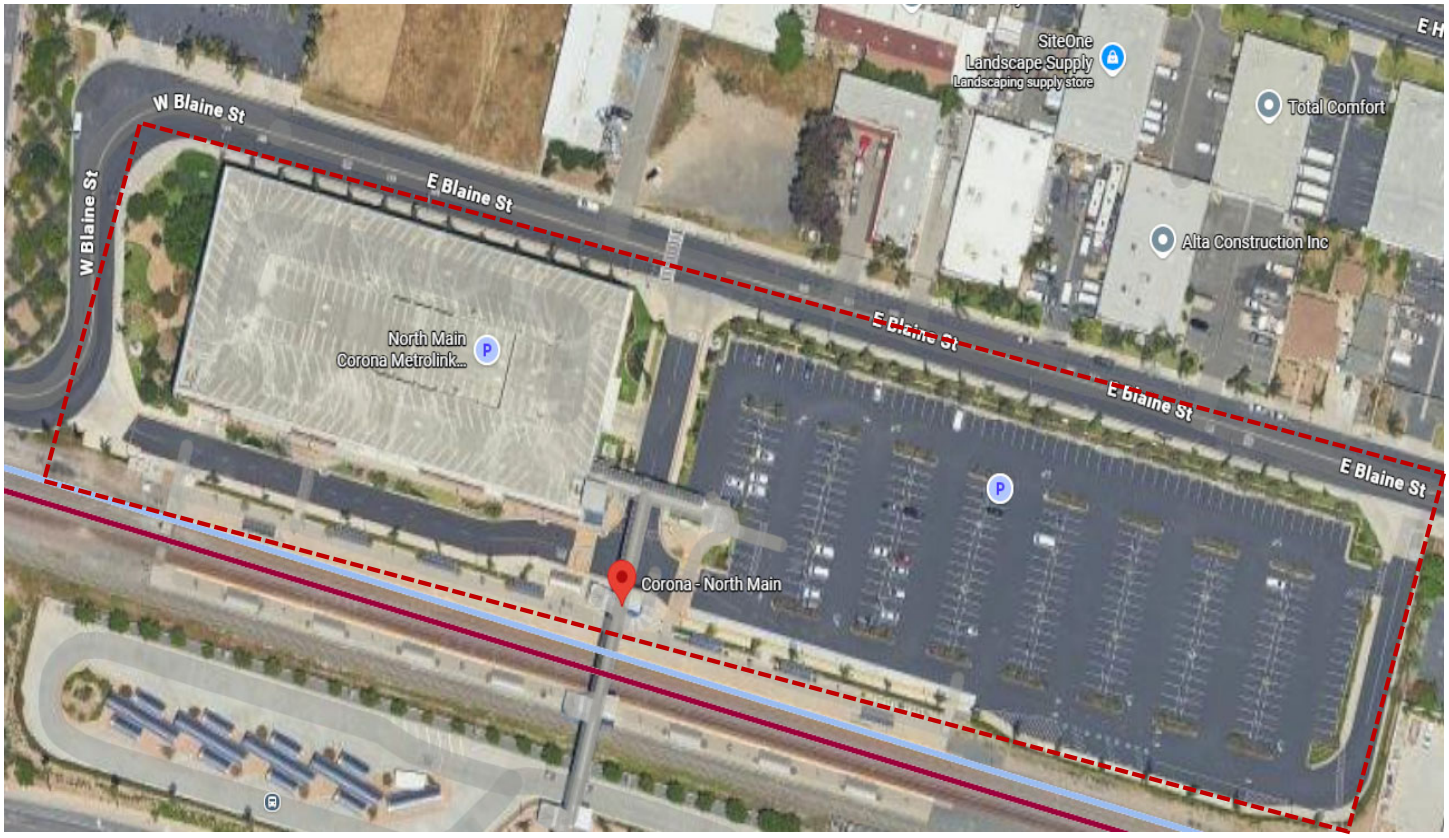
Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
North Main Corona Station



Location: 250 E. Blaine St., Corona, CA 92879

Acreage: 6.62 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

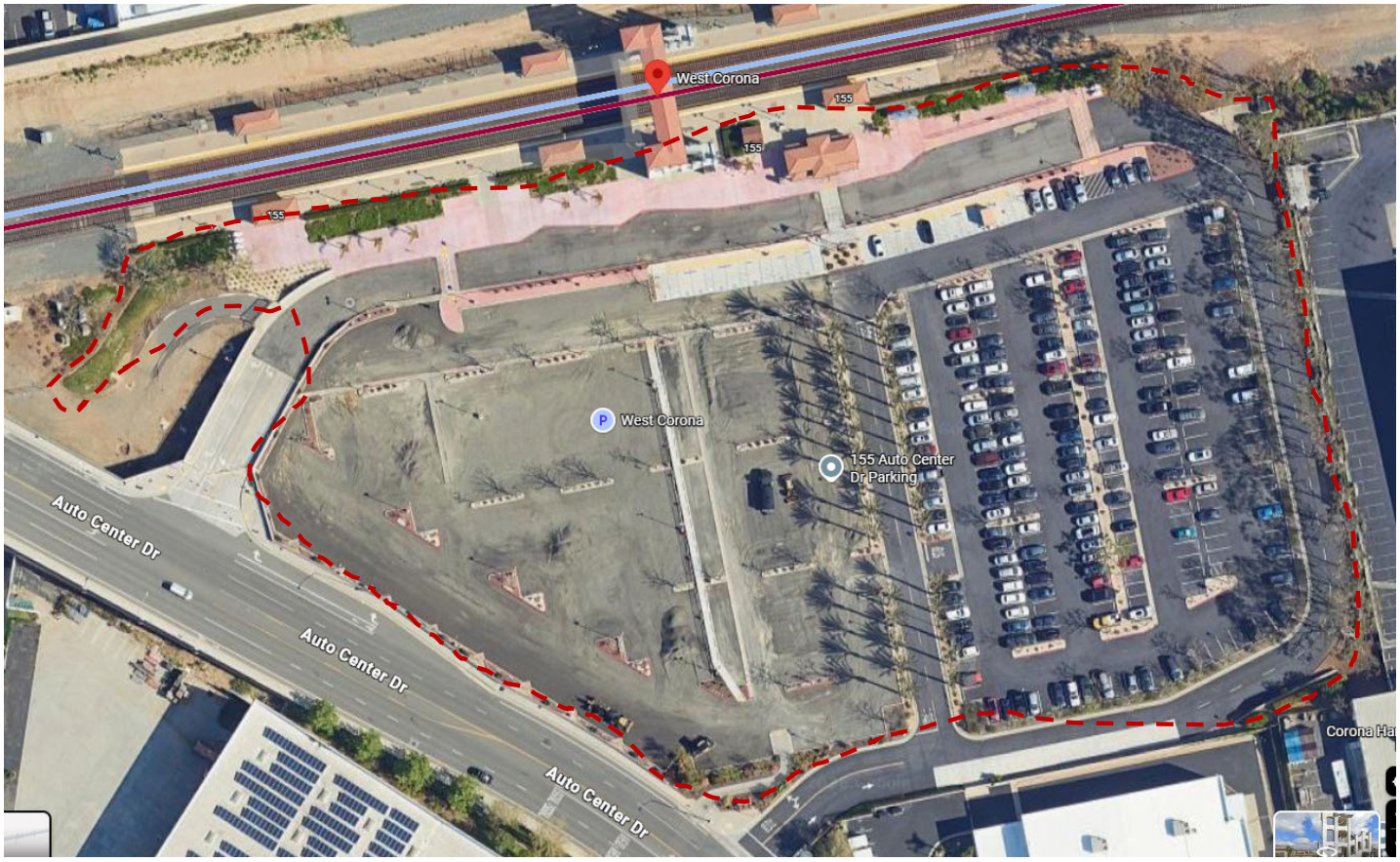
Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
Corona West Station



Location: 155 S. Auto Center Dr., Corona, CA 92880

Acreage: 5.49 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

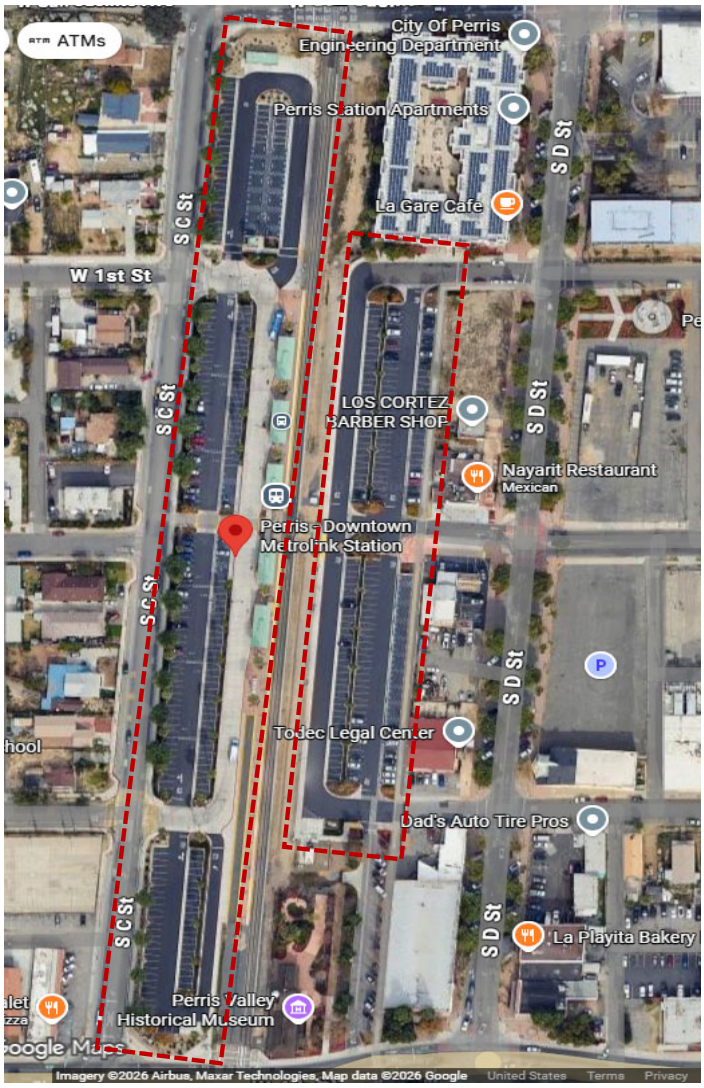
Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
Perris Downtown Station



Location: 121 S. C Street, Perris CA 92570

Acreage: 5.5 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
Perris South Station



Location: 1304 Case Rd., Perris CA 92510

Acreage: 40.57 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

Landscape Maintenance Areas of Responsibility
RCTC (Facilities and Maintenance Facility)



Location: 120 N. Joy St., Corona, CA 92879

Acreage: .75 acres

Entrance / Signage Zone
Landscaped areas at main entry drives and monument/building signage
Plant beds, shrubs, edging, mulch, and irrigation

Street Frontage
Landscape between property line and street curb/sidewalk
Turf, shrubs, litter removal, and irrigation upkeep

Parking Lot Landscape Islands
All landscaped medians and islands within parking areas
Turf or groundcover, shrubs, debris removal, and irrigation

Building Perimeter Beds
Landscape beds immediately adjacent to the building on all sides
Pruning, weed control, mulch, and irrigation

Side and Rear Landscape Buffers
Landscaped areas along property boundaries and fencing
Weed abatement, shrub care, tree trimming, and trash removal

Trees (On-Site and Street Trees)
All trees located within landscaped areas or along street frontage
Pruning, health monitoring, debris cleanup, and watering

Irrigation Systems and Zones
All irrigation serving turf, shrub beds, perimeter areas, and trees
Inspections, seasonal adjustments, head alignment, and leak repair

Sidewalks/Curbs
Sweeping, blowing, pressure-washing

PLEASE NOTE: Refer to Landscape Maintenance Work Task and Frequency (Attachment 1) for specific work tasks and frequencies.

EXHIBIT "B"

COMPENSATION

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EXHIBIT "B"

COMPENSATION SUMMARY[1]

FIRM	PROJECT TASKS/ROLE	COST
	Prime Consultant:	
TROPICAL PLAZA NURSERY INC	**Landscape Maintenance Services for 3 year term**	**$3,331,437**
TOTAL COSTS		**$ 3,331,437.00**

[1] Commission authorization pertains to total contract award amount. Compensation adjustments between consultants may occur; however, the maximum total compensation authorized may not be exceeded.

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EXHIBIT "C"

FEDERAL REQUIREMENTS

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FTA FUNDING REQUIREMENTS

As used herein, "RCTC" shall have the same meaning as the "Commission." The term "contract" or "Contract" shall have the same meaning as the "Agreement." The term "Consultant" shall have the same meaning as "Contractor" as used in the Agreement.

1. No Obligation by the Federal Government

a. RCTC and Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

b. The Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subconsultant who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statements or Related Acts

a. The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.

b. The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l)(1) on the Consultant, to the extent the Federal Government deems appropriate.

c. The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

3. Access to Records

The Consultant agrees to the following access to records requirements:

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a. To provide RCTC, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Consultant also agrees, pursuant to 49 C. F. R. 633.15 to provide the FTA Administrator or his authorized representatives including any PMO Consultant access to Consultant's records and construction sites pertaining to a major capital project, defined at 49 C.F.R. 633.5, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

b. To make available in the case of a contract for a capital project or improvement, as defined above and awarded by other than competitive bidding in accordance with 49 U.S.C. 5325(a), records related to the contract to RCTC, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

c. To maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Consultant agrees to maintain same until RCTC, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

d. To permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

e. To require all subconsultants to comply with this provision.

4. Federal Changes

The Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between RCTC and FTA, as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.

5. Civil Rights

The following requirements apply to the underlying contract:

(1) Nondiscrimination – The following nondiscrimination requirements apply to the underlying contract:

(a) Consultant shall comply with:

(i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.;

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(ii) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21, including any amendments thereto.

(iii) Federal transit law, specifically 49 U.S.C. § 5332.

(b) The following is prohibited:

(i) Discrimination based on race, color, religion, national origin, sex (including sexual orientation), disability, or age.

(ii) Exclusion from participating in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332.

(iii) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332.

(iv) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

(b) Consultant shall follow:

(i) the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

(ii) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3.

(iii) All other applicable federal guidance that may be issued.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Consultant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. . In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623, Federal transit law at 49 U.S.C. § 5332, the Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42

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U.S.C. § 6101 *et seq*., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

Disabilities - In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq*., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq*., and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against individuals on the basis of disability, and that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(3) The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

6. FTA Disadvantaged Business Enterprise (DBE) Requirements

A. General DBE Requirements: In accordance with Federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), Commission has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs" (the "Regulations"). The Contract is subject to these stipulated regulations. In order to ensure that Commission achieves its overall DBE Program goals and objectives, Commission encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds.

It is the policy of the Commission to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;

2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;

3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;

4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;

5. Help remove barriers to the participation of DBEs in DOT assisted contracts;

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6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and

7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

B. Discrimination: Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Any terms used herein that are defined in 49 CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations.

C. Commission's Race-Neutral DBE Program: A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. Therefore, under a Race-Neutral DBE Program, Commission does not establish numeric race-conscious DBE participation goals on its DOT-assisted contracts. There is no FTA DBE goal on this Project.

Consultant shall not be required to achieve a specific level of DBE participation as a condition of contract compliance in the performance of this DOT-assisted contract. However, Consultant shall adhere to race-neutral DBE participation commitment(s) made at the time of award.

D. Race-Neutral DBE Submissions and Ongoing Reporting Requirements (Post-Award): At termination of the Contract, the successful Consultant shall complete and submit to Commission a "DBE Race-Neutral Participation Listing" in the form provided by Commission. In the event DBE(s) are utilized in the performance of the Agreement, Consultant shall comply with applicable reporting requirements.

E. Performance of DBE Subconsultants: DBE subconsultants listed by Consultant in its "DBE Race-Neutral Participation Listing" submitted at the time of proposal shall perform the work and supply the materials for which they are listed, unless Consultant has received prior written authorization from Commission to perform the work with other forces or to obtain the materials from other sources. Consultant shall provide written notification to Commission in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

F. DBE Certification Status: If a listed DBE subconsultant is decertified during the life of this Agreement, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a non-DBE subconsultant becomes a certified DBE during the life of this Agreement, the DBE subconsultant shall notify Consultant in writing with the date of certification. Consultant shall furnish the written documentation to Commission in a timely manner. Consultant shall include this requirement in all subcontracts.

G. Consultant's Assurance Clause Regarding Non-Discrimination: In compliance with State and Federal anti-discrimination laws, Consultant shall affirm that it will not exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, Consultant shall affirm that they will consider, and utilize subconsultants and vendors, in a manner consistent with non-discrimination objectives.

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H. Violations: Failure by the selected Consultant(s) to carry out these requirements shall be a material breach of the contract to be awarded pursuant to this RFP, which may result in the termination of the contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the Consultant from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

I. Prompt Payment: Consultant shall pay its subconsultants for satisfactory performance of their contracts no later than 30 days from receipt of each payment Commission makes to the Consultant. 49 C.F.R. § 26.29(a), unless a shorter period is provided in the contract.

J. Compliance with DBE Requirements Contained in FTA Provisions: Consultant shall comply with all DBE reporting and other requirements contained in this Agreement.

K. In accordance with the U.S. Department of Transportation (DOT) Disadvantaged Business Enterprise DBE Interim Final Rule (IFR) published on October 3, 2025 to amend 49 CFR Part 26:

a. Unless otherwise directed by FTA, and not withstanding any other provision herein, the Commission will not engage in compliance monitoring of DBE participation on the Agreement, and no DBE reporting is required.

b. Any DBE participation on the Agreement will not count towards any overall DBE goals.

c. Any changes to 49 CFR Part 26 as set forth in the IFR, as may be amended in the final rule, are hereby incorporated.

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7. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any RCTC requests which would cause RCTC to be in violation of the FTA terms and conditions.

8. Debarment and Suspension.

The Consultant agrees to the following:

(1) It will comply with the following requirements of 2 CFR Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200.

(2) It will not enter into any "covered transaction" (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any subconsultant whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by— (i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200; (ii) U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180; and (iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended recipients or third party participants.

(3) It will review the U.S. GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by U.S. DOT regulations, 2 CFR Part 1200.

(4) Consultant agrees to include, and require all subconsultants to include, this provision in all subcontracts.

9. ADA Access Requirements

The Consultant shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC Section 12101 et seq; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC Section 794; 49 USC Section 5301(d).

10. Fly America

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To the extent applicable to the Services, the Consultant agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Consultant shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consultant agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

11. Cargo Preference - Use of United States-Flag Vessels

To the extent applicable to the Services, the Consultant agrees:

1. To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

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2. To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of -lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Consultant in the case of a subconsultant's bill-of-lading.)

3. To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

12. Buy America

To the extent applicable, the Consultant shall comply with the following:

1. The domestic preference procurement requirements of 49 U.S.C. 5323(j), and FTA regulations, "Buy America Requirements," 49 CFR Part 661, to the extent consistent with 49 U.S.C. 5323(j).

2. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

3. Procurement for rolling stock will comply with 49 U.S.C. § 5325 (Contract Requirements), 49 U.S.C. § 5323(j) (Buy America Requirements), 49 U.S.C. § 5323(m) (Pre-Award and Post Delivery Requirements), and 49 U.S.C. § 5318(e) (Bus Testing Requirements), 49 U.S.C. § 5323(u) (limitation on certain rolling stock procurements), and their implementing regulations.

13. Employment Provisions

To the extent applicable to the Services, Consultant shall comply with the following:

A. [For a construction or maintenance project over $2,000] **Davis–Bacon Act, as amended (40 U.S.C. 3141–3148).** When applicable, Contractor shall comply with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Contractor shall be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor shall pay wages not less than once a week. The non–Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. Contractor shall also comply

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with the Copeland "Anti–Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. All suspected violations shall be reported to the FTA.

B. [For contracts in excess of $100,000 that involve the employment of mechanics or laborers] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).** When applicable, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor must compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

C. [For contracts not involving construction] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3702).** Consultant will comply with all federal laws, regulations, and requirements providing wage and hour protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701, et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5.

D. [For contracts involving commerce] **Fair Labor Standards Act (FLSA) (29 USC 201, et. seq.)**. Consultant will comply with the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. to the extent that the FLSA applies to employees performing work with federal assistance provided through the contract involving commerce,

E. Release of Retainage

No retainage will be withheld by the RCTC from progress payments due Consultant. Retainage by Consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by Consultant or deficient subconsultant performance, or noncompliance by a subconsultant.

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14. Termination for Convenience

RCTC may terminate the Agreement for convenience in accordance with the terms of the Agreement.

After such termination, the Consultant shall submit a final termination settlement proposal to RCTC as directed. If the Consultant fails to submit a proposal within the time allowed, RCTC may determine, on the basis of information available, the amount, if any due the Consultant because of the termination and shall pay the amount determined. After the Consultant's proposal is received, RCTC and Consultant shall negotiate a fair and equitable settlement and the contract will be modified to reflect the negotiated agreement. If agreement cannot be reached, RCTC may issue a final determination and pay the amount determined. If the Consultant does not agree with this final determination or the determination resulting from the lack of timely submission of a proposal, the Consultant may appeal under the Disputes clause.

15. Administrative and Contractual Remedies on Breach; Termination for Cause

a. The Consultant may be declared in breach of this Agreement ("Breach") if the Consultant fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Consultant fails to perform any of the other provisions of the contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms. In case of any of the foregoing, RCTC shall notify the Consultant of the Breach, and the Consultant shall have a period of ten (10) days (or such longer period as RCTC may authorize in writing) after receipt of notice from RCTC to cure the Breach.

b. RCTC may, by written notice of termination to the Consultant specifying the effective date thereof, terminate the whole or any part of this contract, in the case of a Breach that is not cured within the timeframe set forth in (a) above ("Uncured Breach").

c. If the contract is terminated in whole or in part for an Uncured Breach, RCTC may procure upon such terms and in such manner as RCTC may deem appropriate, supplies or services similar to those so terminated, or may complete the services with its own forces. The Consultant shall be liable to RCTC for any excess costs for such similar supplies or services, and for any other costs incurred by RCTC as a result of the Uncured Breach. The Consultant shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

d. Except with respect to defaults of Subconsultants, the Consultant shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Consultant. If the failure to perform is caused by the default of a Subconsultant, and if such default arises out of causes beyond the control of both the Consultant and the Subconsultant, and without the fault or negligence of either of them, the Consultant shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the Subconsultant were obtainable from other sources in sufficient time to permit the Consultant to meet the required project completion schedule.

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e. Payment for completed services or supplies delivered to and accepted by RCTC shall be at the contract price. RCTC may withhold from amounts otherwise due the Consultant for such completed services or supplies such sum as RCTC determines to be necessary to protect RCTC against loss because of outstanding liens of claims of former lien holders, or to reimburse RCTC for any other costs related to the Uncured Breach.

f. If, after notice of termination of this contract for cause, it is determined for any reason that an Uncured Breach did not exist, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the provisions for termination for convenience of RCTC.

g. The rights and remedies of RCTC provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this contract including, but not limited to, the right to specific performance.

h. Notwithstanding the above, RCTC may, without providing an opportunity to cure, terminate the contract in accordance with the timeframe set forth in Section 17 of the contract, if RCTC determines such action is in its best interest based on the nature of the Breach. Such actions shall not limit any of RCTC's remedies set forth above.

16. Disputes

a. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by supplemental agreement shall be decided by RCTC's Deputy Executive Director, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Consultant. The decision of the RCTC Deputy Executive Director shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, Consultant mails or otherwise furnishes to the RCTC Deputy Executive Director a written appeal addressed to RCTC's Executive Director. The decision of RCTC Executive Director or duly authorized representative for the determination of such appeals shall be final and conclusive.

b. The provisions of this Paragraph shall not be pleaded in any suit involving a question of fact arising under this Agreement as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged, provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Paragraph, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

c. Pending final decision of a dispute hereunder, Consultant shall proceed diligently with the performance of this Agreement and in accordance with the decision of RCTC's Deputy Executive Director. This "Disputes" clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final the decision of any RCTC official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

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17. Lobbying

See the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Consultants who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The Offeror shall complete and submit with its bid/proposal the attached Certification Regarding Lobbying, and if applicable, the Standard Form-LLL, "Disclosure Form to Report Lobbying."

18. Energy Conservation

The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

19. Clean Water

a. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Consultant agrees to report each violation to RCTC and understands and agrees that RCTC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

b. The Consultant further agrees that:

(1) It will not use any violating facilities;
(2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
(3) It will report violations of use of prohibited facilities to FTA; and
(4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1388).

The Consultant also agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

20. Clean Air

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a. The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Consultant agrees to report each violation to RCTC and understands and agrees that RCTC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

b. The Consultant further agrees that:

(1) It will not use any violating facilities;
(2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
(3) It will report violations of use of prohibited facilities to FTA; and
(4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1388).

c. The Consultant also agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FTA.

21. Solid Wastes

Recovered Materials - The Consultant agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

22. Safe Operation of Motor Vehicles

Pursuant to Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party consultant to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

a. The Consultant is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Consultant or RCTC.
b. The Consultant agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.

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23. Notification to FTA.

a. If a current or prospective legal matter that may affect the Federal Government emerges, the Consultant must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which this Agreement is being performed. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

b. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

c. *Additional Notice to U.S. DOT Inspector General*. The Consultant must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Commission located, if Consultant has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Consultant. In this paragraph, "promptly" means to refer information without delay and without change.

24. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Contract. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

b. Telecommunications or video surveillance services provided by such entities or using such equipment.

c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

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25. Prohibited Transactions

Consultant certifies that:

a. Consultant does not have any unpaid Federal tax liability assessed, for which all judicial and administrative have been exhausted or have lapsed, and that in a timely manner pursuant to an agreement authority responsible for collecting the tax liability

b. Consultant was not convicted of the felony criminal violation Federal law within the preceding 24 months.

c. If Consultant cannot so certify, RCTC agrees to refer the matter to FTA and not to enter into any contract with Consultant without FTA's written approval

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

26. Trafficking in Persons.

a. Consultant shall comply with section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended; 22 U.S.C. § 7104(g); and the terms of this section.

b. Definitions. Consultant agrees that for purposes of this section:

(i) Employee, for purposes of this section only, means either an individual who is employed by the Consultant or whose services are provided on a volunteer basis for the Consultant, and is participating in the Project or related activities as set forth in the Agreement,

(ii) Forced labor means labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(iii) Severe forms of trafficking in persons has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102. 23

(iv) Commercial sex act has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

(v) Coercion has the meaning given at section 103 of the TVPA, as amended, 22 U.S.C. § 7102.

c. Consultant requirements:

(i) Consultant shall inform FTA and RCTC immediately of any information it receives from any source alleging a violation of the prohibitions in this section.

(ii) Consultant agrees that it and its employees that participate in this Agreement, may not:

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(1) Engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect,

(2) Procure a commercial sex act during the period of time that this Agreement is in effect, or

(3) Use forced labor in the performance of this Agreement or any subagreements hereunder.

d. Consultant shall include, and require all subconsultants to include, this provision in all subcontracts.

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