



MEETING AGENDA

Western Riverside County Programs and Projects Committee

Time: 1:30 p.m.

Date: May 24, 2021

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

COMMITTEE MEMBERS

Clint Lorimore, **Chair**/Todd Rigby, City of Eastvale
Ben J. Benoit, **Vice Chair**/Joseph Morabito, City of Wildomar
Wes Speake/Jim Steiner, City of Corona
Linda Krupa/Russ Brown, City of Hemet
Brian Berkson/Guillermo Silva, City of Jurupa Valley
Bill Zimmerman/Dean Deines, City of Menifee
Yxstian Gutierrez/To Be Appointed, City of Moreno Valley
Scott Vinton/Lisa DeForest, City of Murrieta
Ted Hoffman/Katherine Aleman, City of Norco
Michael Vargas/Rita Rogers, City of Perris
Kevin Jeffries, County of Riverside, District I
Jeff Hewitt, County of Riverside, District V

STAFF

Anne Mayer, Executive Director
John Standiford, Deputy Executive Director

AREAS OF RESPONSIBILITY

Air Quality, Capital Projects, Communications and Outreach Programs, Intermodal Programs, Motorist Services, New Corridors, Regional Agencies/Regional Planning, Regional Transportation Improvement Program (RTIP), Specific Transit Projects, State Transportation Improvement Program (STIP)

Transportation Uniform Mitigation Fee (TUMF) Program, and Provide Policy Direction on Transportation Programs and Projects related to Western Riverside County and other areas as may be prescribed by the Commission.

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE**

www.rctc.org

AGENDA*

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

1:30 p.m.

Monday, May 24, 2021

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

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Join Zoom Meeting

<https://rctc.zoom.us/j/88199392441>

Meeting ID: 881 9939 2441

One tap mobile

+16699006833,,88199392441# US (San Jose)

Dial by your location

+1 669 900 6833 US (San Jose)

For members of the public wishing to submit comment in connection with the Western Riverside County Programs and Projects Committee Meeting please email written comments to the Clerk of the Board at lmobley@rctc.org prior to May 23, 2021 at 5:00 p.m. and your comments will be made part of the official record of the proceedings. Members of the public may also make public comments through their telephone or Zoom connection when recognized by the Chair.

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

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

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**

3. ROLL CALL

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

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

6. APPROVAL OF MINUTES – APRIL 26, 2021

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

Page 1

Overview

This item is for the Committee to:

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

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

Page 192

Overview

This item is for the Committee to:

- 1) Approve Agreement No. 16-31-066-06, Amendment No. 6 to Agreement No. 16-31-066-00, with T.Y. Lin International (T.Y. Lin) for design support during construction of the Interstate 215/Placentia Avenue Interchange project (Project) in the amount of \$257,285, plus a contingency amount of \$27,528, for an additional amount of \$284,813, and a total amount not to exceed \$5,455,998;
- 2) Approve Agreement No. 19-31-044-01, Amendment No. 1 to Agreement No. 19-31-044-00, with the city of Perris (City) for storm drain improvements on Placentia Avenue and street and signal improvements at the Placentia Avenue and Indian Avenue intersection for the Project for an additional Commission contribution of \$1,081,157 and a total Commission contribution not to exceed \$1,231,157;
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission;
- 4) Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for the design support services; and
- 5) Forward to the Commission for final action.

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

Page 215

Overview

This item is for the Committee to:

- 1) Approve an amendment to the city of Banning's (City) FY 2020/21 Short Range Transit Plan (SRTP) to reflect the operating shortfalls in FY 2019/20 and FY 2020/21 and increase the Local Transportation Fund (LTF) operating allocation in the net amount of \$597,039;
- 2) Approve the reprogramming of \$134,213 of State Transit Assistance (STA) from capital assistance to operating assistance for the City for FY 2019/20 operating expenses;
- 3) Approve the reprogramming of \$135,000 of LTF from the Comprehensive Operational Analysis (COA) capital assistance to operating assistance for FY 2020/21 operating expenses;
- 4) Approve an additional FY 2020/21 LTF allocation of \$217,039 to the City for FY 2019/20 operating expenses;
- 5) Approve an additional FY 2020/21 LTF allocation of \$380,000 to the City for FY 2020/21 operating expenses; and
- 6) Forward to the Commission for final action.

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

Page 224

Overview

This item is for the Committee to:

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

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

Page 233

Overview

This item is for the Committee to:

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

12. 15/91 EXPRESS LANES CONNECTOR UPDATE

Overview

This item is for the Commission to receive an oral report for the 15/91 Express Lanes Connector Project.

13. COMMISSIONERS / STAFF REPORT

Overview

This item provides the opportunity for the Commissioners and staff to report on attended and upcoming meeting/conferences and issues related to Commission activities.

14. ADJOURNMENT

The next Western Riverside County Programs and Projects Committee meeting is scheduled to be held at **1:30 p.m., Monday, June 28, 2021**, via Zoom.

AGENDA ITEM 6

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE

Monday, April 26, 2021

MINUTES

1. CALL TO ORDER

The meeting of the Western Riverside County Programs and Projects Committee was called to order by Chair Clint Lorimore at 1:30 p.m. via Zoom Meeting ID: 845 8985 2868. Pursuant to Governor Newsom's Executive Order N-29-20, (March 18, 2020), the Western Riverside County Programs and Projects Committee meeting will only be conducted via video conferencing and by telephone.

2. PLEDGE OF ALLEGIANCE

At this time, Commissioner Ted Hoffman led the Western Riverside County Programs and Projects Committee in a flag salute.

3. ROLL CALL

Members/Alternates Present

Brian Berkson
Yxstian Gutierrez
Jeff Hewitt*
Ted Hoffman
Kevin Jeffries
Linda Krupa
Clint Lorimore
Wes Speake
Michael Vargas
Scott Vinton
Bill Zimmerman

*arrived after meeting was called to order

Members Absent

Ben Benoit

4. PUBLIC COMMENTS

There were no requests to speak.

At this time, Commissioner Jeff Hewitt joined the meeting.

5. ADDITIONS/REVISIONS

There were no additions or revisions.

6. APPROVAL OF MINUTES – MARCH 22, 2021

M/S/C (Zimmerman/Speake) to approve the minutes as submitted.

7. AMENDMENT NO. 1 TO AGREEMENT NO. 16-31-102-00 WITH COUNTY OF RIVERSIDE TO FUND A PROJECT STUDY REPORT FOR THE INTERSTATE 215/ETHANAC ROAD INTERCHANGE

Jillian Guizado, Planning and Programming Director, presented the scope of Amendment No. 1 with the County of Riverside to fund a project study report for the I-215/Ethanac Road Interchange.

M/S/C (Hewitt/Zimmerman) to:

- 1) Approve Amendment No. 1 to Agreement No. 16-31-102-00 with the County of Riverside (County) to utilize the remaining balance of \$1,041,716 of 2009 Measure A Western County New Corridors Program funds from the original agreement for the preparation of a Project Study Report (PSR) for the Interstate 215/Ethanac Road Interchange, for which the County will serve as lead agency;**
- 2) Authorize the Executive Director, pursuant to legal counsel review, to execute the amendment on behalf of the Commission; and**
- 3) Forward to the Commission for final action.**

8. Interstate 15 Express Lanes Project Design-Build Contract Final Acceptance

David Thomas, Interim Toll Program Director, presented the details of the I-15 ELP Design-Build contract final acceptance.

M/S/C (Vinton/Speake) to:

- 1) Approve Final Acceptance for the Interstate 15 Express Lanes Project (I-15 ELP or Project) Design-Build Contract, Agreement No. 16-31-057-00, with Skanska-Ames, a Joint Venture, subject to the Executive Director's verification that all contract requirements for Final Acceptance have been met; and**
- 2) Forward to the Commission for final action.**

9. AMENDMENT NO. 1 TO COOPERATIVE AGREEMENT NO. 19-33-004-00 WITH SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY FOR CONSTRUCTION OF THE RIVERSIDE LAYOVER FACILITY IMPROVEMENT PROJECT

Marlin Feenstra, Project Delivery Director, presented the scope of Amendment No. 1 for construction of the Riverside Layover Facility Improvement project.

Commissioner Wes Speake commented on the packinghouse fire over the weekend and the need for additional storage at the station.

Commissioner Ted Hoffman expressed his concerns regarding the cost of the project.

Mr. Feenstra responded to Commissioner Hoffman's concerns regarding the price by stating it is the actual amount and includes a contingency.

M/S/C (Hoffman/Vargas) to:

- 1) Approve Agreement No. 19-33-004-01, Amendment No. 1 to Agreement No. 19-33-004-00, between the Commission and Southern California Regional Rail Authority (SCRRA) for the construction of the Riverside Layover Facility Improvement project (Project) in the amount of \$99,999, plus a contingency amount of \$10,000, for an additional amount of \$109,999, and a total amount not to exceed \$281,999;**
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the cooperative agreement on behalf of the Commission;**
- 3) Authorize the Executive Director or designee to approve the use of a contingency, as may be required for these services; and**
- 4) Forward to the Commission for final action.**

10. Low Carbon Transit Operations Program Resolution

Sheldon Peterson, Rail Manager, presented the details of the low carbon transit operations program resolution.

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

- 1) Adopt Resolution No. 21-005, *"Resolution of the Riverside County Transportation Commission Regarding Authorization for the Execution of the Certifications and Assurances and Authorized Agent Forms for the Low Carbon Transit Operations Program for the Expanded Perris Valley Line Operations Project Fiscal Year 2022 Funds in the Amount of \$864,540"*; and**
- 2) Forward to the Commission for final action.**

11. MEASURE A SPECIALIZED TRANSIT AWARD RECOMMENDATIONS FOR FISCAL YEARS 2021/22 – 2023/24

Monica Morales, Senior Management Analyst, presented the details of the Measure A Specialized Transit award recommendations for FYs 2021/22-2023/24.

M/S/C (Vargas/Hoffman) to:

- 1) Approve the staff recommendations for the Measure A Western Riverside County Specialized Transit Program Fiscal Year (FY) 2021/22 - 2023/24 Call for Projects totaling \$8,951,257;**
- 2) Approve an allocation of \$150,000 for a specialized transit pilot program for the city of Menifee (City);**
- 3) Direct staff to prepare agreements with the award recipients to outline the scope, project schedules, and local funding commitments;**
- 4) Authorize the Chair or Executive Director to execute the agreements with the award recipients, pursuant to legal counsel review; and**
- 5) Forward to the Commission for final action.**

12. 15/91 EXPRESS LANES CONNECTOR UPDATE

Lisa Mobley, Clerk of the Board, announced this agenda item was not listed on the agenda on all areas of the website and therefore, should be pulled from discussion.

Haviva Shane, Best, Best & Krieger added as long as there is no discussion following the presentation it is permissible to have a presentation under item 13, Commissioners/Staff report.

This item was moved to agenda item 13, Commissioners/Staff Report.

13. COMMISSIONERS / STAFF REPORT

Anne Mayer introduced David Thomas, Interim Toll Program Director. He presented an update on the 15/91 Express Lanes Connector project. Ms. Mayer added it is very easy to add the connector updates to your phone.

Commissioner Berkson requested this item come back to the Committee for discussion.

Commissioner Speake commented this project is long awaited and he is happy it is on the way.

14. ADJOURNMENT

There being no further business for consideration by the Western Riverside County Programs and Projects Committee, the meeting was adjourned at 2:17 p.m.

Respectfully submitted,

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

Lisa Mobley
Clerk of the Board

AGENDA ITEM 7

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	May 24, 2021
TO:	Western Riverside County Programs and Projects Committee
FROM:	Bryce Johnston, Capital Projects Manager
THROUGH:	Marlin Feenstra, Project Delivery Director
SUBJECT:	State Route 71/State Route 91 Interchange Improvement Project for Construction Management Services, Construction and Maintenance, and Cooperative Agreements

STAFF RECOMMENDATION:

This item is for the Committee to:

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

BACKGROUND INFORMATION:

The Project was identified and approved by the voters in 2009 as part of Measure A and was included in the 2009 Measure A 10-Year Western Riverside County Highway Delivery Plan. The Project will improve mobility on SR-91 and SR-71 by enhancing operations and the capacity of the 71/91 interchange by constructing a new, direct connector ramp from eastbound SR-91 to northbound SR-71 and reconfiguring the eastbound SR-91 ramp between Green River Road and the 71/91 interchange as shown in Figure 1. The Project is also included in the SR-91 Implementation Plan adopted by the Commission.

On December 2, 2020, the California Transportation Commission approved Senate Bill 1 Trade Enhancement Corridor Program (SB1 TCEP) funds for construction of this Project. The Commission also programmed federal Surface Transportation Block Grant (STBG), State Transportation Improvement Program (STIP), and 2009 Measure A Western County highways and new corridors funds for the Project.

Figure 1-Project Map



DISCUSSION:

Procurement of Construction Management Services:

Pursuant to Government Code 4525 et seq, the selection of architect, engineer, and related services shall be on the basis of demonstrated competence and on professional qualifications necessary for the satisfactory performance of the services required. Therefore, staff used the

qualification method of selection for the procurement of these services. Evaluation criteria included elements such as qualifications of firm, qualifications of personnel, project understanding and approach, understanding of materials testing and construction surveying services, and the ability to respond to the requirements set forth under the terms of a request for qualifications (RFQ).

RFQ No. 21-31-012-00 for CM services, materials testing, and construction surveying services for the project was released on January 7, 2021. The RFQ was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Through PlanetBids, 126 firms downloaded the RFQ, 31 of these firms are located in Riverside County. A pre-proposal conference was held on January 14, 2021 and attended by 25 firms. Staff responded to all questions submitted by potential proposers prior to the July 26 clarification deadline date. Four firms – Hill International (Irvine); Falcon Engineering Services (Corona); Jacobs Project Management Co. (Ontario); and WSP USA (San Bernardino) – submitted responsive and responsible statements of qualifications (SOQ) prior to the 2:00 p.m. submittal deadline on February 18, 2021. One of the four firms is headquartered in Riverside County and all of them have local offices in Riverside County. Based on the evaluation criteria set forth in the RFQ, the firms were evaluated and scored by an evaluation committee comprised of Commission, Bechtel, and Caltrans staff.

Based on the evaluation committee's assessment of the written SOQs and pursuant to the terms of the RFQ, the evaluation committee shortlisted and invited three firms (Hill International, Falcon Engineering Services, and Jacobs Project Management Co.) to the interview phase of the evaluation and selection process. Interviews were conducted on March 16, 2021.

The evaluation committee conducted a subsequent evaluation of each firm, based on both written and interview components presented to the evaluation committee by each proposer. Accordingly, the evaluation committee recommends contract award to Falcon Engineering Services to provide CM services, materials testing, and construction surveying services for the Project, as it earned the highest total evaluation score.

Subsequently, staff negotiated the scope (including the appropriate level of effort, labor categories/mix, etc.), cost, and schedule proposal received from Falcon Engineering Services for the Project services and established a fair and reasonable price. As part of the federal procurement process for architectural and engineering services, the contract is subject to a pre-award audit by Caltrans Audits and Investigations Unit. The proposed cost is \$16,756,967 and may change slightly as a result of the pre-award audit and is expected to be finalized prior to Commission approval in June 2021. Staff recommends award of Agreement 21-31-012-00 for CM services in the amount of \$16,756,467, plus a contingency of \$1,443,533, for a total amount not to exceed \$18,200,000.

Construction and Maintenance Agreement with BNSF

The Project includes construction of a bridge over the BNSF railroad. Staff has worked with BNSF and Caltrans in the development of a three-party C&M agreement that would formalize the scope of work, obligations of each party, right of way required for the work associated with the Project, and costs for the respective right of way and associated BNSF-provided flagging services. The right of way needed at each location consists of permanent footing easements, a permanent aerial easement, and a temporary construction license. The total cost associated with Agreement No. 21-31-091-00 is 1,957,727, plus a contingency amount of \$195,773, for a total amount not to exceed \$2,153,500. Staff recommends approval of the C&M agreement with BNSF for a total amount of \$2,153,500.

Caltrans Construction Cooperative Agreement

The Commission will be the implementing and responsible agency for administration of the construction contract with Caltrans providing quality assurance reviews (oversight) of the Project at no cost. The cooperative agreement between the Commission and Caltrans defines the roles and responsibilities of each agency. Staff recommends approval of Cooperative Agreement No. 21-31-067-00 between the Commission and Caltrans to define the roles and responsibilities for the Project.

All Agreements

Staff recommends authorization for the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the three agreements on behalf of the Commission and authorization for the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for the services.

FISCAL IMPACT:

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$ 300,000 \$ 20,053,500
Source of Funds:	2009 Measure A Western County highway and new corridors, SB1 TCEP, STIP, and STBG funds			Budget Adjustment:	No N/A
GL/Project Accounting No.:		003021 81302 00000 0000 262 31 81301		\$18,200,000	
		003021 81304 00000 0000 262 31 81301		\$2,153,500	
Fiscal Procedures Approved:		<i>Theresa Trevino</i>		Date:	05/14/2021

Attachments:

- 1) Site Map

- 2) Draft Agreement No. 21-31-012-00
- 3) Draft Agreement No. 21-31-091-00
- 4) Draft Agreement No. 21-31-067-00

CHINO
HILLS
STATE
PARK

CALIFORNIA
71



PRADO DAM

CALIFORNIA
91

BNSF INTERFACE



Agreement No. 21-31-012-00

PROFESSIONAL SERVICES AGREEMENT
WITH FHWA FUNDING/ASSISTANCE

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AGREEMENT WITH
FALCON ENGINEERING SERVICES, INC.
FOR
CONSTRUCTION MANAGEMENT SERVICES, MATERIALS TESTING,
CONSTRUCTION SURVEYING, AND PUBLIC OUTREACH
FOR THE
71/91 INTERCHANGE PROJECT

Parties and Date.

This Agreement is made and entered into this ____ day of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("the Commission") and FALCON ENGINEERING SERVICES, INC. ("Consultant"), a CORPORATION. The Commission and Consultant are sometimes referred to herein individually as "Party", and collectively as the "Parties".

Recitals.

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

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

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

D. A source of funding for payment for professional services provided under this Agreement is federal funds administered by the California Department of Transportation ("Caltrans") from the United States Department of Transportation pursuant to the following project/program: [__INSERT FUNDING SOURCE__].

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

F. The Commission desires to engage Consultant to render such services for the 71/91 Interchange Project ("Project"), as set forth in this Agreement.

Terms.

1. General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the professional construction management services, materials testing, construction surveying, and public outreach services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

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

3. Pre-Award Audit. As a result of the federal funding for this Project, and to the extent Caltrans procedures apply in connection therewith, issuance of a "Notice to Proceed" may be contingent upon completion and approval of a pre-award audit. Any questions raised during the pre-award audit shall be resolved before the Commission will consider approval of this Agreement. The federal aid provided under this Agreement is contingent on meeting all Federal requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate Federal and State process reviews. In addition, the applicable federal agency, or Caltrans acting in behalf of a federal agency, may require that prior to performance of any work for which Federal reimbursement is requested and provided, that said federal agency or Caltrans must give to Commission an "Authorization to Proceed".

4. Caltrans Audit Procedures. Consultant and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an Independent Cost Review (ICR) Audit, or a CPA ICR audit work paper review. If selected for audit or review, this Agreement, Consultant's cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full

access to the CPA's work papers including making copies as necessary. This Agreement, Consultant's cost proposal, and ICR shall be adjusted by Consultant and approved by the Commission's contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into this Agreement by this reference if directed by Commission at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of the Agreement terms and cause for termination of this Agreement and disallowance of prior reimbursed costs. Additional audit provisions applicable to this Agreement are set forth in Sections 23 and 24 of this Agreement.

5. Term.

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

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

5.3 This Agreement shall remain in effect until the date set forth above, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

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

7. Consultant's Representative. Consultant hereby designates Kurt Pegg to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's

Contract Administrator and any other agencies which may have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Contract Administrator.

8. Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions herein. The key personnel for performance of this Agreement are as follows: Kurt Pegg, Wael Faqih, Tarik Malik, Moh'd Khalaileh, Newton Armstrong, Alex Naime, Dion Castro, Rodrigo Santa Cruz, Ali Al-Saaadoon, Farzad Tasbihgoo, and Hashmi Quazi.

9. Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

10. Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Commission retains Consultant on an independent contractor basis and not as an employee, agent or representative of the Commission. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel

performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries and other amounts due such personnel in connection with their performance of Services and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security taxes, income tax withholdings, unemployment insurance, disability insurance, and workers' compensation insurance.

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

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

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

11.3 Progress Reports. As part of its monthly invoice, Consultant shall submit a progress report, in a form determined by the Commission, which will indicate the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by Consultant shall be a condition precedent to receipt of payment from the Commission for each monthly invoice submitted.

12. Delay in Performance.

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

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

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

13. Preliminary Review of Work. All reports, working papers, and similar work products prepared for submission in the course of providing Services under this Agreement shall be submitted to the Commission's Contract Administrator in draft form, and the Commission may require revisions of such drafts prior to formal submission and approval. In the event plans and designs are to be developed as part of the Project, final detailed plans and designs shall be contingent upon obtaining environmental clearance as may be required in connection with Federal funding. In the event that Commission's Contract Administrator, in his or her sole discretion, determines the formally submitted work product to be not in accordance with the standard of care established under this Agreement, Commission's Contract Administrator may require Consultant to revise and resubmit the work at no cost to the Commission.

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

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

Contract Administrator, Caltrans and FHWA to inspect or review Consultant's work in progress at any reasonable time.

16. Claims Filed by Contractor.

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

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

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

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

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

18. Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner

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

19. Fees and Payment.

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

19.2 In addition to the allowable incurred costs, Commission shall pay Consultant a fixed fee of [___INSERT DOLLAR AMOUNT___]. The fixed fee is nonadjustable for the term of this Agreement, except in the event of a significant change in the Scope of Services, and such adjustment is made by written amendment.

19.3 Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal. In addition, payments to Consultant

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

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

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

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

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

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

19.8 The total amount payable by Commission including the fixed fee shall not exceed Sixteen Million Seven Hundred Fifty-Six Thousand Nine Hundred Sixty-Seven Dollars (\$16,756,967).

19.9 Salary increases shall be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by Commission's Contract Administrator. For personnel subject to prevailing wage rates as described in

the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

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

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

20. Disputes.

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

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

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

21. Termination.

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

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

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

Consultant prior to the effective date of termination. This Agreement shall terminate on the effective date of the Notice of Termination.

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

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

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

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

21.8 Consultant may not terminate this Agreement except for cause.

22. Cost Principles and Administrative Requirements.

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

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

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

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

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

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

24. Audit Review Procedures.

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

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

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

25. Subcontracting.

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

Consultant's obligation to pay its subconsultant(s) is an independent obligation from Commission's obligation to make payments to the Consultant.

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

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

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

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

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

26. Equipment Purchase

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

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

26.3 Any equipment purchased as a result of this Agreement is subject to the following:

Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, Commission shall receive a proper refund or credit at the conclusion of this Agreement, or if this Agreement is terminated, Consultant may either keep the equipment and credit

Commission in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established Commission procedures; and credit Commission in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to Commission and Consultant. If Consultant determines to sell the equipment, the terms and conditions of such sale must be approved in advance by Commission. 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

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

27. Labor Code Requirements.

27.1 Prevailing Wages.

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

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

(c) When prevailing wages apply to the Services described in the Scope of Services, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

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

27.2 DIR Registration. If the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations. If applicable, Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project

may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

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

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

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

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

28. Ownership of Materials/Confidentiality.

28.1 Documents & Data. This Agreement creates an exclusive and perpetual license for Commission to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible

medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data").

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

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

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

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

The Commission shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not paid for wholly or in part by Commission, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of Commission.

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

All materials and documents which were developed or prepared by the Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the

right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

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

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

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

29. Indemnification. To the fullest extent permitted by law, Consultant shall defend (with counsel of Commission's choosing), indemnify and hold Commission, its directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, its directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other

legal proceeding. Consultant shall reimburse Commission and its directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, its directors, officials officers, employees, consultants, agents, or volunteers.

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

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

30. Insurance.

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

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

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

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

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

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

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

(a) General Liability.

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

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

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

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

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

(c) Workers' Compensation and Employers Liability Coverage.

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

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

(d) All Coverages.

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

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

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

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

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

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Commission, is not intended to and shall not in any manner limit or qualify the

liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

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

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

Each insurance policy required by this Agreement shall be endorsed to state that:

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

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

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

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

the exact same coverage. If requested by Consultant, the Commission may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

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

31. Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

As between Consultant and the construction contractors only, the construction contractors shall remain solely responsible for construction safety notwithstanding any safety obligations of Consultant at the jobsite. The foregoing sentence shall not impact nor in any way modify or alter Consultant's indemnity and defense obligations to the Commission, as set forth in Section 29 of this Agreement, not any of Consultant's duties or obligations set forth under this Agreement, including the attached exhibits.

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

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

a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same. Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as "sole source" procurements according to applicable law, including the requirements of FTA Circular 4220.1D, paragraph 9(f).

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

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

33. Prohibited Interests.

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

33.2 Consultant Conflict of Interest (Construction Management/ Administration).

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

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

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

(d) Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to

provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

(e) Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

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

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

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

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

33.7 Covenant Against Expenditure of Commission, State or Federal Funds for Lobbying. The Consultant certifies that to the best of his/ her knowledge and belief no

state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

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

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

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

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

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

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

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

37. Disputes; Attorneys' Fees.

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

37.2. If the Parties are unable to resolve a dispute after attempting in good faith to do so, the Parties may seek any other available remedy to resolve the dispute. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and, all other costs of such actions.

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

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

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

CONSULTANT:

Falcon Engineering Services, Inc.
341 Coporate Terrace Circle
Suite 101
Corona, CA 92879

COMMISSION:

Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Attn: Executive Director

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

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

41. Amendment or Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.
42. Entire Agreement. This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior negotiations, agreements or understandings.
43. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
44. Provisions Applicable When Federal Department of Transportation Funds Are Involved. When funding for the Services provided by this Agreement are provided, in whole or in part, from the United States Department of Transportation, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Federal Department of Transportation Requirements and California Department of Transportation (Caltrans) DBE program requirements) attached hereto and incorporated herein by reference.
45. Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.
46. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.
47. Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.
48. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.
49. Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to the Commission. Consultant shall not respond to any such subpoena or court order until notice to the Commission is provided as required herein, and shall cooperate with the Commission in responding to the subpoena or court order.
50. Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein, without the prior written consent of the Commission. Any attempt to do so shall be null and void,

and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

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

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

53. No Waiver. Failure of Commission to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

[Signatures on following page]

SIGNATURE PAGE
TO
PROFESSIONAL SERVICES AGREEMENT
WITH FHWA FUNDING/ASSISTANCE

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

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

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

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

EXHIBIT "A"

SCOPE OF SERVICES

[attached behind this page]

DRAFT

A. SCOPE OF SERVICES

Under the direction of RCTC's Project Manager, FALCON shall perform construction management, inspection, land surveying, soils and materials testing, biological/archeological/paleontological monitoring, and public outreach services, as well as office engineering and field calculations to support the construction of the Project.

Task 1 – CONSTRUCTION MANAGEMENT

1.1 Construction Management

1.1.1. Project Controls System Development

Purpose:

To develop an integrated cost and schedule information system to provide up to date and accurate information regarding schedule, budgets, expenditures, and change orders to managers, contractors, Caltrans, and RCTC.

The master schedule of the Project Controls System (PCS) will enable critical activities and interrelationships between the contractors, suppliers, RCTC, RCTC's Project Manager, design engineers, environmental monitors, CHP, utility companies, biologist and construction manager (including its subcontractors) to be monitored efficiently during the construction phase of the project. The master schedule will identify permit constraints, work area restrictions and other known work and/or coordination constraints.

The cost-monitoring element of the PCS will enable project-wide monitoring of expenditures for comparison with the original budgets and budget updates resulting from change orders processed during the life of the project. Monthly reporting will enable accurate cost forecasting at any time.

The automation of the above information will enable timely analysis, intervention, and decision making to enable efficient control of the project.

Approach:

FALCON will develop the PCS using software similar to Primavera P6 and Expedition, Microsoft Word and Excel software. A master schedule will be developed summarizing all significant activities of project related entities including the contractor, equipment suppliers, RCTC project manager, design consultants, biologist, and the construction manager. The schedule will be structured to include the following:

- Primary contractor work activities, including major submittals required accomplishing the work.
- Principal work activities of the FALCON construction manager, RCTC's project manager, design consultants, biologist, contractors, and suppliers.

- Activities necessary for regulatory compliance.
- Activities related to utility relocations.
- Relationships between submittals, approvals, procurement, and delivery of materials.
- Milestones associated with permitting and approvals.
- Any activity requiring coordination with RCTC, Cities, Caltrans oversight, and other local utility/regulatory agencies.
- Substantial and final completion dates.

The cost accounting format will use a work breakdown structure and cost categories that will be compatible with the RCTC's cost accounting system. The work breakdown structure will be based on contractor's activities and will provide the basis for cost-loading activities in the schedule.

Assumptions:

1. The initial master project schedule will be developed based on information available before the award of contracts for construction.
2. RCTC will provide a description of RCTC's invoicing requirements and guidelines for project work breakdown structure and cost reporting format.
3. RCTC will provide copies of all consultant contracts including scope of services and budgets.

Deliverables:

1. Implementation of Project Control System.
2. Draft master project schedule.
3. Initial master project schedule following review and approval by the agency.
4. Initial project cost.

1.1.2. Monthly Project Progress Meetings and Reports

Purpose:

To apprise RCTC management and other stakeholders of FALCON's activities under this contract via written report and monthly meeting.

Approach:

FALCON will provide a brief written report covering a summary of the status and expenditures associated with each of the tasks described in this scope of work; including highlights of any unusual contractual issues that arise during the reporting period and a listing of approved work that is beyond the boiler plate scope with a determination of who is responsible for the associated additional costs (contractor, project, etc.).

FALCON will schedule monthly progress meetings, which will provide for

discussion of progress reports and issues related to (a) this agreement and (b) the construction agreements.

Assumptions:

1. The project monthly progress report will be provided throughout the contract period for an estimated duration of 24 months.
2. A regular monthly meeting date and time will be established. Meeting date is typically the first week of each month, the same day of the week, i.e., Monday, Tuesday, etc.
3. Written progress reports will be provided to RCTC at least 5 working days in advance of each progress meeting.
4. RCTC to submit proposed changes/amendments to the monthly progress reports, in writing, to FALCON for its use.
5. Additional project budget expenditures determined to be the responsibility of the contractor will be addressed quarterly with adjustments being made to progress payments.

Deliverables:

1. Monthly project progress report that also includes a brief analysis of Contractor's monthly updates to the schedule and budget as well as a brief discussion on the review of Time Impact Analysis documentation from Contractor.
2. One page summary report.
3. Monthly progress review meetings with minutes/summaries.

1.1.3. Document Management System

Purpose:

To establish a system for the timely logging, filing, and tracking of project related correspondence to assure timely responses, and provide a record of communications to enable efficient retrieval and establish the chronology of events for use in dispute resolution.

Approach:

FALCON will set up a document tracking system; using software similar to Primavera and *Expedition* to maintain project files.

Assumptions:

1. Actual logging, filing, and tracking of project information will be performed under separate tasks and subtasks.
2. The FALCON File Index will conform to the Caltrans filing numbering system.

Deliverables:

Implementation of a computerized document management system that includes written procedures for use of the ENGINEER project team.

1.1.4. Sub-Consultant Management

Purpose:

To coordinate and manage sub-consultant services contracted with FALCON. Sub-

consultants include inspectors, surveyors, landscape architects, materials testing consultants, biologists, and/or others, to be determined at a later date and secured at reasonable rates.

Approach:

FALCON will coordinate and manage the utilization of sub-consultants for RCTC in order to comply with the terms of the contract documents and the requirements of regulatory agencies.

At RCTC's direction, FALCON will negotiate and enter into sub-consultant agreements with select sub-consultants.

FALCON will work with consultants contracted directly with RCTC. FALCON will review and approve invoices provided RCTC consultants and forward said invoices to RCTC for approval and processing and payment.

Assumptions:

1. RCTC will retain final approval rights over invoices for RCTC contracted consultants.
2. All costs associated with FALCON's sub-consultant services will be billed to RCTC in conjunction with FALCON's services on a monthly basis.

Deliverables:

1. Copies of all sub consultant reports. Original reports will remain with FALCON until project closeout, at which time all originals will be forwarded to RCTC with the project documentation.
2. Copies of all sub-consultant invoices billed through FALCON.
3. Original invoices reviewed and approved by FALCON for RCTC contracted consultants.

1.2. Pre-Construction Phase Services

FALCON shall provide specialized services during the project Pre-Construction phase, including the bidding periods of the project. These services are intended to involve the construction manager early in the project and to provide advanced planning for construction phase activities.

1.2.1. Constructability Review

Purpose:

To provide RCTC and FALCON with reasonable assurance that project can be adequately constructed as indicated on the Design Plans and to endeavor to minimize contract change orders and reduce the project schedule to the extent possible. To enable changes to be made to the Project Documents by the Design Engineer before the construction contract bids are due.

Approach:

FALCON will perform a constructability review of the project, analyzing the phasing and staging of project construction for conflicts and to minimize the disruption to

traffic and local business concerns. Review of the Project Plans (including construction notes), the Project Specifications, Estimates, and applicable permits and technical reports for the Project is required for a thorough understanding of the project. FALCON will also perform an Independent Quantity Take-off of the major items of work on the Project.

Assumptions:

The Project Plans, Project Specifications and Engineer's Estimate are essentially complete and ready for advertisement.

Deliverables:

1. Constructability comments and report for review by RCTC and Design Engineer. FALCON will provide two (2) copies of the comments and report.
2. The Independent Quantity Take-off with comments and supporting calculations, wet stamped and signed by FALCON's Engineer in Responsible Charge.

After RCTC and the Design Engineer have reviewed and/or made changes, log changes made and changes not made in the project records.

1.2.2. Pre-Construction Coordination

Purpose:

In order to minimize the project construction time there will be a need to have a concentrated effort to do as much non-contract work in advance of the contractor moving on site and to coordinate with other projects in the vicinity.

Approach:

FALCON will coordinate with other agencies, companies, other contractors, local residents and the contractor to ensure that there are no delays to the start of construction. This will involve close coordination with utility companies to ensure that any relocation work done prior to construction is properly managed. Also, FALCON needs to assist the utility companies to plan any relocation work scheduled during construction. Once the low bid contractor is selected FALCON is to work closely with the construction team to ensure that they obtain all necessary approvals, permits, supplies, etc.

FALCON will need to be aware of other public and private construction projects in the vicinity and ensure that there is close coordination between the projects.

1.2.3. Construction Management Plan

Purpose:

To provide RCTC and FALCON with uniform procedures and standards for the administration of the construction contract.

Approach:

FALCON will develop a procedures manual that is usable for the construction project utilizing the **Caltrans Construction Management Manual** and portions of

the **Local Assistance Manual**. The Manual will be a compilation of both manuals, using various parts from both manuals as appropriate and incorporating a section concerning emergencies.

Assumptions:

The final project manual will be bound in a three-ring binder to facilitate future revisions.

Deliverables:

1. Draft project manual for review by RCTC. FALCON will provide two (2) copies of the draft.
2. After review and comments, provide two (2) hard copies and an electronic file (PDF or .docx) of final project manual to RCTC.

1.2.4. Contract Bidding Support

Purpose:

To provide support to RCTC during the Bidding Phase of the project to insure bid documents are satisfactory and complete, and selection of the contractor follows proper standards and procedures as well as applicable CFRs.

Assumptions:

FALCON will be available as needed to coordinate activities, review documents, provide recommendations and attend meetings during the Bid document preparation and Contract Bidding phase.

Deliverables:

FALCON will:

1. Assist RCTC to pre-qualify bidders and major sub-bidders and develop bidder's interest in the project. Assist RCTC in issuing bidding documents.
2. Attend pre-bid conferences and provide information to bidders regarding County expectations of them throughout the project duration and familiarize bidders with the bidding documents, proposed management techniques and with any special systems, materials, or methods.
3. Assist RCTC and Design Engineers with the receipt of questions and timely responses to bidders.
4. Assist in the review and preparation of Addenda to be issued to the Bidders.
5. Assist in the bid analysis including accuracy of bids, identifying the lowest responsive bidder, checking references and other bid forms and make recommendations to RCTC for the award of contracts and/or rejection of bids.
6. Conduct a pre-construction "kick-off meeting" that includes all agencies, utilities, and contractors that will be participating in the Project. Attend any other pre-construction meetings that may be required.

1.2.5. Local Assistance Documentation / Federal Contract Management Requirements

Purpose:

To assist RCTC in field observation, testing and preparation of documentation required for compliance with FHWA Contract Management Requirements as

detailed in the Caltrans's Local Assistance Procedures Manual and applicable CFRs.

Approach:

FALCON, in conjunction with RCTC will review the Local Assistance Procedures Manual to ensure that all contract administration procedures, documentations, and filing systems are in accordance with the Local assistance Procedures Manual. Subsections included in various chapters have been discussed in detail throughout the sections of the Scope of Services for this project:

- Chapter 1, Introduction and Overview
- Chapter 5, Invoicing
- Chapter 7, Field Review
- Chapter 12, Plans, Specifications & Estimate
- Chapter 14, Utility Facility
- Chapter 15, Advertise and Award Project; including the following sections:
 - Approval for Local Agency to Administer Projects.
 - Project Advertisement,
 - Contract Bid Opening
 - Contract Award
 - Award Package
- Chapter 16, Administer Construction Contracts, including the following:
 - Project Supervision and Inspection
 - Pre-Construction Conference and Partnering
 - Contract Time
 - Subcontractors
 - Engineer's Daily Reports
 - Project Files
 - Construction Records and Accounting Procedures
 - Safety Provisions
 - Labor Compliance
 - Equal Employment Opportunity
 - Contract Change Orders
 - Quality Assurance Program
 - Contract Claims
 - Traffic Safety in Highway and Street Work Zones
 - Construction Engineering Review by the State.
- Chapter 17, Project Completion includes the following:
 - Final Inspection Procedures for Federal-Aid Projects
 - "As-Built" plans
 - Report of Expenditures
 - Consequences for Non-Compliance
- Chapter 19, Oversight and Process Reviews
- Chapter 20, Deficiencies and Sanctions

All the above Chapters and sections have specific formats, checklists, and procedures that must be implemented as required by the Local Assistance Procedures Manual and Contract Provisions.

RCTC and FALCON will incorporate specific deliverables within FALCON's scope of services and designate the party or parties responsible.

Assumptions:

RCTC will review FALCON's Contract scope of services and deliverables to ensure that all tasks required are identified and an individual party is assigned responsibility for that task.

Deliverables:

Individual tasks required for compliance with the Local Assistance Procedures Manual are identified as specific tasks including all required checklists, forms, filing system, procedures for progress payments, change orders, claims, correspondence, as-builts, reporting, permit compliance, permit renewals, final invoicing and claims mitigations and resolutions.

Compliance with the Caltrans Construction Manual, Federal CFRs, Traffic Manual, MUTCD, ADA Guidelines, CAL OSHA Safety Orders, SWPPP & PMP preparation Handbook, and all Bridge Manuals is also required, as applicable.

1.2.6. Pre-construction Walk Thru

Purpose:

To review, document and agree to the existing conditions of the project site and neighboring area conditions prior to the start of construction.

Approach:

Prior to the issuance of a Notice to Proceed, FALCON, the Contractor, utility company representatives, biologist, archaeologists, and RCTC will walk the entire project and record existing conditions via a written log, still photographs, and videotape where required. FALCON will provide copies of all documentation to the Contractor and RCTC. FALCON will keep documentation originals in the project files until project completion.

Assumptions:

Project walk will not take longer than two days with approximately the same amount of time to log, file and copy the information.

Deliverables:

A written log, still photographs and any videotape depicting existing site conditions, as recorded prior to the start of construction.

1.2.7. Environmental Compliance Prior to Start of Construction

Purpose:

To maintain compliance with permitting agency guidance and Special Provisions. Please see individual permits for more detailed information regarding activities, submittals, and reporting.

Assumptions:

That these activities will occur prior to the start of construction.

Deliverables:

1. Submit to USFWS and CDFW name of Project Biologist(s) at least 60 days prior to project construction start for approval by USFWS and CDFW.
2. Notify permitting agencies of start of construction as per individual permit conditions.
3. Project Biologist shall implement Worker Environmental Awareness Program to educate on-site workers about sensitive environmental issues. Project Biologist shall provide interpretation for non-English speaking workers.
4. Project Biologist shall conduct all pre-construction surveys in accordance with the environmental document, MMRP and permits for Project within their specific survey time frames. This includes least Bell's vireo, nesting birds, burrowing owl and bats.
5. Project Biologist shall oversee delineation of work boundary with appropriate fencing or flagging. Biologist shall determine and clearly delineate avoidance or buffer areas.
6. At least 60 days prior to construction, Project Biologist shall prepare and submit an Aquatic Species Protection Plan to CDFW.

1.3. Construction Management Services

FALCON, on behalf of RCTC, will provide construction management services for administration of the construction contract in conformance with the requirements set forth in the State's Construction Manual, State's Local Programs and Procedures Manual, State's Encroachment Permit and RCTC's requirements. Construction Management services will encompass the Quality Assurance and enforcement of all construction contract requirements. It can be expected that the contractor will be working on site up to 24 hours per day. CM services are to be provided to enforce construction contract requirements.

1.3.1. Pre-construction Conferences

Purpose:

To provide a forum for all essential project participants to meet prior to the start of work. This meeting will outline RCTC's administration of the contract, introduction of the participants, and record all comments and questions submitted by the contractor. Provides an understanding of the procedures to be used on the project and what the Contractor can expect from RCTC and its consultants.

Approach:

FALCON will schedule, prepare the agenda, chair and take minutes of the pre-construction meeting. The meeting will outline project specifics and inform the Contractor of project administration procedures.

Assumptions:

1. RCTC will provide the meeting venue.
2. RCTC will assist FALCON in developing the attendee list.
3. FALCON will prepare a draft agenda for RCTC approval prior to the meeting.

Deliverables:

1. Written agenda and minutes of pre-construction conference.
2. Electronic copies of pre-construction meeting minutes to RCTC and attendees.
3. Review and comment on contractor's base-line schedule.
4. Establish ground rules of coordination & communications with contractor and designer concerning the processing and reviewing of submittals and RFI's.
5. Maintain construction documents per federal requirements and as detailed in Chapters 15, 16, 17 and other relevant Chapters of the Local Assistance procedures Manual.
6. Discussion of enforcement of DBE requirements.
7. Discussion of enforcement of Labor Compliance Requirements, including completion federal Labor Compliance Pre-job Checklist.
8. Discussion of enforcement of Quality Assurance Program
9. Completion of the Federal Resident Bridge Engineer's Construction Contract Administration Checklist, including all necessary attachments as detailed in Local Assistance Procedures Manual.
10. Discussion of environmental permits requirements.
11. Discussion of water quality requirements.

12. Discussion of utility company requirements.
13. Preparation of invoices for federal reimbursement.

1.3.2. Communications and Correspondence

Purpose:

To provide for and/or facilitate effective communication, on behalf of RCTC and among all stakeholders in the administration of the construction contract.

Approach:

FALCON will obtain all pertinent information as required to develop a project directory of all key personnel and stakeholders working on the project. FALCON will develop a graphic chart indicating the proper flow of correspondence. FALCON will log all information received from the Contractor and others, in *Expedition*. Lastly, FALCON will prepare and/or forward appropriate responses, obtaining RCTC approval when required.

Assumptions:

1. FALCON's Correspondence Log will be used for all correspondence received from RCTC, the Contractor and others.
2. All original correspondence will remain with the ENGINEER project files. Only copies will be distributed, with the exception of shop drawing submittals.
3. FALCON'S project files will be turned over to RCTC upon the conclusion of the project.

Deliverables:

1. Communication flow chart.
2. Written logs of information received from RCTC, the Contractor, design consultants, biologist, testing firm, citizens and/or others.

1.3.3. Project Changes and Construction Change Order Management

Purpose:

1. To review proposed changes to the project and determine if the change is necessary and/or beneficial to the project, and if such changes constitute a change order.
2. To provide a system for logging and tracking all changes on the project.
3. To provide RCTC with assurance that the Contractor is not presenting requests to be paid for additional work included in the original contract.
4. To assure RCTC that the associated extra work costs and time extension requests are fair and reasonable to both RCTC and the Contractor.

Approach:

FALCON will review potential changes to the project for contractual and technical merit, prepare independent cost estimates and schedule analysis of work, discuss proposed changes with RCTC, and negotiate change order costs with the Contractor. FALCON will prepare change orders with all required support documentation for execution by the RCTC. FALCON will keep RCTC apprised of cumulative changes in project cost and project duration. FALCON will negotiate change orders on behalf of RCTC and will use the

following approach in assisting & coordinating the process with RCTC:

Requests for Changes by RCTC

1. FALCON will forward a Request for Quote (RFQ) to the Contractor for pricing and stipulation of proposed time extension (with Time Impact Analysis if necessary), if requested work can be shown to impact the project's critical path. The RFQ shall contain a description of the extra work (normally provided by the Designer) to fairly price the work.
2. FALCON will prepare an independent cost estimate of the extra work.
3. FALCON will review the cost quote from the Contractor for completeness, negotiate cost and time extension requests (and TIA) as required and, obtaining RCTC concurrence throughout the process. Obtain RCTC authorization for proceeding with the change, based on definitive cost and time extension values.
4. Should FALCON and the Contractor be unable to negotiate a reasonable price, RCTC will be consulted prior to directing the work via alternative contract change options such as proceeding on a time and material basis or proceeding by force account.

Requests for Changes by Contractor

1. FALCON will review requests of proposed cost and/or time impacts (with TIA if necessary) for merit. If FALCON determines the request fails on merit, the Contractor will be informed of the reasons why the request is denied. Should FALCON determine the request has merit, FALCON will proceed with steps 2 and 3.
2. FALCON will prepare an independent cost estimate and schedule analysis of the work.
3. FALCON will negotiate extra work cost and time extensions with the Contractor.
4. FALCON will prepare change order documents for approval and execution by RCTC.

Assumptions:

1. FALCON will have authority to make minor changes to work that it determines to have no cost or time impacts to the construction project.
2. FALCON will be allowed to use their own judgment regarding how best to handle cost negotiations with the Contractor but will keep RCTC informed throughout the process.
3. FALCON will prepare official change order documentation to be processed with the Contractor's regular application for payment.
4. FALCON will transmit electronic copies (MS Word *.docx files) of change order documentation to RCTC's capital project construction group.
5. FALCON will obtain final approval of all project cost and/or project time changes from RCTC, and Caltrans prior to authorizing the Contractor to proceed with changes.

Deliverables:

1. Perform quantity, time and cost analysis as required for negotiation of change orders
2. Analyze additional compensation and time extension claims that are submitted

- during the construction period and prepare responses.
3. Perform claims administration including coordinating and monitoring claim responses, logging claims and tracking claim status.
 4. Change order documentation ready for approval and execution by RCTC.

1.3.4. Monthly Construction Progress Reports

Purpose:

To keep RCTC apprised of the project status during the prescribed construction period.

Approach:

FALCON will prepare a monthly report that provides construction status to RCTC and other involved parties. The monthly report shall contain the following:

1. Status of contractor's schedule and what the contractor is doing to maintain or catch up if the schedule has slipped. While the focus will be on critical path items, other items that might become critical will be discussed in the report.
2. Construction and construction manager's costs incurred for the month.
3. Cash flow projections for both the contractor and Construction manager.
4. Identify actual and potential problems associated with the construction project and consult with the Project Manager and design engineer.
5. Evaluate Value Engineering Change Proposals (VECPs) and provide recommendations to the Engineer for acceptance or denial.
6. Potential Issues, pending change orders and executed change orders.
7. Photographs to show construction activities and for clarity regarding special issues.
8. Other information deemed necessary for RCTC to have a concise understanding of the construction Projects.

Assumptions:

RCTC will assist FALCON in the initial formatting of the first report.

Deliverables:

1. Monthly progress report.
2. One page summary report for distribution to Senior RCTC staff or elected officials.

1.3.5. Schedule Monitoring

Purpose:

To monitor and review the Contractor's schedule, after acceptance of the baseline schedule, so that the project is not being delayed over issues within the control of the Contractor and ensure project is completed by May 24, 2024.

Approach:

FALCON will develop procedures, using available software, to review the Contractor's monthly schedule updates for logic, duration, and resource changes. FALCON will notify the Contractor of discovered changes and document the Contractor's response, for the record. FALCON will keep RCTC apprised of the Contractor's current construction schedule.

Assumptions:

Contract specifications will require the Contractor to use Critical Path Method (CPM) scheduling tools/software. The preferred scheduling software is P6 by Primavera.

Deliverables:

1. Monthly review of contractor's schedule updates and provide a summary to RCTC on schedule status and impact of changes to completion date.
2. FALCON will prepare and transmit to the Contractor, schedule review comments.
3. Monitor and facilitate utility coordination with various utility companies and the Contractor. Incorporate relocations in the schedule and report any delays and impacts to the completion date.

1.3.6. Cost Monitoring

Purpose:

To provide RCTC with a system that is easy to understand and provides up-to-date cost information for making timely decisions.

Approach:

Using a combination of software like *Expedition* and *Excel*, FALCON will generate spreadsheets and graphs for the purpose of monitoring anticipated and actual cost outlays.

Assumptions:

RCTC will provide direction regarding desired cost monitoring information and report formats.

Deliverables:

1. Monthly cost monitoring reports in a format to be determined.
2. Monthly progress report for RCTC describing key issues, cost vs. budget status, and schedule status.

1.3.7. Progress / Coordination Meetings

Purpose:

To provide a forum for the review of the project status, the look-ahead schedule including activity sequence and duration, schedule for delivery of long lead items, outstanding RFIs, submittals, and other project issues.

Approach:

FALCON will conduct weekly progress/coordination meetings, to be attended by RCTC, the Contractor, FALCON and other invitees. FALCON will request RCTC and the Contractor to submit agenda items for the meetings. Using the proposed agenda items and agenda items developed in house, FALCON will prepare a comprehensive agenda for the meeting and distribute the agenda to all parties scheduled to attend. Following the meeting, FALCON will distribute meeting minutes, requesting either the concurrence of those who attended, or suggested corrections to the minutes. Minutes will be filed as either approved or amended.

Assumptions:

1. RCTC's and Contractor's staffs will be able to meet on a regular basis with minimal absences.
2. The meeting room will be able to seat a minimum of 20 people and have video conferencing capabilities, especially while COVID restrictions are in effect.
3. Meetings will not take place more than once a week and will last approximately one hour.
4. The Contractor will submit a look-ahead schedule (3 week) at each meeting.

Deliverables:

1. Agenda with status of open items from previous meetings.
2. Meeting minutes, for review, with action items noted.
3. Amended meeting minutes, if required.
4. Submittal, Issue log, Change Order log and RFI and RFQ working logs.

1.3.8. Payment Recommendations

Purpose:

To verify that the Contractor's request for payment does not represent more than an amount that is reasonable for the work done on a monthly basis. To prepare progress payment recommendations on behalf of RCTC for work completed and materials stored on hand (if allowed).

Approach:

FALCON will review and approve the Contractor's monthly progress based on the percentage of work activities complete. The Contractor will submit a certified application for payment to FALCON for final review. Once approved, FALCON will prepare a payment application certificate, using software similar to *Excel*, for approval and execution by the RCTC.

Assumptions:

1. RCTC will make payments in accordance with the contract stipulations and State Law to the Contractor once each month.
2. FALCON will use software that is acceptable to RCTC for use preparing progress payment application certificates.

Deliverables:

1. Contractor's certified application for payment.
2. Progress payment request documents suitable for approval and execution by RCTC.

1.3.9. Safety

Purpose:

To review the Contractor's work site safety and notify the Contractor of unsafe conditions, as observed. Implement the CAL OSHA Safety Orders requirements for providing safe work site conditions.

Approach:

FALCON will observe contractors' work area. Contractor is to be informed if unsafe work conditions and/or areas are observed. Immediate shutdown of contractors' work may be required if conditions endanger property and/or life. Random attendance of contractor's tailgate meeting. FALCON will conduct its own bi-weekly staff safety meeting to discuss specific safety procedures and issues relating to current or upcoming construction activities requiring unique safety procedures.

Assumptions:

1. Contract document requires Contractor to submit its safety program and safety officer prior to the start of work
2. Contract documents or Contractor's safety program requires contractor to submit accident reports.
3. FALCON assumes no responsibility for safety of Contractor's work areas.
4. FALCON assumes no responsibility for implementation of Contractor safety program, or its construction means and methods.

Deliverables:

1. Accident reports from Contractor.
2. Bi-weekly safety meeting minutes
3. Copies of safety issues discussed during contractor's tailgate meetings.
4. Documentation of unsafe work conditions and/or areas as observed and any shut-down orders.

1.3.10. Traffic Control and Signal Timing

Purpose:

To provide an efficient means for keeping traffic flowing through the site to adjacent residents and businesses during construction.

Approach:

Using a Traffic Engineer, FALCON will provide the necessary expertise to evaluate and modify permanent and temporary traffic controls, including signal timing as necessary to ensure the safe and efficient handling of traffic through the project site. Work with RCTC, Caltrans, and the City of Corona traffic engineering offices.

Assumptions:

Any RCTC and RCTC desired changes to the traffic handling will be communicated to FALCON in a timely manner.

Any Contractor desired changes to the traffic handling plans will be handled per Section 4.3 of this scope and require RCTC concurrence prior to implementation.

Deliverables:

1. Monitor, review and provide recommendations for modifications to traffic handling during the course of construction.
2. Prepare signal timing charts for traffic signals within and adjacent to project site as necessary to promote improved traffic flow for the various phases of

- construction and maintain coordinated timing to the extent possible (i.e. time based coordination/gps or wireless communication).
3. Work with the County and RCTC to implement those signal timing charts.
 4. Provide a recommended signal timing chart for implementation at project completion based on the ultimate configuration.

1.3.11. Submittal Management and Review

Purpose:

To provide an efficient means of processing and reviewing submittals, including working drawings, shop drawings, product data, sample and other items furnished in accordance with Sections 5-1.02 and 5-1.02A of the State Standard Specifications, from the Contractor and forwarding applicable submittals to the Project Designer as may be appropriate.

Approach:

Using software similar to *Expedition*, FALCON will develop a comprehensive submittal list for distribution to the Contractor and the Designer. FALCON will update and submit status submittal logs for review at each coordination meeting. FALCON will work with the Contractor and Designer (where applicable) to encourage timely submission, review and approval of submittals as outlined in the Contract Documents, prior to inclusion of submitted materials in the progress of the work. In addition, FALCON will perform the engineering reviews and approvals for working drawings and calculations provided by the Contractor in accordance with Sections 5-1.02 and 5-1.02A of the State Standard Specifications and within the review timeframes as specified in the applicable sections of the contract documents and specifications. The following steps will be taken in reviewing the Contractor's submittals:

1. Log all submittals by Specification Section.
2. Ensure that the Contractor has provided a complete submittal, coordinated with the work of other trades, and that all deviations have been noted. Submittal is returned to the contractor if it is not complete.
3. Construction Manager reviews submittal for general compliance with the specification.
4. Applicable Submittals are forwarded to Designer for formal review. Submittal status is logged.
5. Submittals sent to Designer are returned to FALCON. Submittal status is logged.
6. FALCON to perform engineering review of submittals consisting of working drawings and calculations furnished in accordance with Sections 5-1.02 and 5-1.02A of the State Standard Specifications. Such submittals shall be reviewed and approved by FALCON's Resident Engineer in accordance the above sections, other applicable sections of the State Standard Specifications and the Caltrans Inspection Manuals for the associated work (i.e. Falsework, Prestressing, Trenching and Shoring, etc.).
7. Approved submittals are returned to the Contractor for use in work. Submittal status is logged.
8. FALCON to inform Contractor if a re-submittal is required.

Assumptions:

1. FALCON will not be responsible for errors or omissions in submittal lists.
2. Coordination and submission of submittals in accordance with requirements of the contract is the responsibility of the Contractor.
3. RCTC will provide a listing of submittals to be reviewed by the Designer or others including RCTC staff.
4. FALCON will not make an exhaustive review of Contractor's submittals except as noted above.
5. FALCON will forward to the Designer all submittals designated by RCTC to be reviewed and approved by Designer. These submittals are typically for pre-manufactured materials and assemblies specified in the Contract.

Deliverables:

1. Submittal status log.
2. Check Calculations, where required.
3. Copy of all approval letters, approved working drawings, submittals, and final submittal log.
4. Request for Information (RFI) Management

1.3.11. Request for Information (RFI) Management and Review

Purpose:

To provide an efficient means of processing Requests for Information (RFIs) submitted by the Contractor. The efficient management of RFIs permits timely communication between the Designer and the Contractor.

Approach:

FALCON will receive, log and review all RFIs for completeness and verify the question is reasonable and understandable. FALCON will provide a short technical review of the RFI to determine if the issue is addressed adequately in the contract documents. FALCON will return the RFI if the question is unclear or, in the opinion of FALCON staff, the answer is contained in the contract documents, noting where the requested information can be found in the contract documents. FALCON will track RFIs, using the software similar to *Expedition*, and facilitate the timely response from the Designer.

Assumptions:

The Designer will respond with an answer to all RFIs within the contract stipulated time period for response. Facsimile or e-mail will be used to forward RFIs to the Designer and return responses to the Contractor, with original documents to follow.

Deliverables:

1. Comprehensive log of all outstanding RFIs and their status.
2. Prepare responses to RFI's related construction issues
3. Transmit design related RFI's to design engineer and copy RCTC Project Manager.
4. Conduct meetings with the Contractor and other parties as needed to discuss and resolve RFI's.

1.3.12. Document Management

Purpose:

To provide RCTC with an electronic means of tracking all documents exchanged between the parties involved in the construction of the project.

Approach:

FALCON will use software similar to *Primavera* and *Expedition* and the FALCON File Index modified to conform to the Caltrans filing system to log all documents in the project field office. Documents will be scanned into the document control system and attached to the file index categories. All documents will be filed as an electronic file and hardcopy.

Assumptions:

1. FALCON will use software similar to *Primavera* and *Expedition*.
2. RCTC may not use the chosen software.

Deliverables:

1. Comprehensive logs of all documents in the project files (electronic and hardcopy). Electronic files shall not require special software to read or access.
2. All hardcopy project documents exchanged on the project between the various parties.
3. Establish and process project control documents to include:
 - Daily inspection and Resident Engineer's diaries
 - Weekly Newsletter and Weekly Statement of Working Days
 - Monthly progress report and monthly progress pay estimate
 - RFI's, Submittals
 - Correspondences with Contractor, Caltrans, Permitting Agencies, Utility Companies, Regulatory Agencies, and other stake holders
 - Survey requests and survey notes
 - Materials receipts, materials testing results, and certificate of compliance
 - Mix designs for PCC, CTPB, AC, AB

1.3.13. Review Certified Payrolls

Purpose:

To verify the Contractor provides certified payroll reports in conformance with the provisions of the contract and applicable State and Federal Law. To verify the certified payroll reports contain information required by the Labor Code.

Approach:

FALCON will receive and review certified payrolls from the Contractor and each of its subcontractors. FALCON will check for the "Statement of Compliance" from the Contractor and/or subcontractors and spot-check wages for each classification of laborer or craftsperson. FALCON will notify RCTC and the Contractor of all discrepancies and/or errors and request a corrected Certified Payroll.

Assumptions:

1. FALCON will conduct employee interviews, for the purpose of verifying payment of prevailing wages. FALCON will perform a minimum of one interview

- per trade, per contractor per month.
2. FALCON will not be held responsible for enforcement of the Labor Code.
 3. FALCON will maintain a weekly list of subcontractors working on the project.
 4. FALCON will not be responsible for identifying every worker on site.

Deliverables:

Hardcopies of the interviews and notifications of non-compliance and State enforcement issues that may be happening with the contractor.

1.3.14. Storm Water Pollution Prevention Plan (SWPPP)

Purpose:

To protect RCTC from potential fines from regulatory agencies by monitoring contractors' activities regarding pollution prevention controls and/or activities for general compliance with the contractor's SWPPP Best Management Practices (BMP).

Approach:

FALCON will ensure the contractor has obtained a WDID, the SWPPP is uploaded, maintenance and other reports are being uploaded, and general relevant documentation is in order. FALCON will observe the contractor's work area for general compliance with the General Permit for the NPDES / SWPPP, SWPPP Best Management Practices (BMP) and notify the contractor if the pollution prevention controls are not in accordance with the SWPPP. Failure to revise and correct conditions will be caused to have RCTC take corrective action. Immediate shutdown of the contractor's work may be required if conditions are in non-compliance with the SWPPP or other permit conditions.

Assumptions:

1. FALCON will not provide full time inspections of contractor's work areas for compliance with the contractor(s) SWPPP and BMP.
2. FALCON will not be responsible for contractor(s) means and methods for complying with the BMP listed in the SWPPP.
3. FALCON will not be responsible for costs incurred by the contractor(s) for its failure to comply with its SWPPP.
4. FALCON will document site conditions with respect to SWPPP and BMP weekly and maintain a separate file for said reports.

Deliverables:

Contractor(s)' SWPPP monitoring reports and FALCON documentation of site conditions kept in project file for the record.

1.4. Construction Closeout Activities

1.4.1. Contract Closeout

Purpose:

To provide RCTC with final closeout documentation, including any permit completion documentation.

Approach:

FALCON will turn over all project files, contract correspondence and documents including final logs at time of project completion.

Assumptions:

RCTC will file final Notice of Completion and Acceptance of Work.

Deliverables:

1. Notice of Completion form for RCTC.
2. Notices of Completion for any Permits, including "duplicate" permits for project and documentation showing the NOT has been recorded.
3. Preparation of supporting information for NOT.
4. Copy of the Contractor's performance bond, good for the warranty period.
5. Final project documentation in accordance with the requirements of the Caltrans local assistance manual and FHWA requirements.

1.4.2. Project As-Built Drawings

Purpose:

To provide RCTC and RCTC with accurate record drawings indicating all changes and as- built conditions.

Approach: In addition to monitoring the Contractor's record drawings, FALCON will maintain a copy of up-to-date contract plans for the purpose of aiding the Engineer of Record in final review of the record drawings.

Assumptions:

1. The Contractor will be responsible for preparing the record drawings in both reproducible and electronic formats.
2. FALCON will assist the Engineer of Record in review and final approval of the as-built record drawings.

Deliverables:

One set of contract drawings indicating recorded changes to the contract, as maintained by FALCON. This set will be in addition to the Contractor's marked up set of contract drawings. Provide one copy of the revised Mylar drawings. The Engineer of Record will prepare the record drawings for the project.

1.4.3. Final Project Report

Purpose:

To provide RCTC with a written history of the construction contract. The contents of the final report are to fulfill federal requirements for federal financial participation.

Approach:

FALCON will review the project documents and prepare a written report for RCTC. As a minimum, the report will include the following:

1. Names of all organizations involved with the Projects, i.e., RCTC managers, City, construction manager, contractor and any other parties that may have a

- significant part in the construction of the projects.
2. Chronological history of the construction effort, to include all significant dates.
 3. Contract amounts at bid time with all other bids in tabular form.
 4. Change order history, to include summary statement about each change, negotiated cost of each change and other information deemed necessary by FALCON and RCTC's Project Manager.
 5. Summary of Requests for Information, in tabular or matrix form.
 6. Summary of outstanding claims not resolved when the notice of completion is filed.
 7. Summary of final contract amount.
 8. Final DBE Report.
 9. Project photographs.
 10. "Lessons learned"

Assumptions:

RCTC will provide input to FALCON regarding the form of the final report and federal required documents to be included in the report.

Deliverables:

One hard copy and one electronic file will be provided.

1.4.4. Final Payment, Final Report of Expenditure Checklist

Purpose:

To provide RCTC with the final contract cost and final balance due the Contractor. Also prepare Report of Expenditure Checklist for federal reimbursement including all necessary attachments.

Approach:

Following completion of the contract work, FALCON will, in accordance with the Designer, determine the final quantities and cost of all outstanding unit price work and all outstanding approved change order work. FALCON will prepare for RCTC and the Contractor, a final balancing change order quantifying the final contract amount. Contractor will include amount of final balancing change order in submission of last certified application for payment, submitted to FALCON. Once approved, FALCON will forward application for payment to RCTC for final approval and processing.

Assumptions:

1. There are no outstanding issues or claims.
2. RCTC is responsible for filing Notice of Completion and addressing all subcontractor claims prior to release of final payment. RCTC will file the Report of Expenditure Checklist for federal reimbursement.

Deliverables:

1. Final Pay Estimate including finalized bid items, claims, change orders, punch-list items, and corrected shop drawings.
2. Contractor's last certified application for payment with application certificate.
3. Report of Expenditure Checklist with attachments

4. Final report for all funding sources including all attachments similar to a federal standard report.

1.4.5. Audit Support

Purpose:

To assist RCTC during any future audits of the project.

Assumptions:

RCTC may be audited one or more times following project close-out. RCTC will issue a future task order to pay for support services during any such audits, should they request these services.

Deliverables:

FALCON will participate in the audit process at RCTC offices and provide any and all documentation from the project as requested by the auditors, and attend meetings as needed.

Task 2 – FIELD INSPECTION

2.1. Inspection and Documentation

Purpose:

To provide RCTC with documentation of construction activities, duration of activities, manpower and equipment allocation, inspections, and work conditions.

Approach:

FALCON will provide experienced and qualified inspectors (qualified by the State of California Department of Transportation) acceptable to RCTC, Caltrans and cities. Inspectors will document the Contractors' daily activities, manpower loading, on-site equipment and items considered pertinent to the project. Construction contractor may be working on site 24 hours per day. CM services are to be provided to enforce the construction contract requirements.

FALCON will coordinate and manage the utilization of FALCON's inspectors for the purpose of providing daily inspections and/or special inspections as deemed necessary and beneficial for proper completion of the project, or, at RCTC's direction, FALCON will negotiate and enter into sub-consultant agreements with qualified inspectors including special inspectors, as needed and defined in Task 2.5.

Assumptions:

1. FALCON shall provide inspectors who are experienced and qualified for the inspection required.
2. All inspections will be within the project limits.

Deliverables:

1. The Inspectors will ensure compliance with all aspects of this construction contract by continuously monitoring, evaluating, approving, or rejecting the contractor's work in accordance with the approved construction contract and Caltrans requirements.

2. FALCON Inspector's daily and/or special inspection reports maintained in the FALCON project files and turned over to RCTC at the completion of the project. Copies of these daily reports will be submitted on a weekly basis or upon request.
3. Take and maintain digital photographs and videos as necessary to provide documentation of construction activities. All photos will be logged, dated and kept at the field office in a bound folder (hard copies and CD copy).
4. Verify field measurements for compliance with contract plans and specifications and provide quantity calculations for progress payments.
5. Continue to update an As-Built set of plans and review contractor's marked set.
6. Conduct weekly project meetings, prepare and distribute to all designated parties.
7. Review the updated construction schedule and maintain record.
8. Review laboratory, shop and mill test reports of materials and equipment, and coordinate with design engineers as required, to ensure compliance with contract and Caltrans requirements to guard against defects and deficiencies in the project work.
9. As appropriate, require special inspection or testing, or make recommendations to RCTC regarding special inspections or testing of work not in accordance with the provisions of the contract documents whether or not such work is fabricated, installed, or completed. Subject to review by Caltrans, RCTC and cities, Inspector may reject work which does not conform to the provisions of the contract and approving agencies.
10. Establish and process job control documents including:
 - Daily inspection diaries
 - Weekly Resident Engineers Newsletter
 - Monthly construction progress payment
 - Request for information
 - Survey requests
 - Materials receipts
 - Weigh master certificates
 - Materials submittals
 - Weekly statements of working days
 - Construction change orders
 - Review of certified payrolls

2.2. Materials Testing, Construction Testing & Quality Assurance Program (QAP)

Purpose:

To provide project site and laboratory testing of construction materials used in the project for the purpose of determining quality and acceptability of materials and workmanship incorporated into the project and in compliance with the contract documents.

Approach:

FALCON will coordinate and manage the utilization of the materials and testing laboratory for the purpose of providing laboratory and field-testing of materials in

accordance with test methods and frequencies specified in the contract documents, as required by the California Test Methods, and Caltrans' Quality Assurance Manual.

Assumptions:

1. It is assumed that RCTC will not provide the Materials Testing services on this contract under the direction of the CM.
2. FALCON shall provide material testers and laboratory technicians who are experienced and qualified for the inspection required.
3. FALCON will ensure the implementation of the Quality Assurance Program for source inspections, materials acceptance, and special inspections as required by the contract.
4. All material testing, materials acceptance and special inspections will be within the project limits or as required by the contract.
5. Contractor must formally request testing in writing. If no formal request is made (at what time), the CM will ensure the contractor will stop the effected work until testing is complete and materials are deemed acceptable.

Note: RCTC may, if they choose, perform part or all of the materials testing.

Deliverables:

1. Laboratory test reports maintained in the FALCON project files and turned over to RCTC at the completion of the project.
2. Summary sheet of all test reports submitted by others to substantiate compliance with contract documents.
3. Summary sheets of all Certificates of Compliance or source release tags furnished by the Contractor along with the applicable delivered materials at the job site.
4. Testing summary sheets.
5. Coordinate source inspections and special inspections as required by the contract document and the Quality Assurance Program.

2.3. Maintain Photographic and Video Records of Construction Progress

Purpose:

To provide RCTC with a photographic record of the project, before, during and after construction.

Approach:

Using digital photography, and construction video recording cameras, FALCON will record the Contractor's progress during construction on a daily basis or otherwise as approved by RCTC. Care will be taken to record all items and/or conditions that have or may have a bearing on claimed extra work. Still photographs will be labeled with captions indicating subject matter, date taken, and any description required to further clarify the item/issue being photographed.

Assumptions:

All photographs will remain at the FALCON office until the end of the project. Video

will be recoded and saved as part of the project records. Video will also be made available to the public via the Project web site.

Deliverables:

1. A detailed photographic history of all phases of the project will be maintained in an album and the photographs will be indexed for ease of retrieval. Each photograph will be labeled as to location, direction of view, date, time, and description of work. Photos will include, but not be limited to, the following:
 - Showing existing conditions prior to construction
 - When opening or changing a detour
 - Barricade placement
 - Disputed work item
 - Work that has to be duplicated, replaced, or removed
 - Completed work.
 - Extra work
2. Construction video cameras, with pan, zoom, tilt capabilities are to be installed prior to construction start and maintained throughout the project. One camera in each quadrant of the interchange shall be placed so as to capture the widest range of activity and clearest views of the project to the extent possible. Cameras may be required to be relocated as project phase's change. Coordination with RCTC to provide live video feed via RCTC web site is required. FALCON is responsible for arranging for an appropriate power source for the cameras. Solar power may be considered.

2.4. Review and Maintain "As Built" Drawings

Purpose:

To provide RCTC with accurate record drawings for the project.

Approach:

FALCON will monitor the contractor's required record drawings on a monthly basis. In addition to monitoring the contractor's drawings, FALCON will maintain a copy of the contract plans for the project. FALCON will ensure that items that may not normally be shown on the contractor's set of record drawings but are of importance to RCTC and Caltrans are included in the as-built drawings. This information is not necessarily construction related, but is project related and may be important in future maintenance and/or construction projects.

Assumptions:

1. Contract documents will require contractor to prepare redline as-built drawings to reflect as-built conditions during the course of construction.
2. The FALCON will be responsible for ensuring the contractor maintains red line changes and will be responsible for making redline changes to one complete set of plans.
3. FALCON will assist in answering questions regarding the red line drawings, providing sketches or other clarifications to the design engineers for preparation of final As-Built record drawings.

Deliverables:

One set of marked up contract drawings. This set will be in addition to the contractor's marked up set of contract drawings.

2.5. Final Inspection and Punch-list

Purpose:

To identify elements of construction requiring correction prior to final acceptance by RCTC.

Approach:

FALCON will perform a project inspection of the completed construction following substantial completion. During the inspection, the FALCON will develop a list of contract work requiring correction or rework. The written list of deficient work (punch-list) will be delivered to RCTC and CONTRACTOR within three (3) working days of the final inspection. The final punch-list will include items to be corrected that were identified previously during the course of construction.

Assumptions:

1. RCTC will identify any key RCTC or other permitting agency (County, Caltrans, RCFC, etc.) personnel to be included in the final inspection.
2. FALCON will contact and schedule all required final inspection personnel 48 hour prior to the final inspection.
3. FALCON will prepare the final punch-list.

Deliverables:

Final punch-list

2.6. Final Acceptance – Punch List Assistance

Purpose:

To provide RCTC with reasonable assurance that the work of the project has been completed in compliance with the general intent of the contract documents.

Approach:

FALCON will coordinate a walk-through with RCTC, the Designer, and the Contractor. FALCON, with assistance from RCTC and the Designer will prepare a punch list indicating all deficiencies and/or omissions noted in the walk-through. FALCON will then forward the punch list to the Contractor for correction of the work in accordance with timelines defined in the contract. FALCON, in conjunction with RCTC, will inspect items on the punch list once the Contractor has notified the FALCON that the work is complete. Completed items on the punch list will be signed off by FALCON. Upon completion of the punch list work FALCON will notify RCTC that the work is complete and forward a copy of the completed punch list.

Assumptions:

FALCON will provide a preliminary punch list of outstanding work items to the Contractor. FALCON will ensure all punch list items are completed prior to requesting a final walk-thru from RCTC and the Designer.

Deliverables:

Completed and signed-off punch-list submitted to RCTC with the closeout documents.

2.7. Source Inspection

Purpose

FALCON will coordinate and manage the utilization of ZTC for the purpose of providing materials to be incorporated into the project. Performing Quality Assurance (QA) and Source Inspection (Special/Shop Inspection) on behalf of RCTC and DESIGNER to ensure all fabricated and manufactured structural materials are in compliance with project design documents, technical provisions, Caltrans specifications, Railroad requirements, and Federal guidelines.

Approach

ZTC will prepare a Source Inspection Quality Management Plan (SIQMP) for RCTC review and approval. Scope of QA source inspections will be summarized in detail based on risk-of-failure for all of project materials.

ZTC will have a Structural Material Representative (SMR), a PE Engineer, during project construction. ZTC SMR will work closely with project RE and SR. SMR will review related project submittals, create project SIQMP, hold pre-fabrication meetings, visit fabricators, manage source inspection activities, coordination shop inspection, sign off QA source inspection reports, etc. SMR will create an open line of communication between Fabricators and Construction staff to resolve fabrication challenges in-time to ensure unnecessary time-delays in fabrication. SMR will process all incoming notices of materials to be used and assigns appropriate quality assurance procedures for those materials.

ZTC will provide QA source inspectors, Certified Weld Inspectors (CWI), ASNT Non-Destructive Inspectors NDT for Ultrasonic Testing (UT) and Magnetic-Particle Testing (MT), Certified Radiographic Testing (RT) Film Reviewer, Precast Inspectors (PCI), NACE Certified Coating Inspectors, and other specialized inspectors as needed. ZTC Structural Materials Representative (SMR) will deploy QA source inspectors to the project's various materials manufacturers, fabricators, and suppliers based on the quality assurance requirements set forth in the approved SIQMP. ZTC will file all source inspection records and will provide copy of the records to FALCON as project progresses.

Assumptions

Material QA source inspection and acceptance will range from Certificate of Compliance acceptance to full source inspection by one of ZTC's certified material QA inspectors. Including precast MSE panels, welded hoops, structural fasteners, couplers, bearings pads, spherical bearings, and all other materials identified in the SIQMP.

ZTC will make sure that all files, QC records, material test reports (MTRs),

documents, test results, and engineering reviews are documented and are in conformance with the approved SIQMP.

Deliverables

ZTC will deliver the followings to RCTC during project construction and at project close-out:

1. Project Source Inspection Quality Management Plan (SIQMP)
2. Constructability review of Plans and Specs
3. Organizing and Managing Pre-Fabrication Meetings (Agenda and Minutes) will be kept for records
4. Monthly SIQMP Reports for project RE
5. Submittal Reviews: Shop Drawing, Mix Design, etc.
6. Fabrication Quality Control Plans Review:
 - Welding Quality Contrail Plan (WQCP)
 - Precast Quality Control Plan (PCQCP)
7. QA Source Inspection Reports for all materials listed in the SIQMP
8. Final material certification in accordance with the project specifications and the approved SIQMP
9. Project QA source inspection Close-Out letter

Task 3 – LAND SURVEYING

Purpose:

To provide the necessary construction surveying to enable the contractor to construct the project in conformance with the contract documents. To provide RCTC with a final Record of Survey after completion of construction.

Approach:

FALCON will coordinate and manage the utilization of DEA for the purpose of providing construction surveying on the project. DEA will furnish surveying crew(s) to perform construction surveys for the 71/91 Interchange Project. The number of survey crew(s) assigned to the Project may vary throughout the duration of the construction contract to meet the Project needs. DEA survey requests will be assigned as needed by the Resident Engineer to meet the schedule of the construction contractor.

Task 4 – GEOTECHNICAL AND MATERIALS TESTING AND INSPECTION

Purpose:

To provide geotechnical and materials testing and inspection services for the project with the purpose of determining quality and acceptability of materials and workmanship incorporated into the project and to confirm compliance with the contract documents.

Approach:

FALCON will coordinate and manage the utilization of Converse Consultants (CONVERSE) for the purpose of providing materials testing for concrete, LWCC, soils and other miscellaneous materials on the project. CONVERSE will furnish the

necessary personnel and equipment to perform the required testing for the 71/91 Interchange Project. The number of testing personnel assigned to the Project may vary throughout the duration of the construction contract to meet the Project needs. CONVERSE testing requests will be assigned as needed by the Resident Engineer to meet the schedule of the construction contractor.

Based on our review of the project plans and specifications the scope of work will likely include the tasks listed below.

1. *Document Review*

CONVERSE will review project plans, specifications, and geotechnical report to gain a thorough understanding of the required material sampling and testing frequencies and test methods to be used.

2. *Observation and Testing of Earthwork*

CONVERSE will have a technician available on site on an as-needed basis or full time, if necessary, to sample and test material, observe the methods used by the contractor to place material and document field observation and test results. The technician will verify that all unsuitable material as identified in the materials report are removed, processed, and placed back as compacted fill. The technician will also ascertain that the import soils meet the project specification. Samples will be collected, and tests will be conducted for verification.

3. *Batch Plant Inspection*

Caltrans certified and experienced technicians will inspect the concrete and asphalt batch plants during production. A daily report stating all the observations made during the time of inspection will be prepared and submitted to the Resident Engineer. The Plant Inspector will have a copy of the approved mix design, indicating the aggregate source, manufacturer and grade of asphalt binder, and plant proposed to mix the AC.

4. *HMA Quality Assurance Program*

FALCON, through CONVERSE, will provide Caltrans-certified technicians in the field during HMA paving. For Standard and QC/QA construction processes, one 4- to 6-inch diameter density core will be taken every 250 tons of HMA from random locations as determined by the RE or his representative. The cores will be transported to the CONVERSE Caltrans certified laboratory. For each density core, a bulk specific gravity (CT 308) will be performed, in addition to percent maximum theoretical density to determine the relative compaction of the HMA. We will perform all the quality assurance (QA) tests required as per Caltrans Standard Specification Section 39 for acceptance and provide the test results to the RE for the statistical evaluation.

5. *Concrete Tests*

CONVERSE will use standard calibrated equipment for all field testing. CONVERSE will observe placement and test the quality of fresh concrete. Concrete Compressive Test Specimens will be prepared in the field in accordance with California Test 540, "Test for Making, Handling, and Storing Concrete Compressive Test Specimens in the Field".

Slump of the freshly mixed concrete will be measured in accordance with Caltrans Test 556, "Test for Slump of Fresh Portland Cement Concrete". A test for penetration, in accordance with California Test 533, "Test for Ball Penetration in Fresh Portland Cement Concrete," will be conducted on each batch of concrete from which a strength specimen will be made. Unit weight of fresh concrete will be measured in accordance with California Test 518, "Method of Test for Unit Weight of Fresh Concrete". If air-entrained concrete is used, concrete will be tested using California Test 504, "Determining Air Content of Freshly Mixed Concrete by the Pressure Method", on each batch of concrete made.

Compressive strength of concrete will be tested in accordance with California Test 521, "Test for Compressive Strength of Molded Concrete Cylinder". Flexural strength of concrete will be tested in accordance with Caltrans Test CT 523, "Test for Flexural Strength of Concrete". Flexural strength of rapid strength concrete will be prepared and tested in accordance with California Test 524, "Test for Flexural Strength of Rapid Strength Concrete".

6. *Gamma-Gamma Logging and Cross Hole Sonic Test*

Access tubes will be installed over the full length of each CIDH pile. The access tubes consist of 2-in diameter Schedule 40 PVC pipes attached to reinforcing cage.

GGL and CSL testing to address the four 84-inch diameter piles with an approximate length of 94 at abutment 1 and 114 feet at abutment 2. The construction schedule requiring testing in up to 4 sessions (assumed).

GGL testing includes lowering of 4.5 foot long and 1.25-inch diameter probe to the bottom of each inspection tube and measuring the density of the concrete in close proximity of the inspection tubes at 0.1 feet intervals along the full length of the pile. CSL Testing is to be performed according to project specifications, ASTM D6760-08.

7. *Laboratory Testing*

CONVERSE and their laboratories are certified by Caltrans and AASHTO to perform various tests on the materials. They experience in testing for roads, utilities and bridge projects and have sufficient laboratory capacity and capital to enable and complete the work within the given time frame. CONVERSE will provide a hard and/or electronic copy of the test results to the RE within 5 working days of the completion of the test. Field testing/compaction results of subgrade or asphalt concrete will be communicated to the RE as soon as the tests have been completed on the same day, with a hard copy to follow.

8. *Project Management*

CONVERSE project manager will perform the following:

1. Ascertain that field personal with proper qualifications and experience are assigned to the project.
2. Review daily reports and laboratory test results before they are issued to the RE and contractor.

3. Submit reports and test results as soon as they are due.
4. Address promptly any issue related to CONVERSE services.
5. Attend meetings as needed.

Assumptions:

Materials Testing fees are based on the following assumptions:

1. An 8-hour day at the site. It is assumed all work will be straight time. Overtime will be charged at 1.5 times the regular hourly rate.
2. There will be a 2-hour minimum charge in case of work cancellation after our field personnel have been dispatched.
3. Minimum 4-hour charge for each site visit.
4. It is understood that this is a prevailing wage project as defined in Labor Code Sections 1770-1780.
5. During the course of this contract our rates will be adjusted if the prevailing wage is adjusted by the Department of Industrial Relations.
6. The test locations will be prepared and ready for testing by field personnel upon their arrival at the site. The contractor will be responsible for the excavation and backfilling of all test locations.
7. Additional inspections and laboratory testing outside the agreed-upon scope of work can be provided upon request.
8. No additional work required will be provided without written authorization and a budget amendment from your authorized representative.
9. Services will be performed on a time-and-materials basis in accordance with our Schedule of Fees and General Conditions.
10. The field representative will not direct, supervise or lay out the work of the contractor, nor will it include a review or evaluation of the contractor's safety measures on or near the project.
11. Any meetings and/or consultation(s) requested by the client will also be charged in accordance with the Schedule of Fees.
12. If services are provided on an as-needed basis, no comments regarding compaction procedures or observations will be made. Daily field reports indicating work performed and test locations will be provided as the testing is completed.
13. Travel time will be billed for a 30-minute trip to the site and a 30-minute trip from site for a total of 1 hour.
14. Testing requests require 24 hours advance notice for services. We will, however, make every attempt to accommodate requests on shorter notice.

Deliverables:

CONVERSE deliverables will include the following:

1. Field report to RE at the end of each day. The report will include the following:
 - Project Number
 - Project identification number
 - Project location
 - Sample description and results
 - Date sample collected.
 - Date tester with name of the tester
 - Data sample analyzed
 - Analytical summary of testing method

- Special provision and other standards
 - QAP certification
 - Laboratory test result(s) as soon as they are due to the Registered Engineer and other team members as directed by RCTC.
2. Final close-out report which will include copies of all field daily reports, summary of all failed and passing tests, laboratory test results and interim letter/memos.
 3. Photographs of the field sampling and geotechnical inspection work, including photographic evidence of non-complying materials

Task 5 – PUBLIC OUTREACH

1.1. Neighborhood Liaison Strategy

Purpose:

To provide a strategy for dealing with issues related to the impacts of construction on the residential neighborhoods and businesses located adjacent to and within the limits of the project, to respond to public inquiries regarding the project, and to coordinate with RCTC, County, law enforcement, emergency services providers, transit agencies, school districts and others as needed regarding construction activities that may impact public safety.

As part of the public outreach effort, it is anticipated that the FALCON team will coordinate with RCTC to conduct public meetings before and during construction. The team will also need to attend local community meetings to provide updates and information as requested.

Approach:

FALCON will develop in conjunction with RCTC a strategy for neighborhood and local community communication related to construction phase impacts and mitigation.

Assumptions:

FALCON will be responsible for development of the neighborhood liaison strategy. However, RCTC will provide general guidelines for community and neighborhood affairs, dictate protocol, and initiate contact with local elected officials, as required. RCTC will be responsible for the review and approval of the overall plan.

Deliverables:

1. FALCON: Draft Neighborhood Affairs Strategy memorandum.
2. RCTC: Review and comment on draft Affairs Strategy memorandum.
3. RCTC: Review and comment on draft Affairs Strategy memorandum.
4. FALCON: Final Neighborhood Affairs Strategy memorandum.

1.2. Neighborhood Communication /Public Information

Purpose:

To provide an efficient means for keeping traveling public, adjacent residents and businesses apprised of the work activities they will encounter during construction. To provide a local contact telephone number that residents and businesses may contact to pose questions and discuss concerns.

Approach:

Using the Neighborhood affairs strategy memorandum, developed per Section 2 of this scope, FALCON, in coordination with RCTC, will prepare “Dear Neighbor” letters and door hangers to communicate with adjacent residents and businesses. Attending and facilitating public meetings, responding to citizens and business owner’s inquiries. Working with RCTC and Caltrans public information offices.

Assumptions:

All information for public use is to be reviewed for concurrence by RCTC.

Deliverables:

1. Attend FALCON’s weekly Neighborhood/Business meetings on an as needed basis.
2. Minutes of any meetings listing questions posed by residents and business owners.
3. Work progress flyers (Dear Neighbor letters).
4. Door hangers if not provided by the Contractor.
5. Local contact number for FALCON.
6. 24-hour hot line
7. Installation of a construction site video camera
8. Project web page maintenance and updates including current schedule, progress updates, costs, public meeting information, camera feed, and project exhibits.
9. Provide Draft “Friday” report items to RCTC and draft news releases as needed.
10. Coordinate with CHP, law enforcement, emergency services, transit, schools, etc. regarding construction activities that may impact public safety.

Task 6 – BIOLOGICAL/PALEONTOLOGICAL/ARCHEOLOGICAL MONITORING

Purpose:

To maintain compliance with federal, state, county and RCTC guidelines, requirements, and conditions of approval as required by regulatory permitting agency guidance and the Special Provisions.

Approach:

FALCON will coordinate and manage the utilization of Wood for the purpose of providing monitoring, reporting, submittal review and testing for all aspects of Biological/Paleontological/Archeological issues on the project. As part of the FALCON Team, they will act as a liaison between the contractor, RCTC and the various regulatory agencies to facilitate the construction of the project.

6.1. Pre-Construction Environmental Compliance

Purpose:

To maintain compliance with federal, state, and RCTC guidelines, requirements, and conditions of approval including pre-construction activities as required by regulatory permitting agency guidance and Special Provisions. Please see individual permits for more detailed information regarding activities, submittals, and reporting.

Assumptions:

1. That these activities will occur prior to the start of construction.
2. All regulatory agency permits will be provided by RCTC for review
3. California Environmental Quality Act (CEQA) document will be provided for review.
4. RCTC will provide a copy of the Biological Resources Assessment, Jurisdictional Delineation Report, Natural Environmental Study (NES), Nesting Bird Management Plan, Bat Management Plan, Storm Water Pollution Prevention Plan (SWPPP), Paleontological Resource Mitigation Plan (PRMP), and Cultural Resource Mitigation Plan (CRMP).
5. BNSF safety training may be required before work can be completed within the BNSF right-of-way.

Deliverables:

1. Submit to USFWS and CDFW name of Project Biologist(s) at least 60 days prior to project construction start for approval by USFWS and CDFW.
2. Notify permitting agencies of start of construction as per individual permit conditions.
3. Project Biologist and Paleontologist/Archaeologist shall implement Worker Environmental Awareness Program to educate on-site workers about sensitive environmental issues. Project Biologist and Paleontologist/Archaeologist shall provide interpretation for non-English speaking workers, if necessary.
4. Project Biologist shall conduct all pre-construction surveys in accordance with the environmental document, MMRP and permits for Project within their specific survey time frames. This includes nesting birds and bats.
5. Project Biologist shall oversee delineation of work boundary with appropriate fencing or flagging. Biologist shall determine and clearly delineate avoidance or buffer areas associated with actively nesting birds.

6.2. Environmental Coordination & Biological and Cultural Monitoring

Purpose:

To verify the contractor has copies of applicable permits and that the work activities abide by the requirements of the permits granted by regulatory agencies. All permits shall be kept current and renewed prior to expiration throughout the project duration. A copy of all permits should be kept on-site during construction activities.

Approach:

FALCON, through Wood, will review and enforce requirements stipulated in permits issued by Regulatory Agencies. Wood will mobilize a qualified Biologist and Archaeologist/Paleontologist to complete the necessary biological and cultural monitoring during construction activities identified during the pre-construction review and assessment. Immediately prior to and periodically throughout construction, Worker Environmental Awareness Program (WEAP) training will be provided and available throughout the construction process for both biological and cultural resources. A sign-in sheet will be maintained to document those that have completed the training. A biological monitor will be required on-site during construction related activities associated with the drainage feature and removal of native vegetation and landscape vegetation that may provide suitable habitat for nesting birds during the nesting bird season as identified in the regulatory agency permits. Cultural Resource Monitoring is required during disturbance of virgin soils as identified in the PRMP.

Assumptions:

1. All permits will be provided for review.
2. All permits will be included in the contract documents.
3. Project Biologist and Archaeologist/Paleontologist will ensure compliance with permits and Stewardship Section of the project's Special Provisions.
4. A qualified Biologist will be provided. This Biologist shall be knowledgeable and experienced in biology of wildlife resources present at the Project including nesting birds and bats.
5. The CDFW must approve the Biological Monitor. Biological Monitor will be responsible for ensuring the project site limits are maintained, establishing buffer areas to protect active nests, and identifying any listed or protected species within or adjacent to the PROJECT site.
6. FALCON assumes that no sensitive biological resource habitat occurs within the project site.
7. A single concrete-lined drainage feature occurs immediately adjacent to the BNSF railroad line.
8. No riparian habitat occurs within the drainage feature.
9. FALCON assumes nesting habitat is limited to the bridge crossing of the drainage and surrounding landscape vegetation.
10. CDFW may require a nesting bird management plan, if not already prepared.
11. A qualified Paleontologist/Archaeologist will be provided. The Paleontologist/Archaeologist shall be knowledgeable and experienced in cultural resources present at the Project. The monitor will also be experienced working with local tribal representatives, if necessary.

Deliverables:

Biological Monitor will:

1. Develop a Worker Environmental Awareness Program for sensitive biological resources potentially occurring within the project site. Each employee (including temporary, contractors, and subcontractors) will receive a training/awareness program. Interpretation for non-English speaking workers will be provided. They will be advised of the potential impact to the listed species and the potential penalties for taking such species. At a minimum, the program will include the following topics: occurrence of the listed and sensitive species in the area, their general ecology, sensitivity of the species to human activities,

legal protection afforded these species, penalties for violation of Federal and State laws, reporting requirements, and project features designed to reduce the impacts to these species and promote continued successful occupation of the project area environs. The RESIDENT ENGINEER, CONTRACTOR, and USFWS-approved biological monitor will be responsible for ensuring that employees are aware of the sensitive biological resources on-site.

2. Weekly monitoring emails will be prepared documenting the construction activities and occurrence of sensitive biological resources. Monthly progress reports will also be provided to summarize the weekly monitoring reports. A final biological monitoring report will be prepared and submitted to all appropriate resource agencies following the completion of construction activities.

Cultural Resource team will:

1. Develop a Worker Environmental Awareness Program for sensitive cultural resources potentially occurring within the project site. This training includes project-specific descriptions of potential significant impacts and a clear set of procedures to follow in the event of unanticipated discoveries (including a cultural resources discovery plan). Wood updates trainings as necessary for new project personnel, keeping a record of contractor staff who have received training and providing handout reminders with contact information.
2. Provide paleontological/archaeological monitors to comply with project specific PRMP and CRMP. Cultural monitors will be identifying and record resources – including through photo documentation, monitoring records, and GIS data to comply with industry standards. The cultural monitor will comply with federal regulation governing unanticipated discoveries – including of human remains in compliance with 43 Code of Federal Regulations [CFR] 10.4. If necessary, our cultural resources team will develop a project-specific plan in consultation with the lead agency to comply with mitigation measures based on California (Public Resources Code [PRC] 5097) law. In general, the approach to unanticipated discoveries follows standard best practices: establishing a temporary exclusion zone around the find, notifying lead agency representatives, assessing the find, and conducting necessary consultation regarding appropriate mitigation.
3. FALCON does not anticipate any fossil recovery or curation associated with this Project. If inadvertent discoveries occur, however, it is anticipated that fossil recovery will follow local guidelines.
4. Project paleontologist, in consultation with local area experts, will apply current best practices to stabilize and recover the fossil and to identify it to the most specific taxon possible. All recovered fossils will be analyzed and curated with appropriate local facilities.

EXHIBIT "B"

SCHEDULE OF SERVICES

[attached behind this page]

DRAFT

				40	80	80	80	80	80	80	80	80	80	80	80	80
			80	80	80	80	80	80	80	80	160	160	160	160	160	160

EXHIBIT "C"
COMPENSATION PROVISIONS

[attached behind this page]

DRAFT

EXHIBIT "C"
COMPENSATION SUMMARY¹

FIRM	PROJECT TASKS/ROLE	COST
<i>Prime Consultant:</i>		
Falcon Engineering Services	Construction Management Services	\$ 12,456,966.00
<i>Sub Consultants:</i>		
AECOM	Structures Representative	2,100,528.00
ZT Consulting Group	Quality Assurance Source Inspection	300,376.00
David Evans & Assoc.	Construction Surveying	400,000.00
Converse Consultants	Materials Testing	699,996.00
Wood	Environmental	249,999.00
EXP	Structures Inspection	350,043.00
Arellano Associates	Public Outreach	200,059.00
TOTAL COSTS		\$ 16,757,967.00

¹ Commission authorization pertains to total contract award amount. Compensation adjustments between consultants may occur; however, the maximum total compensation authorized may not be exceeded.

EXHIBIT "D"

FEDERAL DEPARTMENT OF TRANSPORTATION
FHWA AND CALTRANS REQUIREMENTS

[attached behind this page]

DRAFT

1. STATEMENT OF COMPLIANCE.

A. Consultant's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

C. If this Agreement is federally funded, the Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

D. If this Agreement is federally funded, the Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

2. DEBARMENT AND SUSPENSION CERTIFICATION

CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to COMMISSION.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

3. DISCRIMINATION

The Commission shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the implementation of the Caltrans DBE program or the requirements of 49 CFR Part 26. The Commission shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, of sex in the performance of this Agreement. Consultant or subcontractor shall carry out applicable requirements of 49 CFR Part 26 and the Caltrans DBE program in the award and administration of DOT-assisted contracts, as further set forth below. Failure by the Consultant or subcontractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Commission deems appropriate.

4. PROMPT PAYMENT

Consultant agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from the Commission. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Commission. This clause applies to both DBE and non-DBE subcontractors.

5. RELEASE OF RETAINAGE

No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

6. LEGAL REMEDIES

In addition to those contract remedies set forth under relevant provisions of California law, either Party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

The Consultant shall include a provision to this effect in each of its agreements with its subcontractors.

7. DBE PARTICIPATION

Caltrans has developed a statewide DBE program pursuant to 49 C.F.R. Part 26. The requirements and procedures, as applicable, of the Caltrans DBE program are hereby incorporated by reference into this Agreement. Even if no DBE participation will be reported, Consultant shall complete Exhibits "E" of this Agreement in compliance with the Caltrans DBE program, and a final utilization report in the form provided by the Commission.

A. This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." By obtaining DBE participation on this Agreement, Consultant will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

B. This Agreement has a ____ DBE goal. The Consultant must meet the goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.

C. DBE and other small businesses (SB), as defined in Title 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the Commission, Caltrans or the Department of Transportation deems appropriate.

D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

E. A DBE may be terminated only with prior written approval from the Commission and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting Commission consent for the termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

8. DBE PARTICIPATION GENERAL INFORMATION

It is Consultant's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Caltrans DBE program. Particular attention is directed to the following:

A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.

C. A DBE joint-venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner

must share in the capital contribution, control, management, risks and profits of the joint-venture commensurate with its ownership interest.

D. A DBE must perform a commercially useful function, pursuant to 49 CFR 26.55 that is, must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work, as more fully described in section 8 below.

E. The Consultant shall list only one subcontractor for each portion of work as defined in the Consultant's bid/proposal and all DBE subcontractors should be listed in the Consultant's bid/cost proposal list of subcontractors.

F. A Consultant who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

9. COMMERCIALLY USEFUL FUNCTION

A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least thirty percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

10. DBE CERTIFICATION AND DE-CERTIFICATION STATUS

If a DBE subcontractor is decertified during the life of the Agreement, the decertified subcontractor shall notify the Contractor in writing with the date of de-certification. If a

subcontractor becomes a certified DBE during the life of the Agreement, the subcontractor shall notify the Contractor in writing with the date of certification. Any changes should be reported to the Commission's Contract Administrator within 30 days.

11. DBE RECORDS

A. The Contractor shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime Contractors shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

In addition to all other requirements, Consultant shall complete and submit, on a monthly basis, the Monthly DBE Payment form (Caltrans Exhibit 9-F of Chapter 9 of the LAPM).

B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the most current version of the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprises (DBE)," CEM- 2402F (Exhibit 17-F in Chapter 17 of the LAPM), certified correct by the Contractor or the Contractor's authorized representative and shall be furnished to the Commission's Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Contractor when a satisfactory "Final Report Utilization of Disadvantaged Business Enterprises (DBE)" is submitted to the Commission's Contract Administrator.

a. Prior to the fifteenth of each month, the Contractor shall submit documentation to the Commission's Contract Administrator showing the amount paid to DBE trucking companies. The Contractor shall also obtain and submit documentation to the Commission's Contract Administrator showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, the Contractor may count only the fee or commission the DBE receives as a result of the lease arrangement.

b. The Contractor shall also submit to the Commission's Contract Administrator documentation showing the truck number, name of owner, California Highway Patrol CA number, and if applicable, the DBE certification number of the truck owner for all trucks used during that month. This documentation shall be submitted on the Caltrans "Monthly DBE Trucking Verification," CEM-2404(F) form provided to the Contractor by the Commission's Contract Administrator.

12. REPORTING MATERIAL OR SUPPLIES PURCHASED FROM DBEs

When Reporting DBE Participation, Material or Supplies purchased from DBEs may count as follows:

A. If the materials or supplies are obtained from a DBE manufacturer, 100 % of the cost of the materials or supplies will count toward the DBE participation. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

B. If the materials or supplies purchased from a DBE regular dealer, count 60 % of the cost of the materials or supplies toward DBE goals. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement, are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment, shall be by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.

D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

13. REPORTING PARTICIPATION OF DBE TRUCKING COMPANIES

When Reporting DBE Participation, Participation of DBE trucking companies may count as follows:

A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible.

B. The DBE must itself own and operate at least one fully licensed, insure, and operational truck used on the Agreement.

C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.

D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.

E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.

F. For the purposes of this section, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

14. DEBARMENT, SUSPENSION AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

In accordance with 49 CFR Part 29, which by this reference is incorporated herein, Consultant's subconsultants completed and submitted the Certificate of subconsultant Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion as part of the Consultant's proposal. If it is later determined that Consultant's subconsultants knowingly rendered an erroneous Certificate, the Commission may, among other remedies, terminate this Agreement.

15. ENVIRONMENTAL COMPLIANCE

A. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

B. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

16. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Consultant certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

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EXHIBIT "E"

CONSULTANT DBE COMMITMENT

[attached behind this page]

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EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: Riverside County Transportation Commission 2. Contract DBE Goal: 11%
 3. Project Description: Construction Management, Materials Testing, Construction Surveying, Public Outreach Services for the SR-71/91 Interchange project.
 4. Project Location: Riverside County, CA
 5. Consultant's Name: FALCON Engineering Services, Inc. 6. Prime Certified DBE: ☒

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Construction Management/Inspection Services and Public Outreach	39342	FALCON Engineering Services - Maha Faqih, PE - 341 Corporate Terrace Circle, Suite#101, Corona, CA 92879, 951.549.9600, mfaqih@falcon-ca.com	51 %
Public Outreach	41199	Arellano Associates - Genoveva Arellano 5851 Pine Ave, Ste. A, Chino Hills, CA 91709, 909.627.2974, GArellano@arellanoassociates.com	1 %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION 52 %	
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
20. Local Agency Representative's Signature _____ 22. Local Agency Representative's Name _____ 24. Local Agency Representative's Title _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. <div style="display: flex; justify-content: space-between;"> <div> 12. Preparer's Signature _____ Maha Faqih, PE 14. Preparer's Name _____ President 16. Preparer's Title _____ </div> <div> 13. Date _____ 02/18/2021 15. Phone _____ 951-549-9600 </div> </div>	

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

EXHIBIT “F”

DISCLOSURE OF LOBBYING ACTIVITIES

[attached behind this page]

DRAFT

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: _____ CFDA Number, if applicable _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: _____	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI) (attach Continuation Sheet(s) if necessary)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
13. Form of Payment (check all that apply): <input checked="" type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____	15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12: (attach Continuation Sheet(s) if necessary)	
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>	17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	
Signature: _____ Print Name: Maha Faqih, PE Title: President Telephone No.: (951) 549-9600 Date: 02/18/2021		
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EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
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Not applicable, no lobbying activities to disclose

4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____ 6. Federal Department/Agency: _____ 8. Federal Action Number, if known: _____ 10. Name and Address of Lobby Entity (If individual, last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: _____ Congressional District, if known _____ 7. Federal Program Name/Description: _____ CFDA Number, if applicable _____ 9. Award Amount, if known: _____ 11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)
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12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input checked="" type="checkbox"/> planned 13. Form of Payment (check all that apply): <input checked="" type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____
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15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12:

 (attach Continuation Sheet(s) if necessary)

16. Continuation Sheet(s) attached: Yes ☐ No ☒

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Signature: _____
 Print Name: Andres Roldan
 Title: Vice President
 Telephone No.: 818.414.1611 Date: 2/18/21

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4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier <u>N/A</u> , if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable <u>N/A</u>	
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10. Name and Address of Lobby Entity (If individual, last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ <u>N/A</u> <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify <u>N/A</u>	
13. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature <u>N/A</u> Value <u>N/A</u>	15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12: (attach Continuation Sheet(s) if necessary)	
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Signature: <u>Farzad Tasbihgoo</u> Print Name: <u>Farzad Tasbihgoo</u> Title: <u>Principal</u> Telephone No.: <u>(818) 929-8162</u> Date: <u>01/21/2021</u>		Authorized for Local Reproduction Standard Form - LLL

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EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input checked="" type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: FALCON Engineering Services, Inc. 341 Corporate Terrace Circle, #101 Corona, CA 92879 Congressional District, if known _____	
6. Federal Department/Agency: 8. Federal Action Number, if known: 10. Name and Address of Lobby Entity (If individual, last name, first name, MI) N/A (attach Continuation Sheet(s) if necessary)	7. Federal Program Name/Description: CFDA Number, if applicable _____ 9. Award Amount, if known: 11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ N/A <input type="checkbox"/> actual <input checked="" type="checkbox"/> planned	14. Type of Payment (check all that apply) <input checked="" type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
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Signature: _____ Print Name: Robert D. Vasquez, PLS Title: Senior Associate Telephone No.: 909.481.5750 Date: 2/18/21		
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EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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

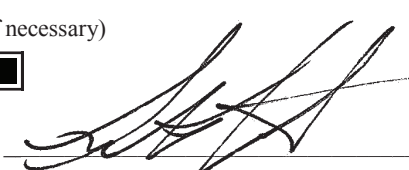
1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable _____	
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12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input checked="" type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
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Signature: _____ Print Name: Hashmi Quazi Title: Principal in Charge Telephone No.: 909-796-0544 Date: 02/18/2021		
Items 1 through 17 are not applicable Federal Use Only:		
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EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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Signature:  Print Name: <u>Scott Crawford</u> Title: <u>Biology Group Manager</u> Telephone No.: <u>714.742.5316</u> Date: <u>1/21/2021</u>		Authorized for Local Reproduction Standard Form - LLL


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Not applicable for EXP U.S. Services Inc.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

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12. Amount of Payment (check all that apply) \$ 0 _____ <input checked="" type="checkbox"/> actual <input checked="" type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
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Signature:  Print Name: Anh Case, PE, CCM Title: Vice President, Director of CM, So. CA Telephone No.: 714.423.8171 Date: 2/18/2021		
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Signature: _____ Print Name: <u>Genoveva L. Arellano</u> Title: <u>Principal</u> Telephone No.: <u>909-627-2974</u> Date: <u>2/18/21</u>		Authorized for Local Reproduction Standard Form - LLL

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GREEN RIVER ON-RAMP OVERHEAD
CONSTRUCTION and MAINTENANCE AGREEMENT

08-RIV-91 PM R1.14
 BNSF Agreement No. BF10012943
 STATE Contract No. XXXXXX
 RCTC Agreement No. 21-31-091-00
 Green River On-Ramp Overhead, State Bridge No. 56-0860S
 U.S. D.O.T. No. 026533K
 San Bernardino Subdivision
 LS 7602
 MP29.463

This Agreement ("**Agreement**"), is executed to be effective as of this ____ day of _____, 20__ ("**Effective Date**"), by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**BNSF**"), the **STATE of CALIFORNIA**, acting through the Department of Transportation, hereinafter referred to as ("**STATE**"), and the **RIVERSIDE COUNTY TRANSPORTATION COMMISSION** hereinafter referred to as ("**RCTC**"), a public entity of the State of California, hereinafter referred to as ("**Parties**").

RECITALS:

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

WHEREAS, the Parties have entered into an agreement dated June 24, 2014, carried in RCTC's records as Agreement No. 14-31-115-00 and in BNSF's records as Agreement No. BF-10006350, which provided for the construction and maintenance of the West Prado Overhead State Bridge No. 56-0634L/R and the W91-Green River Road Off-Ramp Overhead State Bridge No. 56-0865S;

WHEREAS, RCTC has adopted a project to construct a direct connector between eastbound State Route 71 and northbound State Route 91 requiring the reconstruction of the Green River Road on-ramp to eastbound SR 91 ("**SR-71/SR-91 Interchange Project**");

WHEREAS, the SR-71/SR-91 Interchange Project will involve the construction of a new crossing at separated grades to be known as the Green River On-Ramp Overhead, D.O.T. No. 026533K.

WHEREAS, RCTC and STATE desire to proceed with the construction of the Green River On-Ramp Overhead to accommodate the SR-71/SR-91 Interchange Project. The Green River On-Ramp Overhead will be constructed as a 5 span, cast-in-place post-tensioned reinforced concrete box girder bridge, 964 feet long. The width of the Green River On-Ramp Overhead is 39'-6" wide and is supported on concrete piers and abutments. At Bents 2, 3, 4, and 5, the super structure is supported by a single 5'-6"X8"-0" octagonal column. The new Green River On-Ramp Overhead shall be referred to herein as ("**STRUCTURE**").

WHEREAS, RCTC will fund the cost to construct the SR-71/SR-91 Interchange Project using a contractor ("**Contractor**");

WHEREAS, STATE is the owner of State Route 71, State Route 91, and the State Highway System;

WHEREAS, RCTC and STATE have entered into Cooperative Agreement No 08-1380 dated March 21, 2016 permitting RCTC to acquire property on behalf of STATE and to design and construct the SR-71/SR-91 Interchange Project;

WHEREAS, upon completion and acceptance of the SR-71/SR-91 Interchange Project by STATE, STATE will thereafter own and maintain all highway improvements made by RCTC under this Agreement;

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

WHEREAS, pursuant to this Agreement, RCTC will acquire a permanent easement ("**Easement**"), on behalf of the STATE, as required for the SR-71/SR-91 Interchange Project.

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

ARTICLE I) SCOPE OF WORK

1. The term "**Project**" as used herein includes any and all work related to the construction of the proposed STRUCTURE, more particularly described on the Exhibit A attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation. Additionally, temporary controls during construction must be in compliance with Section 8A-08, "Temporary Traffic Control Zones" of the Manual of Uniform Traffic Control Devices ("MUTCD"), U.S. Department of Transportation.

ARTICLE II) BNSF OBLIGATIONS

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

1. Upon RCTC's payment to BNSF of an administrative fee in the sum of Two Thousand and No/100 Dollars (\$2,000), together with the Permanent Aerial and Footing Easements and Temporary Construction License Fee in the sum of \$671,152.00 and No/100 Dollars (\$671,152), BNSF hereby grants to RCTC, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon the portion of BNSF's Rail Corridor as described further on Exhibit A-1, excepting and reserving BNSF's rights,

and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

- (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said Rail Corridor;
- (b) Construct, operate, maintain, renew and/or relocate upon said Rail Corridor, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with the RCTC's construction of the STRUCTURE;
- (c) Otherwise use or operate the Rail Corridor as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with the STATE's use of the STRUCTURE; and
- (d) Require RCTC or its contractor to execute a Temporary Construction Crossing Agreement, for any temporary crossing requested to aid in the construction of this STRUCTURE.

The term of the Temporary Construction License begins on the Effective Date and ends on the earlier of (i) substantial completion of the STRUCTURE, or (ii) Thirty (30) months following the Effective Date. The Temporary Construction License and related rights given by BNSF to RCTC in this provision are without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The Temporary Construction License is for construction of the STRUCTURE only and shall not be used by RCTC for any other purpose. RCTC acknowledges and agrees that RCTC shall not have the right, under the Temporary Construction License, to use the STRUCTURE for any other purpose than construction. In the event STATE and RCTC is evicted by anyone owning, or claiming title to or any interest in said Rail Corridor, BNSF will not be liable to STATE and RCTC for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to RCTC herein.

Upon RCTC's payment to BNSF of the additional sum of \$0 and No/100 Dollars (\$0), such payment to be made within thirty (30) days of issuing the Notice to Proceed pursuant to Article III, Section 16 of this Agreement, and provided further that RCTC is in compliance with the term and conditions of this Agreement, BNSF will grant to RCTC, its successors and assigns, an easement (hereinafter called, the "Easement") to enter upon and use that portion of BNSF's Rail Corridor as is necessary to use and maintain the STRUCTURE, substantially in the form of Exhibit B attached to this Agreement. If RCTC fails to pay BNSF within the thirty-day time period set forth in the preceding sentence, BNSF may stop construction of the STRUCTURE until full payment is received by BNSF.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the STRUCTURE, such railroad work and the estimated cost thereof being as

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

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

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

4. RCTC agrees to reimburse BNSF for work of an emergency nature caused by RCTC or RCTC's contractor in connection with the STRUCTURE which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF with reasonable prior notification of the scope and estimated cost and duration of emergency work without prior approval of RCTC and RCTC agrees to fully reimburse BNSF for all such emergency work.

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

6. During the construction of the STRUCTURE, BNSF will send RCTC progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. RCTC must reimburse BNSF for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the STRUCTURE, BNSF will send RCTC a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this section and Article IV, Section 7 herein, RCTC must pay the final

invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any unposted payments received by the month's end. Finance charges will be noted on invoices sent to RCTC under this section. **For purposes of computing the time limits prescribed by Section 911.2 of the California Government Code for the presentment of a claim against the RCTC the cause of action for failure to reimburse BNSF for the costs of the Railroad work performed by it pursuant to this Agreement shall be deemed to have accrued one hundred and eighty (180) days of the date of the final invoice.**

ARTICLE III) RCTC OBLIGATIONS

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

1. RCTC must furnish to BNSF plans and specifications for the STRUCTURE. Four sets of said plans (reduced size 11" x 17"), together with two copies of calculations, and two copies of specifications in **English Units**, must be submitted to BNSF for approval prior to commencement of any construction. BNSF will give RCTC final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF's final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet the subjective standards of BNSF, and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building codes.
2. RCTC must make any required application and obtain all required permits and approvals for the construction of the STRUCTURE.
3. RCTC must provide for and maintain minimum vertical and horizontal clearances, as required in Exhibit C and as approved by BNSF as part of the plans and specifications for the STRUCTURE.
4. RCTC must acquire all rights of way necessary for the construction of the STRUCTURE.
5. RCTC must make any and all arrangements, in compliance with BNSF's Utility Accommodation Manual (<http://www.bnsf.com/communities/faqs/pdf/utility.pdf>), for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the STRUCTURE.

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

- (a) Design and the construction of the STRUCTURE;
- (b) All necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's Rail Corridor;
- (c) Provide suitable drainage, both temporary and permanent;
- (d) Provide appropriate pedestrian/trespassing control during construction;
- (e) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

7. RCTC must apply and maintain said D.O.T. Crossing number 026533K, and the Public Utility Commission Crossing number 002B-29.54-A in a conspicuous location on the STRUCTURE.

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

9. For any future inspection or maintenance, either routine or otherwise, performed by subcontractors on behalf of the RCTC, RCTC shall require the subcontractors to comply with the provisions of the attached Exhibit C and execute the agreement attached hereto as Exhibit C-1. Prior to performing any future maintenance with its own personnel, RCTC shall: comply with all of BNSF's applicable safety rules and regulations; require any RCTC employee performing maintenance to complete the safety training program at the BNSF's Internet Website "www.BNSFContractor.com"; notify BNSF when, pursuant to the requirements of Exhibit C, a flagger is required to be present; procure, and have approved by BNSF's Risk Management Department, Railroad Protective Liability insurance.

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

11. RCTC or its contractor(s) must submit four (4) copies of any plans (including two sets of calculations in **English Units**) for proposed shoring, falsework or cribbing to be used over, under, or adjacent to BNSF's tracks to BNSF's Manager of Public Projects for approval. The shoring, falsework or cribbing used by RCTC's contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies.

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

- (a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or within the Rail Corridor. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The Contractor will be responsible for contacting BNSF's Engineering Representative, BNSF's Signal Representative and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The Contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The Contractor must also use all reasonable methods when working in the BNSF Rail Corridor or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
- (b) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.
- (c) Failure to mark or identify these Lines will be sufficient cause for BNSF's engineering representative to stop construction at no cost to the RCTC or BNSF until these items are completed.
- (d) In addition to the liability terms contained elsewhere in this Agreement, the Contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

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

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

- (c) All work performed under such contract or contracts within the limits of BNSF's Rail Corridor must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;
- (d) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
- (e) No work will be commenced within BNSF's Rail Corridor until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF an agreement in the form of Exhibit C-1, and (ii) delivered to and secured BNSF's approval of the required insurance; and
- (f) To facilitate scheduling for the STRUCTURE, RCTC shall have its contractor give BNSF's representative 4 weeks advance notice of the proposed times and dates for work windows. BNSF and RCTC's contractor will establish mutually agreeable work windows for the STRUCTURE. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the STRUCTURE.
- (g) The plans and specifications for the STRUCTURE must be in compliance with the Bridge Requirements set forth on Exhibit F, attached to this Agreement and incorporated herein.

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

16. **TO THE FULLEST EXTENT PERMITTED BY LAW, RCTC HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES**

(INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF RCTC, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE RCTC, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF RCTC, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) RCTC'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT GRANTED TO RCTC PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO RCTC PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) RCTC'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RAIL CORRIDOR, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE STRUCTURE BY RCTC, OR (VII) AN ACT OR OMISSION OF RCTC OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY RCTC WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

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

ARTICLE IV) JOINT OBLIGATIONS

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

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's written approval prior to the commencement of any such changes or modifications from the BNSF Project Contact.

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

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

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

Bryce Johnston
Project Manager
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92502
951-787-4016
bjohnston@rctc.org

5. RCTC must supervise and inspect the operations of all RCTC contractors to ensure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of BNSF. If BNSF determines that proper supervision and inspection are not being performed by RCTC personnel at any time during construction of the STRUCTURE, BNSF has the right to stop construction (within or adjacent to its operating Rail Corridor).

Construction of the STRUCTURE will not proceed until RCTC corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify for appropriate corrective action.

6. RCTC agrees to provide, to the BNSF Manager Evidence Preservation, such STRUCTURE documentation and records as are agreed to between the parties including: any project applications; any letters of approval and/or authorization forms (eg. PR-1240 or the equivalent); any and all payment Voucher forms requesting FHWA reimbursement (eg. PR-20 or the equivalent) or any other such project authorization or funding records as BNSF may request from time to time. Such records will be provided by the RCTC to BNSF on a mutually agreeable schedule or within two (2) months after such records are generated or received by the RCTC. Section 130 Documentation shall be provided to BNSF in the one of the following manners:

Manager Evidence Preservation
2600 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Or electronically to:

Manager Evidence Preservation
Section130@bnsf.com

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

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

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

9. The parties mutually agree that neither construction activities for the STRUCTURE, nor future maintenance of the STRUCTURE once completed, will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to

BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

10. Subject to the restrictions imposed by Article IV, Section 9 above, the construction of the STRUCTURE will not commence until RCTC gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference D.O.T. Crossing No. 026533K and must state the time that construction activities will begin.

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

- (a) STATE will own and maintain, at its sole cost and expense, the STRUCTURE, the highway approaches, and appurtenances thereto, lighting, drainage and any access roadways to BNSF gates installed pursuant to this Agreement. In the event emergency repairs to the STRUCTURE appear necessary due to an earthquake, fire, flood, damage from vehicular impacts or other emergent situations, BNSF will immediately notify STATE of the need. Should emergency repairs become necessary, with prior notice to STATE, or the situation results in any materials causing an infringement upon or violate the minimum clearances described in Exhibit C, BNSF may remove the materials by any method that would not cause damage to or in any way jeopardize the structural integrity of the bridge deck, superstructure, or substructure. Notification of such action must be communicated to the STATE's district bridge maintenance superintendent or his delegate as soon as practically possible.
- (b) STATE must, at STATE's sole cost and expense, keep the STRUCTURE painted and free from graffiti.
- (c) STATE must provide BNSF with any and all necessary permits and maintain roadway traffic controls, at no cost to BNSF, whenever requested by BNSF to allow BNSF to inspect the STRUCTURE or to make emergency repairs thereto.
- (d) It is expressly understood by STATE and BNSF that any right to install utilities will be governed by a separate permit or license agreement between the parties hereto.
- (e) STATE must keep the STRUCTURE and surrounding areas clean and free from birds, pigeons, scavengers, vermin, creatures and other animals as permitted by law.
- (f) If STATE(including its contractors and agents) or BNSF, on behalf of STATE, performs (i) alterations or modifications to the STRUCTURE, or (ii) any maintenance or other work on the STRUCTURE with heavy tools, equipment or machinery at ground surface level horizontally within 25'-0" of the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the STRUCTURE vertically above the top of the rail, then STATE or its

contractors and/or agents must procure and maintain the following insurance coverage, which may be changed from time to time:

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

- Endorsed to include the Pollution Exclusion Amendment
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- Endorsed to include Evacuation Expense Coverage Endorsement.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to **BNSF** prior to performing any work or services under this Agreement
- Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.

As used in this paragraph, "**BNSF**" means "Burlington Northern Santa Fe, LLC", "BNSF RAILWAY COMPANY" and the subsidiaries, successors, assigns and affiliates of each.

In lieu of providing a Railroad Protective Liability Policy, STATE may participate in BNSF's Blanket Railroad Protective Liability Insurance Policy if available to STATE or its contractors. The limits of coverage are the same as above.

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

13. Subject to the restrictions imposed by Article IV, Section 9 above and in accordance with the requirements of Article III, Section 9 above, STATE must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's Rail Corridor for **INSPECTION OR MAINTENANCE** purposes, and the BNSF Manager of Public Projects will determine if flagging is required. If the construction work hereunder is contracted, RCTC must require its

prime contractor(s) to comply with the obligations set forth in Exhibit C and Exhibit C-1, as the same may be revised from time to time. RCTC will be responsible for its contractor(s) compliance with such obligations.

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

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

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

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

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

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

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

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

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

BNSF:

Manager of Public Projects
Kate Kalinosky
740 E. Carnegie Drive
San Bernardino, CA 92408
Email: Kate.Kalinosky@BNSF.com

Director Bridge Engineering
Ron Berry
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Division Engineer
Marissa Procter
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San Bernardino, CA 92408
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RCTC:

Bryce Johnston
Project Manager
Riverside County Transportation Commission
480 Lemon Street, 3rd Floor
Riverside, CA 92502-2208
Office: (951) 787-4016
Email: bjohnston@rctc.org

STATE:

Department of Transportation
Ginger Congi, Acting Chief
Office of Railroads and Utilities Relocation
Division of Right of Way & Land Surveys
1727 30th Street, MS35
Sacramento, CA 95814-7005
Office: (916) 227-7669
Email: ginger.congi@dot.ca.gov

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

(Signature pages to follow)

BNSF RAILWAY COMPANY

By: _____

Printed Name: _____

Title: _____

WITNESS:

**RIVERSIDE COUNTY TRANSPORTATION
COMMISSION**

By: _____

Printed Name: Anne Mayer

Title: Executive Director

WITNESS:

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

By: _____

Printed Name: _____

Title: _____

WITNESS:

Exhibit A

[Insert drawing of the Project and/or Structure]

EASEMENT AGREEMENT
FOR Green River On Ramp Overhead
(Overpass Agreement)

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

A. Grantor owns or controls certain real property situated at or near the vicinity of Corona, County of Riverside, State of California, at Mile Post 29.463, [Project # BF 10012943], as described or depicted on **Exhibit "A-1"** attached hereto and made a part hereof (the "**Premises**").

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

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

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

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

Section 1 Granting of Easement.

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

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

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

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

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

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

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

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

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

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

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

Section 7 Environmental.

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

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

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

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

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

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

Section 8 Default and Termination.

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

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

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

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

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

Section 9 Surrender of Premises.

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

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

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

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

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

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

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

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

Section 14 Miscellaneous.

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

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

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

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

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

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

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

Section 15 Administrative Fee.

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

[Signature page follows]

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

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware
corporation

By: _____
Name: _____
Title: _____

GRANTEE:

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION,
a Public Entity

By: _____
Name: Anne Mayer
Title: Executive Director

EXHIBIT "A-1"

Premises

EXHIBIT "B-1"

Memorandum of Easement

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

WITNESSETH:

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

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

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

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

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

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

[Signature page follows]

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

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____

Name: _____

Title: _____

GRANTEE:

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____

Name: Anne Mayer

Title: Executive Director

STATE OF _____ §

§

COUNTY OF _____ §

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

Notary Public

(Seal)

My appointment expires:_____

STATE OF _____

§

§

COUNTY OF _____

§

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

Notary Public

(Seal)

My appointment expires:_____

EXHIBIT "C"

CONTRACTOR REQUIREMENTS

1.01 General:

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

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

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

1.02 Contractor Safety Orientation

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

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

1.03 Railway Requirements

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

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

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

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

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

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

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

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

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

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

1.05 Railway Flagger Services:

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

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

1.06 Contractor General Safety Requirements

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

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

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

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

1.07 Excavation:

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

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

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

1.08 Hazardous Waste, Substances and Material Reporting:

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

1.09 Personal Injury Reporting

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

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

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

Injured Person Type:

☐ Passenger on train (C)

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

☐ Contractor/safety sensitive (F)

☐ Contractor/non-safety sensitive (G)

☐ Volunteer/safety sensitive (H)

☐ Volunteer/other non-safety sensitive (I)

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

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

☐ Non-trespasser (J) - Off railroad property

If train involved, Train ID:

Transmit attached information to Accident/Incident Reporting Center by:

Fax 1-817-352-7595

or by Phone 1-800-697-6736

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

Officer Providing Information:

(Name)

(Employee No.)

(Phone #)

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

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

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

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

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

EXHIBIT "C-1"

Agreement Between
BNSF RAILWAY COMPANY
and the
CONTRACTOR

Railway File: _____

Agency Project: _____

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

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

1) RELEASE OF LIABILITY AND INDEMNITY

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

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

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

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

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

2) TERM

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

3) INSURANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4) SALES AND OTHER TAXES

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

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

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

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

1) EXHIBIT “C” CONTRACTOR REQUIREMENTS

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

2) TRAIN DELAY

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

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

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

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

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

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

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

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

<%Contractor.LegalName%>

BNSF Railway Company

By: _____

By: _____

Printed Name: _____

Name: _____

Manager Public Projects

Title: _____

Accepted and effective this _____ day of 20__.

Contact Person: _____

Address: _____

City: _____

State: _____ Zip: _____

Fax: _____

Phone: _____

E-mail: _____

EXHIBIT D

[Insert Cost Estimate for Railroad Work here]

Exhibit E

[Public Projects Manager's letterhead]

Date: _____

Mr./Ms. _____

_____ [Name of Agency Here]

_____ [Address for Agency]

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

Dear _____:

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

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

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

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

Regards,

[Public Projects Manager's Name]

BNSF Bridge Requirements

BRIDGE DESIGN, PLANS & SPECIFICATIONS:

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

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

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

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

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

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

BRIDGE CONSTRUCTION:

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

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

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

BRIDGE MAINTENANCE:

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

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

BRIDGE INSPECTION:

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

BRIDGE ALTERATIONS:

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

COOPERATIVE AGREEMENT COVER SHEET (DRAFT)

Work Description

CONSTRUCTION OF THE EAST TO NORTH CONNECTOR, EASTBOUND COLLECTOR-DISTRIBUTOR ROAD AND UPGRADE INTERCHANGE

Contact Information

CALTRANS

Dan Ciacchella, Project Manager
464 W. 4th Street
San Bernardino, CA 92401
Office Phone: (951) 452-6169
Email: daniel.ciacchella@dot.ca.gov

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

Bryce Johnston, Project Manager
P.O. Box 12008
Riverside, CA 92502
Office Phone: (951) 787-7932
Email: bjohnston@rctc.org

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Please note:

1. Caltrans administered funds must be expended proportionally with all other funds. All project funds must be shown in the Funding Summary. Local funds committed to the project cannot be omitted from the funding summary.
2. Unanswered: Construction Information > PARTIES will review and concur on all Change Orders over \$_____. *

COOPERATIVE AGREEMENT (DRAFT)

This AGREEMENT, executed on and effective from _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

Riverside County Transportation Commission, a public corporation/entity, referred to hereinafter as RCTC.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

RECITALS

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System per the California Streets and Highways Code, Sections 114 and 130.
2. For the purpose of this AGREEMENT, *construction of the East to North connector, eastbound collector-distributor road and upgrade interchange* will be referred to hereinafter as PROJECT. The PROJECT scope of work is defined in the project initiation and approval documents (e.g. Project Study Report, Permit Engineering Evaluation Report, or Project Report).
3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENT will be referred to hereinafter as WORK:
 - CONSTRUCTION

Each PROJECT COMPONENT is defined in the CALTRANS Workplan Standards Guide as a distinct group of activities/products in the project planning and development process.

4. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.

This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between the PARTIES regarding the PROJECT.

PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the WORK. The requirements of this AGREEMENT will preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.

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

5. The following work associated with this PROJECT has been completed or is in progress:
 - CALTRANS approved the Mitigated Negative Declaration on June 29, 2011.
 - CALTRANS approved the Categorical Exclusion on June 29, 2011.
 - CALTRANS is developing the R/W Certification (Cooperative Agreement No. 1380).
 - CALTRANS is developing the Plans, Specifications and Estimate on January 1, 2022 (Cooperative Agreement No. 1380).
6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.
7. PARTIES hereby set forth the terms, covenants, and conditions of this AGREEMENT.

RESPONSIBILITIES

Sponsorship

8. A SPONSOR is responsible for establishing the scope of the PROJECT and securing the financial resources to fund the WORK. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the WORK can be completed with the funds obligated in this AGREEMENT.

PROJECT changes, as described in the CALTRANS Project Development Procedures Manual, will be approved by CALTRANS as the owner/operator of the State Highway System.

9. RCTC is the SPONSOR for the WORK in this AGREEMENT.

Implementing Agency

10. The IMPLEMENTING AGENCY is the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT COMPONENT.

- RCTC is the CONSTRUCTION IMPLEMENTING AGENCY.

CONSTRUCTION includes construction contract administration, surveying/staking, inspection, quality assurance, and assuring regulatory compliance. The CONSTRUCTION component budget identifies the capital costs of the construction contract/furnished materials (CONSTRUCTION CAPITAL) and the cost of the staff work in support of the construction contract administration (CONSTRUCTION SUPPORT).

11. RCTC will provide a Quality Management Plan (QMP) for the WORK in every PROJECT COMPONENT that they are the IMPLEMENTING AGENCY of. The QMP describes the IMPLEMENTING AGENCY's quality policy and how it will be used. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP is subject to CALTRANS review and approval.
12. Any PARTY responsible for completing WORK will make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT work that may occur under separate agreements.

Funding

13. Funding sources, PARTIES committing funds, funding amounts, and invoicing/payment details are documented in the Funding Summary section of this AGREEMENT.

PARTIES will amend this AGREEMENT by updating and replacing the Funding Summary, in its entirety, each time the funding details change. Funding Summary replacements will be executed by a legally authorized representative of the respective PARTIES. The most current fully executed Funding Summary supersedes any previous Funding Summary created for this AGREEMENT.

14. PARTIES will not be reimbursed for costs beyond the funds obligated in this AGREEMENT.

If an IMPLEMENTING AGENCY anticipates that funding for the WORK will be insufficient to complete the WORK, the IMPLEMENTING AGENCY will promptly notify the SPONSOR.

15. Unless otherwise documented in the Funding Summary, overall liability for project costs within a PROJECT COMPONENT will be in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
16. Unless otherwise documented in the Funding Summary, any savings recognized within a PROJECT COMPONENT will be credited or reimbursed, when allowed by policy or law, in proportion to the amount contributed to that PROJECT COMPONENT by each fund type.
17. WORK costs, except those that are specifically excluded in this AGREEMENT, are to be paid from the funds obligated in the Funding Summary. Costs that are specifically excluded from the funds obligated in this AGREEMENT are to be paid by the PARTY incurring the costs from funds that are independent of this AGREEMENT.

CALTRANS' Quality Management

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

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

20. CALTRANS, as the owner/operator of the State Highway System, will approve WORK products in accordance with CALTRANS policies and guidance and as indicated in this AGREEMENT.
21. RCTC will provide WORK-related products and supporting documentation upon CALTRANS' request for the purpose of CALTRANS' quality management work.

CEQA/NEPA Lead Agency

22. CALTRANS is the CEQA Lead Agency for the PROJECT.
23. CALTRANS is the NEPA Lead Agency for the PROJECT.

Environmental Permits, Approvals and Agreements

24. PARTIES will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each PARTY's responsibilities in this AGREEMENT.
25. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

26. The PROJECT requires the following environmental permits/approvals:

ENVIRONMENTAL PERMITS/REQUIREMENTS
404, US Army Corps Of Engineers
401, Regional Water Quality Control Board
State Waste Discharge Requirements (Porter Cologne), Regional Water Quality Control Board
National Pollutant Discharge Elimination System (NPDES), State Water Resources Control Board
Air Quality Permits
1602 California Department of Fish and Wildlife
Local Agency Concurrence/Permit
2080.1 California Department of Fish and Wildlife

CONSTRUCTION

27. As the CONSTRUCTION IMPLEMENTING AGENCY, RCTC is responsible for all CONSTRUCTION WORK except those activities and responsibilities that are assigned to another PARTY and those activities that are excluded under this AGREEMENT.
28. CALTRANS will be responsible for completing the following CONSTRUCTION SUPPORT activities:

CALTRANS Work Breakdown Structure Identifier (If Applicable)	AGREEMENT Funded Cost
100.20.10.xx Quality Management	No

29. Physical and legal possession of the right-of-way must be completed prior to advertising the construction contract, unless PARTIES mutually agree to other arrangements in writing.
30. Right-of-way conveyances must be completed prior to WORK completion, unless PARTIES mutually agree to other arrangements in writing.

31. RCTC will include a Disadvantaged Business Enterprise (DBE) utilization goal in the PROJECT construction contract(s) in accordance with the Local Assistance Procedures Manual. RCTC will award the construction contract to the lowest responsive bidder who makes a Good Faith Effort to meet the DBE goal.
32. CALTRANS will not issue an encroachment permit to RCTC for construction work until the following conditions are met:
 - CALTRANS accepts the final plans, specifications, and estimate
 - CALTRANS accepts the Right-of-Way Certification
 - Any new or amended maintenance agreements required for the WORK are executed.
 - Any new or amended Freeway Agreement required for the WORK are executed.
33. RCTC will require the construction contractor to furnish payment and performance bonds naming RCTC as obligee, and CALTRANS as additional obligee, and to carry liability insurance in accordance with CALTRANS Standard Specifications.
34. RCTC will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, RCTC also accepts responsibility to administer the construction contract.
35. If the lowest responsible construction contract bid is greater than the funding commitment to CONSTRUCTION CAPITAL, PARTIES must agree in writing on a course of action within fifteen (15) working days. If no agreement is reached within fifteen (15) work days the IMPLEMENTING AGENCY will not award the construction contract.
36. CALTRANS will not issue an encroachment permit to RCTC's construction contractor until CALTRANS accepts:
 - The payment and performance bonds
 - The CONSTRUCTION Quality Management Plan
37. The CONSTRUCTION Quality Management Plan (QMP) will describe how construction material verification and workmanship inspections will be performed at manufacturing sources and the PROJECT job-site. The construction material and Source Inspection QMP (SIQMP) are subject to review and approval by the State Materials Engineer.

38. The CONSTRUCTION Quality Management Plan will address the radiation safety requirements of the California Code of Regulations 17 CCR § 30346 when the work requires Gamma-Gamma Logging acceptance testing for Cast in Drilled Hole (CIDH) pile or whenever else it is applicable. In accordance with these regulations RCTC, as the "well operator", will have a written agreement with any consultant or external entity performing these tests.
39. RCTC will provide a Resident Engineer and CONSTRUCTION SUPPORT staff that are independent of the construction contractor. The Resident Engineer will be a Civil Engineer, licensed in the State of California, who is responsible for construction contract administration activities.
40. CALTRANS will review and concur with:
 - Change Orders affecting public safety, public convenience, protected environmental resources, the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS Construction Manual. These Change Orders must receive written concurrence by CALTRANS prior to implementation.
 - The Stormwater Pollution Prevention Plan (SWPPP) or the Water Pollution Control Plan (WPCP).
41. RCTC will administer and process all construction contract claims pursuant to the requirements set forth under Public Contract Code, Section 9204. In addition, all public works claims of \$375,000 or less shall be resolved in accordance with Public Contract Code Section 20104, et seq. and other applicable laws.
42. RCTC is designated as the Legally Responsible Person pursuant to the Construction General Permit, State Water Resources Control Board (SWRCB) Order Number 2009-0009-DWQ, as defined in Appendix 5, Glossary, and assumes all roles and responsibilities assigned to the Legally Responsible Person as mandated by the Construction General Permit. RCTC is required to comply with the CALTRANS MS4 National Pollutant Discharge Elimination System (NPDES) permit for all work within the State Highway System.

43. As the CONSTRUCTION IMPLEMENTING AGENCY, RCTC is responsible for maintenance of the State Highway System (SHS) within the PROJECT limits as part of the construction contract until the following conditions are met:

- Any required maintenance agreements are executed for the portions of SHS for which relief of maintenance is to be granted.
- CALTRANS approves a request from RCTC for relief from maintenance of the PROJECT or a portion thereof.

45. Upon WORK completion, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the State Highway System (SHS) within SHS right-of-way as part of WORK become the property of CALTRANS.

CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside SHS right-of-way.

46. Within one hundred eighty (180) calendar days following the completion and acceptance of the PROJECT construction contract, RCTC will furnish CALTRANS with a complete set of “As-Built” plans and Change Orders, including any changes authorized by CALTRANS, on a CD ROM and in accordance with CALTRANS’ then current CADD User’s Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineer’s name, contract number, and construction contract acceptance date printed on each plan sheet, and with the Resident Engineer’s signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 7.0 or later. In addition, RCTC will provide one set of As-Built plans and addenda in TIFF format.

The submittal must also include all CALTRANS requested contract records, and land survey documents. The land survey documents include monument preservation documents and records of surveys prepared to satisfy the requirements of the California Land Surveyors Act (Business and Professions Code, Sections 8700 – 8805). Copies of survey documents and Records of Surveys filed in accordance with Business & Professions Code, Sections 8762 and 8771, will contain the filing information provided by the county in which filed.

Schedule

47. PARTIES will manage the WORK schedule to ensure the timely use of obligated funds and to ensure compliance with any environmental permits, right-of-way agreements, construction contracts, and any other commitments. PARTIES will communicate schedule risks or changes as soon as they are identified and will actively manage and mitigate schedule risks.
48. The IMPLEMENTING AGENCY for each PROJECT COMPONENT will furnish PARTIES with a final report of the WORK completed.

Additional Provisions

Standards

49. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; Federal Highway Administration (FHWA) standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:

- CADD Users Manual
- CALTRANS policies and directives
- Plans Preparation Manual
- Project Development Procedures Manual (PDPM)
- Workplan Standards Guide
- Construction Manual
- Construction Manual Supplement for Local Agency Resident Engineers
- Local Agency Structure Representative Guidelines

Noncompliant Work

50. CALTRANS retains the right to reject noncompliant WORK. RCTC agrees to suspend WORK upon request by CALTRANS for the purpose of protecting public safety, preserving property rights, and ensuring that all WORK is in the best interest of the State Highway System.

Qualifications

51. Each PARTY will ensure that personnel participating in WORK are appropriately qualified or licensed to perform the tasks assigned to them.

Consultant Selection

52. RCTC will invite CALTRANS to participate in the selection of any consultants that participate in the WORK.

Encroachment Permits

53. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System (SHS) right-of-way. RCTC, their contractors, consultants, agents and utility owners will not work within the SHS right-of-way without an encroachment permit issued in their name. CALTRANS will provide encroachment permits to RCTC, their contractors, consultants, and agents at no cost. CALTRANS will provide encroachment permits to utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.
54. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the WORK.

Protected Resources

55. If any PARTY discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTY will notify all PARTIES within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and CALTRANS approves a plan for its removal or protection.

Disclosures

56. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the WORK in confidence to the extent permitted by law and where applicable, the provisions of California Government Code, Section 6254.5(e) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES.

PARTIES will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the WORK without the written consent of the PARTY authorized to release them, unless required or authorized to do so by law.

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

Hazardous Materials

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

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

The management activities related to HM-1 and HM-2, including and without limitation, any necessary manifest requirements and disposal facility designations are referred to herein as HM-1 MANAGEMENT and HM-2 MANAGEMENT respectively.

59. If HM-1 or HM-2 is found the discovering PARTY will immediately notify all other PARTIES.
60. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing State Highway System right-of-way. CALTRANS will undertake, or cause to be undertaken, HM-1 MANAGEMENT with minimum impact to the PROJECT schedule.

CALTRANS will pay, or cause to be paid, the cost of HM-1 MANAGEMENT for HM-1 found within the existing State Highway System right-of-way with funds that are independent of the funds obligated in this AGREEMENT.

61. If HM-1 is found within the PROJECT limits and outside the existing State Highway System right-of-way, responsibility for such HM-1 rests with the owner(s) of the parcel(s) on which the HM-1 is found. RCTC, in concert with the local agency having land use jurisdiction, will ensure that HM-1 MANAGEMENT is undertaken with minimum impact to PROJECT schedule.

The cost of HM-1 MANAGEMENT for HM-1 found within the PROJECT limits and outside the existing State Highway System right-of-way will be paid from funds that are independent of the funds obligated in this AGREEMENT and will be the responsibility of the owner(s) of the parcel(s) where the HM-1 is located.

62. The CONSTRUCTION IMPLEMENTING AGENCY is responsible for HM-2 MANAGEMENT within the PROJECT limits.

RCTC and CALTRANS will comply with the Soil Management Agreement for Aerially Deposited Lead Contaminated Soils (Soil Management Agreement) executed between CALTRANS and the California Department of Toxic Substances Control (DTSC). Under Section 3.2 of the Soil Management Agreement, CALTRANS and RCTC each retain joint and severable liability for noncompliance with the provisions of the Soil Management Agreement. RCTC will assume all responsibilities assigned to CALTRANS in the Soil Management Agreement during PROJECT COMPONENTS for which they are the IMPLEMENTING AGENCY except for final placement and burial of soil within the State right-of-way, per Section 4.5 of the Soil Management Agreement, which is subject to CALTRANS concurrence and reporting to DTSC which will be performed by CALTRANS.

63. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.

Claims

64. Any PARTY that is responsible for completing WORK may accept, reject, compromise, settle, or litigate claims arising from the WORK without concurrence from the other PARTY.
65. PARTIES will confer on any claim that may affect the WORK or PARTIES' liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTY will prejudice the rights of another PARTY until after PARTIES confer on the claim.
66. If the WORK expends state or federal funds, each PARTY will comply with the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTIES will ensure that any for-profit consultant hired to participate in the WORK will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the WORK these principles and requirements apply to all funding types included in this AGREEMENT.

Accounting and Audits

67. PARTIES will maintain, and will ensure that any consultant hired by PARTIES to participate in WORK will maintain, a financial management system that conforms to Generally Accepted Accounting Principles (GAAP), and that can properly accumulate and segregate incurred PROJECT costs and billings.

68. PARTIES will maintain and make available to each other all WORK-related documents, including financial data, during the term of this AGREEMENT.

PARTIES will retain all WORK-related records for three (3) years after the final voucher.

PARTIES will require that any consultants hired to participate in the WORK will comply with this Article.

69. PARTIES have the right to audit each other in accordance with generally accepted governmental audit standards.

CALTRANS, the State Auditor, FHWA (if the PROJECT utilizes federal funds), and RCTC will have access to all WORK -related records of each PARTY, and any consultant hired by a PARTY to participate in WORK, for audit, examination, excerpt, or transcription.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation. The auditing PARTY will be permitted to make copies of any WORK-related records needed for the audit.

The audited PARTY will review the draft audit, findings, and recommendations, and provide written comments within thirty (30) calendar days of receipt.

Upon completion of the final audit, PARTIES have forty-five (45) calendar days to refund or invoice as necessary in order to satisfy the obligation of the audit.

Any audit dispute not resolved by PARTIES is subject to mediation. Mediation will follow the process described in the General Conditions section of this AGREEMENT.

70. If the WORK expends state or federal funds, each PARTY will undergo an annual audit in accordance with the Single Audit Act in the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as defined in 2 CFR, Part 200.
71. When a PARTY reimburses a consultant for WORK with state or federal funds, the procurement of the consultant and the consultant overhead costs will be in accordance with the Local Assistance Procedures Manual, Chapter 10.

Interruption of Work

72. If WORK stops for any reason, each PARTY will continue with environmental commitments included in the environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, and will keep the PROJECT in environmental compliance until WORK resumes.

Penalties, Judgements and Settlements

- 73. The cost of awards, judgements, or settlements generated by the WORK are to be paid from the funds obligated in this AGREEMENT.
- 74. The cost of legal challenges to the environmental process or documentation may be paid from the funds obligated in this AGREEMENT.
- 75. Any PARTY whose action or lack of action causes the levy of fines, interest, or penalties will indemnify and hold all other PARTIES harmless per the terms of this AGREEMENT.

Environmental Compliance

- 76. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTIES will amend this AGREEMENT to include completion of those additional tasks.

GENERAL CONDITIONS

- 77. All portions of this AGREEMENT, including the Recitals Section, are enforceable.

Venue

- 78. PARTIES understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTY initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.

Exemptions

- 79. All CALTRANS' obligations under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming and allocation of funds by the California Transportation Commission (CTC).

Indemnification

80. Neither CALTRANS nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon RCTC under this AGREEMENT. It is understood and agreed that RCTC, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by RCTC, its contractors, sub-contractors, and/or its agents under this AGREEMENT.
81. Neither RCTC nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless RCTC and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

Non-parties

82. PARTIES do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights for entities not signatory to this AGREEMENT. PARTIES do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling the WORK different from the standards imposed by law.
83. PARTIES will not assign or attempt to assign obligations to entities not signatory to this AGREEMENT without an amendment to this AGREEMENT.

Ambiguity and Performance

84. Neither PARTY will interpret any ambiguity contained in this AGREEMENT against the other PARTY. PARTIES waive the provisions of California Civil Code, Section 1654.

A waiver of a PARTY's performance under this AGREEMENT will not constitute a continuous waiver of any other provision.

85. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

Defaults

86. If any PARTY defaults in its performance of the WORK, a non-defaulting PARTY will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTY fails to do so, the non-defaulting PARTY may initiate dispute resolution.

Dispute Resolution

87. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level as described in the Quality Management Plan. If they cannot resolve the dispute themselves, the CALTRANS District Director and the Executive Officer of RCTC will attempt to negotiate a resolution. If PARTIES do not reach a resolution, PARTIES' legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the WORK in accordance with the terms of this AGREEMENT. However, if any PARTY stops fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the WORK continues.

Except for equitable relief, no PARTY may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS District Office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

88. PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.

Prevailing Wage

89. When WORK falls within the Labor Code § 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code § 1771, PARTIES will conform to the provisions of Labor Code §§ 1720-1815, and all applicable provisions of California Code of Regulations, Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTIES will include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts.

Work performed by a PARTY's own employees is exempt from the Labor Code's Prevailing Wage requirements.

If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTIES will conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. §§ 3141-3148.

When applicable, PARTIES will include federal prevailing wage requirements in contracts for public works. WORK performed by a PARTY's employees is exempt from federal prevailing wage requirements.

SIGNATURES

PARTIES are empowered by the law to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

This AGREEMENT may be executed and delivered in counterparts, and by each PARTY in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Michael D. Beauchamp
District 8 Director

Verification of funds and authority:

Corina Harriman
District 8 Budget Manager

Certified as to financial terms and policies:

Darwin Salmos
HQ Accounting Supervisor

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

NOT FOR SIGNATURES AT THIS TIME

Anne Mayor
Executive Director

Attest:

Name Tbd
Title TBD

Approved as to form and procedure:

Name Tbd
Title TBD

FUNDING SUMMARY NO. 01

<u>FUNDING TABLE</u> v. 2					
<u>IMPLEMENTING AGENCY</u> →			<u>RCTC</u>		Totals
Source	Party	Fund Type	CONST. SUPPORT	CONST. CAPITAL	
STATE	RCTC	STIP/RIP	8,870,000	57,507,000	66,377,000
LOCAL-FEDERAL	RCTC	STBGP (88.53%)	9,853,000	0	9,853,000
LOCAL	RCTC	Local	0	58,108,000	58,108,000
LOCAL	RCTC	Measure ^M	1,277,000	0	1,277,000
Totals			20,000,000	115,615,000	135,615,000

^MNon-federal match

<u>EXPENDITURE TABLE</u>				
<u>IMPLEMENTING AGENCY</u>→			<u>RCTC</u>	
Source	Party	Fund Type	CONST. CAPITAL	
			Eligible	Ineligible
STATE	RCTC	STIP/RIP	X	X
LOCAL-FEDERAL	RCTC	STBGP (88.53%)	X	--
LOCAL	RCTC	Local	X	X
LOCAL	RCTC	Measure ^M	X	--

Note: An "X" denotes the funding type is available for payment.

^MNon-federal match

<div>v 21</div> <div><u>SPENDING SUMMARY</u></div>				
Fund Type	CONST. SUPPORT		CONST. CAPITAL	Totals
	CALTRANS	<u>RCTC</u>	<u>RCTC</u>	
STIP/RIP	0	8,870,000	57,507,000	66,377,000
STBGP	0	9,853,000	0	9,853,000
Local	0	0	58,108,000	58,108,000
Measure	0	1,277,000	0	1,277,000
Totals	0	20,000,000	115,615,000	135,615,000

Funding

1. If there are insufficient funds available in this AGREEMENT to place the PROJECT right-of-way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY will fund these activities until such time as PARTIES amend this AGREEMENT.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

2. If there are insufficient funds in this AGREEMENT to implement the obligations and responsibilities of this AGREEMENT, including the applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, and/or approvals that are in effect at a time that WORK stops, each PARTY accepts responsibility to fund their respective WORK until such time as PARTIES amend this AGREEMENT.

Each PARTY may request reimbursement for these costs during the amendment process.

ICRP Rate

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

In accordance with California Senate Bill 848, the Administration Rate is capped at 10 percent until July 1, 2021, for Self-Help Counties with a countywide sales tax measure dedicated to transportation improvements.

4. If the WORK is funded with state or federal funds, any PARTY seeking CALTRANS reimbursement of indirect costs must submit an indirect cost rate proposal and central service cost allocation plan (if any) in accordance with Local Assistance Procedures Manual, 2 CFR, Part 200 and Chapter 5. These documents are to be submitted annually to CALTRANS' Audits and Investigations for review and acceptance prior to CALTRANS' reimbursement of indirect costs.

5. Travel, per diem, and third-party contract reimbursements for WORK are to be paid from the funds in this AGREEMENT only after the contractor performs the work and incurs said costs.

Payments for travel and per diem will not exceed the rates paid rank and file state employees under current California Department of Human Resources (CalHR) rules current at the effective date of this AGREEMENT.

If RCTC invoices for rates in excess of CalHR rates, RCTC will fund the cost difference and reimburse CALTRANS for any overpayment.

6. In accordance with the CALTRANS Federal-Aid Project Funding Guidelines, PARTIES must obtain approval from the Federal Highway Administration prior to any PROJECT funding changes that that will change the federal share of funds.

Invoicing and Payment

7. PARTIES will invoice for funds where the SPENDING SUMMARY shows that one PARTY provides funds for use by another PARTY. PARTIES will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, RCTC will pay invoices within five (5) calendar days of receipt of invoice.
8. If RCTC has received EFT certification from CALTRANS then RCTC will use the EFT mechanism and follow all EFT procedures to pay all invoices issued from CALTRANS.
9. When a PARTY is reimbursed for actual cost, invoices will be submitted each month for the prior month's expenditures. After all PROJECT COMPONENT WORK is complete, PARTIES will submit a final accounting of all PROJECT COMPONENT costs. Based on the final accounting, PARTIES will invoice or refund as necessary to satisfy the financial commitments of this AGREEMENT.
10. If an executed Program Supplement Agreement (PSA) or STIP Planning, Programming, and Monitoring Program Fund Transfer Agreement (PPM) exists for this PROJECT then RCTC will abide by the billing and payment conditions detailed for the fund types identified in the PSA or PPM.
11. If CALTRANS reimburses RCTC for any costs later determined to be unallowable, RCTC will reimburse those funds.

CONSTRUCTION Support

12. RCTC will invoice and CALTRANS will reimburse for actual costs incurred and paid.

CONSTRUCTION Capital

13. RCTC will invoice and CALTRANS will reimburse for actual costs incurred and paid.

CLOSURE STATEMENT INSTRUCTIONS

1. Did PARTIES complete all scope, cost and schedule commitments included in this AGREEMENT and any amendments to this AGREEMENT?

YES / NO

Did CALTRANS accept and approve all final deliverables submitted by other PARTIES?

YES / NO

Did the CALTRANS HQ Office of Accounting verify that all final accounting for this AGREEMENT and any amendments to this AGREEMENT were completed?

YES / NO

If construction is involved, did the CALTRANS District Project Manager verify that all claims and third party billings (utilities, etc.) have been settled before termination of the AGREEMENT?

YES / NO

Did PARTIES complete and transmit the As-Built Plans, Project History File, and all other required contract documents?

YES / NO

If ALL answers are “YES”, this form may be used to TERMINATE this AGREEMENT.

CLOSURE STATEMENT

PARTIES agree that they have completed all scope, cost, and schedule commitments included in Agreement 08-1743 and any amendments to the agreement. The final signature date on this document terminates agreement 08-1743 except survival articles. All survival articles in agreement 08-1743 will remain in effect until expired by law, terminated or modified in writing by the PARTIES' mutual agreement, whichever occurs earlier.

The people signing this agreement have the authority to do so on behalf of their public agencies.

This AGREEMENT may be executed and delivered in counterparts, and by each PARTY in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

Date: _____

District 8 Director

Date: _____

**Certified as to all financial
obligations/terms and policies**

District 8 Budget Manager

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

Executive Director

Date:

AGENDA ITEM 8

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

DATE:	May 24, 2021
TO:	Western Riverside County Programs and Projects Committee
FROM:	Bryce Johnston, Capital Projects Manager
THROUGH:	Marlin Feenstra, Project Delivery Director
SUBJECT:	Amendment to Cooperative Agreement with the City of Perris and Amendment to Agreement with T.Y. Lin International for the Interstate 215/Placentia Avenue Interchange Project

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve Agreement No. 16-31-066-06, Amendment No. 6 to Agreement No. 16-31-066-00, with T.Y. Lin International (T.Y. Lin) for design support during construction of the Interstate 215/Placentia Avenue Interchange project (Project) in the amount of \$257,285, plus a contingency amount of \$27,528, for an additional amount of \$284,813, and a total amount not to exceed \$5,455,998;
- 2) Approve Agreement No. 19-31-044-01, Amendment No. 1 to Agreement No. 19-31-044-00, with the city of Perris (City) for storm drain improvements on Placentia Avenue and street and signal improvements at the Placentia Avenue and Indian Avenue intersection for the Project for an additional Commission contribution of \$1,081,157 and a total Commission contribution not to exceed \$1,231,157;
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of the Commission;
- 4) Authorize the Executive Director, or designee, to approve contingency work up to the total not to exceed amount as required for the design support services; and
- 5) Forward to Commission for final action.

BACKGROUND INFORMATION:

The Mid County Parkway (MCP) project has been under development by the Commission since 2002. The purpose of the MCP project is to provide a transportation facility that effectively and efficiently accommodates regional west-east movement of people, goods, and services between and through the cities of Perris and San Jacinto. The project in the City (see Attachment 1 for Vicinity Map) is the first part of the MCP to proceed to construction. Construction has been under way since August 2020 and is currently about 30 percent complete.

DISCUSSION:

Amendment to T.Y. Lin Agreement for Design Support during Construction

At its November 2016 meeting, the Commission approved an agreement with T.Y. Lin for preparation of the final Plans, Specifications and Estimate (PS&E) package and related construction bid documents for the construction of the Project in the amount of \$3,754,000. Four subsequent amendment authorizations approved by the Commission aggregating an additional amount of \$1,417,185 resulted in a total contract authorization to date of \$5,171,185.

T.Y. Lin has had to perform additional support work during construction. This includes redesign of the reinforced concrete culvert structure under the Perris Valley Line tracks to avoid conflicts with Metrolink service windows and reduce construction impacts on the tracks, and design changes required to coordinate the Indian Avenue/Placentia avenue intersection improvements with the City's widening project.

Staff negotiated the additional scope required and recommends approval of Agreement No. 16-31-066-06 with T.Y. Lin to complete the additional scope items for the Project, based on the final negotiated scope and cost of \$257,285, including a contingency amount of \$27,528, for an additional amount of \$284,813, and a total contract authorization not to exceed \$5,455,998.

Amendment to Agreement with the City of Perris

At its January 2019 meeting, the Commission approved Agreement No. 19-31-044-00 between the Commission and the City for storm drain improvements and the Commission's funding contribution of 2/3 of the total cost, for an amount not to exceed \$150,000. Since approval of the agreement, the design of the storm drain has been finalized, and the commission's share of the cost of the storm drain system has increased by \$300,000 to \$450,000.

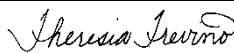
The Project and the City's Placentia Avenue widening project overlap at the Indian Avenue/Placentia Avenue intersection, where a traffic signal is to be placed. Now that the City's detailed design of the Indian Avenue/Placentia Avenue intersection is complete, and the schedule of each project is known, Commission staff and City staff believe it is best to transfer construction of all traffic signal improvements to one contractor, avoiding the potential conflict of multiple contractors working at the site. To accommodate phasing of both projects, the City project will construct the signal and other intersection improvements. The Commission's design team (T.Y. Lin) generated a design package for the City to include in its bid package.

Staff negotiated the transferred scope with the City and reached an agreement on a fair and reasonable lump sum cost of the work in the amount of \$781,157, which is based on the bid prices of the work deleted from the Commission's Project.

Staff recommends approval of Amendment No. 1 to Cooperative Agreement No. 19-31-044-00 between the Commission and the City to increase the storm drain contribution by \$300,000 and adding the street and signal improvements at the Placentia Avenue and Indian Avenue intersection for \$781,157, resulting in a total contribution amount not to exceed \$1,231,157.

FISCAL IMPACT:

The additional costs from both agreement amendments will be funded with Transportation Uniform Mitigation Fee (TUMF)-Community Environmental Transportation Accessibility Process (CETAP) funds and then 2009 Measure A Western County (WC) New Corridors funds.

Financial Information						
In Fiscal Year Budget:		Yes	Year:	FY 2020/21	Amount:	\$ 15,000
		Yes		FY 2021/22		\$ 1,177,970
				FY 2022/23		\$ 173,000
Source of Funds:		TUMF-CETAP; 2009 Measure A WC New Corridors			Budget Adjustment:	No No
GLA No.:	002317 81301 00000 0000 261 31 81301			\$1,081,157		
	002317 81102 00000 0000 261 31 81101			\$284,813		
Fiscal Procedures Approved:						Date: 05/14/2021

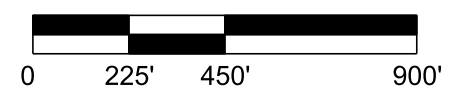
Attachments:

- 1) Vicinity Map-I-215/Placentia Avenue Interchange
- 2) Draft Amendment Agreement No. 19-31-044-01
- 3) Draft Amendment Agreement No. 16-31-066-06

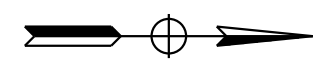


*Mid-County Parkway (shown in blue) is not part of project.

TYLIN INTERNATIONAL



SCALE: 1" = 150'



I-215 / Placentia Ave Interchange

Attachment 1 Vicinity Map

Agreement No. 19-31-044-01

**AMENDMENT NO. 1 TO
COOPERATIVE AGREEMENT
BETWEEN
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND
THE CITY OF PERRIS
FOR INSTALLATION OF STORM DRAIN IMPROVEMENTS
AS PART OF THE PLACENTIA AVENUE WIDENING PROJECT

AND TO INCLUDE CERTAIN
INDIAN AVE/ PLACENTIA AVE INTERSECTION IMPROVEMENTS**

1. PARTIES AND DATE

This Amendment No. 1 to the Cooperative Agreement is made and entered into this ____ day of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("RCTC") and the CITY OF PERRIS ("CITY"). RCTC and the CITY are sometimes referred to herein individually as "Party", and collectively as "Parties".

2. RECITALS

2.1 RCTC and the CITY have entered into an agreement dated July 26, 2019 (the "Master Agreement") for the purpose of funding and implementing the installation of certain storm drain improvements in the CITY ("Storm Drain Improvements"), as further detailed in Exhibit "A" to the Master Agreement.

2.2 The Storm Drain Improvements are to be undertaken as part of the CITY's Placentia Widening project ("Placentia Widening").

2.3 RCTC and the CITY now desire that certain intersection work at Placentia Avenue and Indian Road, generally described as roadway pavement work, pavement removals, pavement delineation, signage, and electrical work ("Intersection Improvements"), which was part of RCTC's Placentia Interchange project, be removed from the scope of work of RCTC's contractor, and be transferred to the CITY.

2.4 The Parties agree that transfer of this work to the CITY will avoid overlapping contractors working at the site, and potential conflicting designs, as the CITY currently plans to undertake its own project that will impact this intersection.

3. TERMS

3.1 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Amendment No. 1 as though fully set forth herein.

3.2 The Project. As of the effective date of this Amendment No. 1, the term Project, as used in the Master Agreement, shall mean and refer to the Storm Drain Improvements and the Intersection Improvements.

3.3 Scope of Work. Exhibit "A" of the Master Agreement, which sets forth the scope of work for the Project, shall be amended to include the scope of work for the Intersection Improvements, attached hereto as Attachment 1. As of the effective date of this Amendment No. 1, reference in the Master Agreement to Exhibit "A", shall mean and refer to Exhibit "A", as hereby amended.

3.4 RCTC Review of Lowest Responsible Bid; Total Project Budget. Section 4.1(b) of the Master Agreement shall be amended, in its entirety, to read as follows:

b. In the event the lowest responsible bidder's construction contract bid for the Project is greater than RCTC and CITY's funding commitments for the Project, as set forth herein, RCTC and CITY shall meet and determine a course of action to proceed. If CITY and RCTC do not agree in writing on a course of action within fifteen (15) days, the CITY shall attempt to reduce the total Project cost to be within the Project funding commitments ("Total Project Budget") as follows:

- (i) Total Project Budget for Storm Drain Improvements: \$675,000;
- (ii) Total Project Budget for Intersection Improvements Construction Costs: \$704,563.75.

3.5 RCTC Reimbursement of CITY for the Project. Section 4.2 of the Master Agreement shall be amended, in its entirety, to read as follows:

a. RCTC shall deposit funds with the CITY for RCTC's share of Project costs to be incurred under this Cooperative Agreement in an amount not to exceed (i) \$450,000 for the Storm Drain Improvements, in accordance with the cost allocation set forth in Exhibit "B", and (ii) \$781,157 for the Intersection Improvements (collectively, "RCTC Total Contribution"). The RCTC Total Contribution shall be used for the sole purpose of carrying out the Project.

b. The cost identified above for the Intersection Improvements includes the Total Project Budget for the Intersection Improvements Construction Costs, plus additional sums covering City costs for traffic control, and administrative expenses, as further detailed in Exhibit "B", and includes a credit of \$15,000 to RCTC to cover the costs of RCTC's utility

relocation consultant who, notwithstanding Section 5.1 of the Agreement, will work cooperatively with the City on Southern California Edison utility relocations for the Intersection Improvements portion of the Project.

3.6 Cost Allocation. Exhibit "B" of the Master Agreement, which sets forth the cost allocation for the Project, shall be replaced, in its entirety, with the version of Exhibit "B" attached to this Amendment No. 1 as Attachment 2. The attached version of Exhibit "B" includes the cost estimate breakdown for the Intersection Improvements.

4. **GENERAL PROVISIONS**

4.1 Except as amended by this Amendment No. 1, all provisions of the Master Agreement, 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. 1.

4.2 This Amendment No. 1 shall be governed by the laws of the State of California. Venue shall be in Riverside County.

4.3 This Amendment No. 1 may be signed in counterparts, each of which shall constitute an original.

4.4 A manually signed copy of this Amendment No. 1 which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment No. 1 for all purposes. This Amendment No. 1 may be signed using an electronic signature.

[Signatures on following page]

**SIGNATURE PAGE
TO
AGREEMENT NO. 19-31-044-01**

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

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

CITY OF PERRIS

By: _____
Anne Mayer, Executive Director

By: _____
Richard Belmudez, City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP
General Counsel

By: _____
Eric Dunn,
City Attorney

ATTEST:

By: _____
Nancy Salazar
City Clerk

ATTACHMENT 1

SCOPE OF WORK FOR INTERSECTION IMPROVEMENTS

Exhibit "A" of the Master Agreement shall be amended to include the following scope of work for the Intersection Improvements:

Roadway Pavement, Pavement Removals, Pavement Delineation, Signs, and Electrical.

New Roadway Pavement

- Sidewalk = 1,963 SF approx.
- Detectable Warning Surface = 24 SF approx.
- Curb & Gutter = 157 LF approx.
- Pavement Section 5 (JPCP) = 12,647 SF approx.
- Pavement Section 7 (RHMA-G) = 1,688 SF approx.
- Pavement Section 13 (JPCP RSC) = 1,888 SF approx.

Pavement Removals (Existing Placentia Ave and Indian Ave intersection)

- Remove Concrete Sidewalk = 1,804 SF approx.
- Remove Concrete Pavement = 8,494 SF approx.
- Remove Curb & Gutter = 327 LF approx.
- Remove Asphalt Concrete Pavement = 5,914 SF approx.

Pavement Delineation

- All proposed striping and pavement markings along Northbound and Southbound Indian Ave.
- Striping and pavement markings to be completed on West leg of Placentia Ave and Indian Ave intersection, to match RCTC project striping.
- North, West, and South crosswalks.

Roadway Signs

- Sign removals, relocations, and new roadside signs in the Indian Ave/ Placentia Ave intersection and along Indian Ave.

Electrical

- Intersection signalization and related items in the Indian Ave/ Placentia Ave intersection.

Attachments [to be inserted]

Exhibit 1. Revised Plan Sheets for RCTC I-215/Placentia Ave IC Project

Exhibit 2. Select Plan Sheets to be revised for transfer to City of Perris

Exhibit 3. Plot of Placentia Ave. from East Frontage Road to Indian Ave

DRAFT

ATTACHMENT 2

EXHIBIT B

1. Storm Drain Improvements

The cost share for the Storm Drain Improvements shall be as follows:

2/3 RCTC cost, up to the RCTC maximum share.

1/3 City cost.

CONTRACT ITEM OF WORK	ESTIMATED COST	RCTC MAXIMUM SHARE	CITY
STORM DRAIN IMPROVEMENTS	\$ 675,000	\$ 450,000	\$ 225,000
TOTAL	\$ 675,000	\$ 450,000	\$ 225,000

RCTC's contribution for the Storm Drain Improvement shall not exceed \$450,000.

2. Intersection Improvements Construction Costs

The Intersection Improvements Construction Costs shall be funded by RCTC in an amount not to exceed \$704,563.75, as further detailed below.

INTERSECTION IMPROVEMENTS ESTIMATED COSTS CONSTRUCTION COSTS

ITEM #	DESCRIPTION	QUANTITY	Unit	UNIT RATE	COST
109	Remove Concrete	911	CY	30	\$27,330
103	Remove AC Pave	3184	SF	0.2	\$637
198	Remove Conc C&G	20	CY	145	\$2,900
198	Remove Conc SW	22	CY	145	\$3,190
211	Reset mailbox	1	EA	750	\$750
242	Roadside Sign on Existing Post	4	EA	375	\$1,500
31	Treated Wood Waste	60	LB	0.5	\$30
10	Temporary Traffic Stripe	4030	LF	0.2	\$806
230	Single Sheet Alum. Sign Type X1	27.9	SF	9	\$251
229	Single Sheet Alum. Sign	3	SF	14	\$42
15	K-Rail	1140	LF	15	\$17,100
16	Crash Cusion	22	EA	300	\$6,600
11	Channelizers	15	EA	45	\$675
8	Barricades	7	EA	150	\$1,050
9	Tpe VII Arrow	54	SF	5	\$270

Exhibit B

264A	Solid white stripe	2426	LF	0.55	\$1,334
264B	Solid yellow Stripe	2629	LF	0.55	\$1,446
236	Reflective Sheeting Type XI	27.9	SF	4	\$112
108	Isolation Joint Seal	421	LF	13	\$5,473
266	Solid White 8"	280	LF	0.85	\$238
92	Fog Seal	1	Ton	1340	\$1,340
259	Thermo markings	589	SF	3	\$1,767
268	Yellow Thermo	1262	SF	5.5	\$6,941
270	Remove Marking	106	SF	2	\$212
204	Signal & Lighting Location 2	1	LS	1	\$295,000
194	Curb and Gutter	20	CY	295	\$5,900
94	AC Pave	115	Ton	78	\$8,970
106	Concrete Pave	479	CY	335	\$160,465
107	RSC Pave	60	CY	620	\$37,200
193	Ped Ramps	9	CY	800	\$7,200
192	Detectable Warning Surface	65	SF	35	\$2,275
89	LCB	315	CY	205	\$64,575
90	LCB RS	35	CY	435	\$15,225
95	RHMA	42	Ton	95	\$3,990
91	Base Bond Breaker	210	SQYD	14	\$2,940
13	Temporary Pedestrian Access	0.1	LS	50000	\$5,000.00
197	Concrete Sidewalk	25	CY	500	\$12,500.00
224	Remove Roadside Sign	8	EA	100	\$800.00
239	Roadside Sign on Metal Post	2	EA	265	\$530.00

Total Cost of Work to be Deleted: \$704,563.75

2.A. Intersection Improvements - Additional City Costs and RCTC Credits

(1) City traffic control for construction of the Intersection Improvements shall be funded by RCTC in an amount not to exceed \$35,228.18. Traffic control shall include, but is not limited to, placing, removing and maintaining k-rail, signs, striping, delineators, and barricades. The foregoing sum represents 5% of the total estimated Project Budget for Intersection Improvements Construction Costs.

(2) City administrative costs for managing the Intersection Improvements portion of the Project shall be funded by RCTC in an amount not to exceed \$56,365.10. The foregoing sum represents 8% of the total estimated Project Budget for Intersection Improvements Construction Costs.

(3) RCTC has agreed to make its utility relocation consultant, Mr. Steve Hatt, available to provide services on the Intersection Improvements portion of the Project. RCTC shall receive a credit towards the costs identified in (1) and (2) above in the sum of \$15,000. The foregoing sum is based on 10 hours per month of services, or a total of 88 hours of

services. If additional services are required, the Parties shall negotiate a fee or credit for such services.

The Intersection Improvements, including the Project Budget for Intersection Improvements Construction Costs, and the additional City costs identified above, shall be funded by RCTC in an amount not to exceed \$781,157, based on the following calculation:

Construction cost of \$704,563.75 + Traffic Control of \$35,228.18 + Administrative Costs of \$56,365.10 – RCTC Utility Relocation Consultant Services Credit of \$15,000 = **\$781,157.**

Agreement No. 16-31-066-06

**AMENDMENT NO. 6 TO AGREEMENT
FOR PREPARATION OF PLANS, SPECIFICATION AND ESTIMATES (PS&E)
WITH T.Y. LIN INTERNATIONAL**

1. PARTIES AND DATE

This Amendment No. 6 to the Agreement for preparation of plans, specifications, and estimates services is made and entered into as of _____, 2021, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("Commission") and T.Y. LIN INTERNATIONAL ("Consultant"), a California corporation.

2. RECITALS

- 2.1 The Commission and the Consultant have entered into an agreement dated November 9, 2016 for the purpose of providing the preparation of plans, specifications, and estimates (PS&E) for the Interstate 215/Placentia Avenue Interchange Improvements Project (the "Master Agreement").
- 2.2 The Commission and the Consultant have entered into an Amendment No. 1, dated October 2, 2018, for the purpose of providing additional compensation for additional PS&E services for the Interstate 215/Placentia Avenue Interchange Improvements Project.
- 2.3 The Commission and the Consultant have entered into an Amendment No. 2, dated February 11, 2019, for the purpose of providing additional compensation for additional PS&E services for the Interstate 215/Placentia Avenue Interchange Improvements Project.
- 2.4 The Commission and the Consultant have entered into an Amendment No. 3, dated September 30, 2019, for the purpose of providing additional compensation for additional PS&E services for the Interstate 215/Placentia Avenue Interchange Improvements Project

- 2.5 The Commission and the Consultant have entered into an Amendment No. 4, dated April 13, 2020, for the purpose of providing additional compensation for additional PS&E services for the Interstate 215/Placentia Avenue Interchange Improvements Project
- 2.6 The Commission and the Consultant have entered into Amendment No. 5, dated November 17, 2020, for the purpose of extending the term for additional PS&E services for the Interstate 215/Placentia Avenue Interchange Improvements Project.
- 2.7 The parties now desire to amend the Master Agreement in order to amend the Scope of Work, provide additional compensation, and amend the hourly rates for work performed.

3. TERMS

- 3.1 The Scope of Work for the Master Agreement shall be amended to include Services, as that term is defined in the Master Agreement, required to provide additional services, as more fully described in Exhibit "A" , attached to this Amendment No. 6 and incorporated herein by reference
- 3.2 The maximum compensation for Services performed pursuant to this Amendment No. 6 shall be Two Hundred Fifty Seven Thousand, Two Hundred Eighty Five Dollars (\$257,285), as further detailed in the Cost Estimate attached to this Amendment No. 6 as Exhibit "B" and incorporated herein by reference.
- 3.3 Compensation and Payment, Exhibit "C" of the Master Agreement pages C-5, C-9, and C-10 shall be amended, in part, to replace the hourly rates for Consultant and certain identified Subconsultants by the rates set forth in Exhibit "C" attached to this Amendment No. 6 and incorporated herein by reference.
- 3.4 Except as amended by this Amendment No. 6, all provisions of the Master Agreement, as amended by Amendment Nos. 1 through 5, 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. 6.
- 3.5 This Amendment No. 6 shall be governed by the laws of the State of California. Venue shall be in Riverside County.
- 3.6 This Amendment No. 6 may be signed in counterparts, each of which shall constitute an original.

- 3.7 A manually signed copy of this Amendment No. 6 which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment No. 6 for all purposes. This Amendment No. 6 may be signed using an electronic signature.

**SIGNATURE PAGE
TO
AGREEMENT NO. 16-31-066-06**

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date first herein above written.

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

**T.Y. LIN
INTERNATIONAL**

By: _____
Anne Mayer, Executive Director

By: _____
Signature

Name

Title

APPROVED AS TO FORM:

ATTEST:

By: _____
Best Best & Krieger LLP
Counsel to the Riverside County
Transportation Commission

By: _____
Its: _____

* A corporation requires the signatures of two corporate officers.

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

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

EXHIBIT A

SCOPE OF WORK

Preparation of Plans, Specifications and Estimates (PS&E) For the Interstate 215 (I-215) / Placentia Avenue Interchange Improvements Project

SECTION 1

DESCRIPTION OF PROJECT

1.1 PROJECT DESCRIPTION 1.1-1 Background

No change from original contract dated November 9, 2016.

1.1-2 Location and Limits

No change from original contract dated November 9, 2016.

1.1-3 Project Description

No change from original contract dated November 9, 2016.

1.2 REASONS FOR CONTRACT AMENDMENT 1.2-2 Construction Support Phase

Additional budget needed for Construction Support, due to additional project scope (see breakdown in Section 3).

SECTION 2

Not used

SECTION 3

TASK BREAKDOWN OF WORK

3.7 TASK 7 – CONSTRUCTION SUPPORT PHASE 3.7-3 Shop Drawing and Submittal Review

Additional budget is anticipated to conduct reviews of shop drawings for the widening of the Placentia Avenue Overcrossing and the Placentia Street Overhead.

3.7-5 Respond to Inquiries/RFIs

Additional budget is anticipated to be needed to respond to inquiries and RFIs related to:

A. Responding to RFIs: We anticipate an additional 75 RFIs will require a response for the remainder of the Construction phase. Includes effort for Site Visits

B. Weekly Project Meetings: Attendance at the Weekly Project Meetings for the remainder of the Construction phase.

C. Placentia/Indian Intersection Adjustments: Based on a request from RCTC, the bid plan design is to be adjusted to separate the Placentia Avenue/Indian Avenue Intersection work from the project. Effort requires preparation of a package for the City of Perris, including: a memo defining the division of responsibilities; redesign of some project elements including roadway, drainage, and electrical; and revised quantities. Includes responding to comments and additional City coordination.

D. Railroad RCB Redesign: Based on a request from RCTC/Contractor, the bid plan design is to be adjusted to extend the precast reinforced concrete box structure under the Metrolink railroad tracks. Includes coordination time and site visits.

E. Design Services During Construction (DSDC) Coordination/RE Support: Additional effort for general coordination with Resident Engineer beyond what was originally anticipated.

EXHIBIT “B”

COST ESTIMATE

[attached behind this page]

EXHIBIT "C"

COMPENSATION AND PAYMENT

Exhibit "C", Page C-5, Revised Rates:

<u>POSITION OR CLASSIFICATION RANGE OF HOURLY RATES</u>	
Senior Principal Engineer	\$99.00 - \$141.00
Principal Engineer/Project Manager	\$80.00 - \$125.00
Senior Engineer	\$55.00 - \$88.00
Engineer (Transportation/Structures)	\$29.00 - \$65.00
Assistant Engineer (Transportation/Structures)	\$27.00 - \$45.00
Design Technician	\$27.00 - \$50.00
Bridge Architect	\$48.00 - \$54.00
Environmental Services Manager	\$60.00 - \$76.00
Principal Construction Engineer	\$80.00 - \$103.00
Project Accountant	\$40.00 - \$50.00
Administrative	\$18.00 - \$35.00

EXHIBIT C-5

Exhibit "C", Page C-9, Revised Rates:

DAVID EVANS AND ASSOCIATES

Position or Classification	Range of Hourly Rates	
Senior Landscape Architect	\$76.00	\$90.00
Landscape Architect	\$55.00	\$76.00
Landscape Designer	\$35.00	\$50.00
Irrigation Designer	\$40.00	\$52.00
Landscape CAD Designer	\$28.00	\$38.00
Project Administrator	\$36.00	\$46.00
QA/QC	\$63.00	\$75.00
Accounting	\$32.00	\$42.00

Exhibit "C", Page C-10, Revised Rates:

LIN CONSULTING, INC.

Position or Classification	Range of Hourly Rates	
Senior Project Manager	\$52.00	\$84.00
Project Engineer	\$27.00	\$50.00
Assistant Engineer	\$20.00	\$26.00
Technical Support	\$15.00	\$19.00

AGENDA ITEM 9

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	May 24, 2021
TO:	Western Riverside County Programs and Projects Committee
FROM:	Eric DeHate, Transit Manager
THROUGH:	Lorelle Moe-Luna, Multimodal Services Director
SUBJECT:	Amendment to City of Banning's Fiscal Year 2020/21 Short Range Transit Plan

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve an amendment to the city of Banning's (City) FY 2020/21 Short Range Transit Plan (SRTP) to reflect the operating shortfalls in FY 2019/20 and FY 2020/21 and increase the Local Transportation Fund (LTF) operating allocation in the net amount of \$597,039;
- 2) Approve the reprogramming of \$134,213 of State Transit Assistance (STA) from capital assistance to operating assistance for the City for FY 2019/20 operating expenses;
- 3) Approve the reprogramming of \$135,000 of LTF from the Comprehensive Operational Analysis (COA) capital assistance to operating assistance for FY 2020/21 operating expenses;
- 4) Approve an additional FY 2020/21 LTF allocation of \$217,039 to the City for FY 2019/20 operating expenses;
- 5) Approve an additional FY 2020/21 LTF allocation of \$380,000 to the City for FY 2020/21 operating expenses; and
- 6) Forward to the Commission for final action.

BACKGROUND INFORMATION:

As a result of the recently completed FY 2019/20 Transportation Development Act (TDA) audit of the City's transit fund, the City identified a funding shortfall when reconciling its accounting records. Commission staff worked with City staff to determine the amount and cause for the FY 2019/20 shortfall. The FY 2019/20 shortfall of \$351,252 was caused by a combination of unbudgeted consulting services, increased insurance costs, increased fleet maintenance costs, increased pension expenses, and other support services that are provided to operate transit services. To offset the total request, City staff reviewed unused STA capital allocations and found older projects with a lower current priority or that were completed and should be closed out. Accordingly, the City identified STA capital assistance allocations of \$134,213 available for potential reprogramming to operating assistance, reducing the additional LTF allocation request to \$217,039.

After reviewing the FY 2019/20 shortfall, Commission and City staff also reviewed the projected actuals and budget to ascertain if similar circumstances exist in FY 2020/21. City staff estimated a \$515,000 funding shortfall related to \$140,000 of COVID-19 expenses and \$375,000 related to the costs identified in FY 2019/20 that were not budgeted. City staff reviewed unused LTF capital assistance allocations and determined that \$135,000 related to a COA was available for reprogramming to operating assistance. The COA is being postponed until ridership reaches pre-COVID service levels for an accurate analysis. Therefore, the additional LTF allocation request decreased to \$380,000.

A summary of the shortfalls, reprogramming, and net additional LTF allocations for FYs 2019/20 and 2020/21 is as follows:

FY 2019/20	Total
Shortfall in FY 2019/20	\$ 351,252
Reprogramming of STA to Offset Shortfall	(134,213)
Total additional LTF allocation	217,039
FY 2020/21	
Projected shortfall in FY 2020/21	515,000
Reprogramming of LTF to Offset Shortfall	(135,000)
Total additional LTF allocation	380,000
Total additional LTF allocations, net of reprogrammed funds	\$ 597,039

City staff reached out to Commission staff and submitted an amendment (Attachment 1) to its FY 2020/21 SRTP requesting \$597,039 in additional LTF allocations and \$269,213 of capital assistance reprogramming to fully fund its operations in FYs 2019/20 and 2020/21. Staff reviewed the request and recommends approval of the \$597,039 SRTP amendment to increase LTF allocations related to FYs 2019/20 and FY 2020/21, reprogram a total of \$269,213 in STA and LTF capital assistance to operating assistance, and allocate additional LTF funds aggregating \$597,039.

FISCAL IMPACT:

The additional \$597,039 LTF allocation does not require an adjustment to the FY 2020/21 budget, as of the FY 2020/21 budget included amounts for potential adjustments for transit needs.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2020/21	Amount:	\$597,039
Source of Funds:	LTF Western Riverside County Bus			Budget Adjustment:	No
GLA No.:	002210 86101 00000 0000 601 62 86101			\$597,039	
Fiscal Procedures Approved:	<i>Theresa Trevino</i>			Date:	05/13/2021

Attachment: City of Banning's FY 2020/21 Amendment Request



City of Banning

Public Works Department

May 4, 2021

Ms. Anne Mayer
Executive Director
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92502

Re: FY 2020/2021 SRTP Amendment

Dear Ms. Mayer,

The purpose of this letter is to respectfully request Riverside County Transportation Commission's (RCTC) consideration of the City of Banning's (City) request for additional operating funds for Fiscal Years 2019/2020 and 2020/2021.

The City realized shortfalls in Fiscal Year (FY) 2019/2020. City staff is of the opinion that variances between the estimated expenditures budgets and funding needs represented in the City's 2019/2020 Short Range Transit Plant (SRTP) resulted from reconciling errors between the SRTP and the adopted City-wide budget. The most notable shortfalls are:

- Unbudgeted consulting services for Transit's share of City-wide software upgrades and rebranding efforts (\$27,346)
- Increase insurance costs (\$28,956)
- Increase in interservice fund payment and transfers for fleet services (\$124,514)
- Increase in pension expenses (\$127,099)
- Other miscellaneous expenditures (e.g., salaries, overtime, fringe benefits, contract services, etc.)

To reduce the City's funding need of \$351,252 the City requests to reallocate project funds from older projects that are no longer priority. The projects, as shown in the attached table, amount to \$134,213. This would bring the City's request down to \$217,039 for FY 2019/2020.

The reconciliation issue described above was only recently identified during the completion of the FY 2019/2020 audit and unfortunately the same budget shortfalls in the above-described categories, in different amounts, were carried over into the FY 2020/2021 budget, resulting in projected shortfalls in the amount of approximately \$375,000. The City additionally anticipates, as a result of COVID-19, a revenue loss and additional expenditures of approximately \$140,000. The project shortfall in FY 2020/2021 amounts to \$515,000.

The City wishes to request that \$135,000 of LTF funds currently programmed to a planned Comprehensive Operational Analysis (COA) be utilized to offset the shortfall and therefore reducing the City's request to \$380,000. The COA cannot be completed as planned due to the pandemic and will be programmed in a future year once ridership numbers return to pre-pandemic volumes.

In summary, the City's respectfully requests the consideration of the following requests:

Shortfall in FY 2019/2020 - \$351,252
Transit Projects to reduce or close – (\$134,213)
Total request for FY 2019/2020 - \$217,039

Projected shortfall in FY 2020/2021 - \$515,000
Transfer of LTF from COA – (\$135,000)
Total request for FY 2020/2021 - \$380,000

Total request of RCTC \$597,039 in LTF Funds.

The City is in the process of developing steps to ensure that the shortfalls realized in FY 2019/2020 and FY 2020/2021 are avoided in future years.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Art Vela', is positioned above the printed name.

Art Vela,
Director of Public Works

Cc: Eric DeHate, Transit Manager
Melissa Williams, Transit Manager
Suzanne Cook, Acting Administrative Services Director

**City Of Banning
Short Range Transit Plan (19/20)**

Table 4: Summary of Funds Requested for FY 19/20

Project Description		Total Amount of Funds	LTF	STA	State of Good Repair	LCTOP	Fare Box	Other
Fixed Route Operating Expenses		\$1,498,732	\$1,342,179				\$156,553	
DAR Operating Expenses		\$190,104	\$168,104				\$22,000	
Interest & Other Income								\$1,100
Sub-Total: Operating		\$1,688,836	\$1,510,283	\$0	\$0	\$0	\$178,553	\$1,100
Project Description	Capital Project Number	Total Amount of Funds	LTF	STA	State of Good Repair	LCTOP	Fare Box	Other
Heavy Duty Hydraulic Lift	20-01	\$75,000		\$75,000				
CNG Facility	20-02	\$362,740		\$325,000	\$37,740			
Rebranding of Transit System	20-03	\$100,000		\$100,000				
Sub-Total: Capital		\$537,740	\$0	\$500,000	\$37,740	\$0	\$0	\$0
Total: Operating and Capital		\$2,226,576	\$1,510,283	\$500,000	\$37,740	\$0	\$178,553	\$1,100



Table 4.0 - Summary of Funding Requests - FY 2020/21

City of Banning

Original

Operating															
Project	Total Amount of Funds	FARE	LTF	OTHR LCL	SGR PUC99313	SGR PUC99314	SGR-OB	STA PUC99313	STA PUC99314						
Comprehensive Operation Analysis	\$135,000		\$135,000												
Operating Assistance (BUS)	\$1,537,300	\$160,446	\$1,375,754	\$1,100											
Operating Assistance (BUS) for FY 19/20															
Operating Assistance (DAR)	\$194,857	\$22,550	\$172,307												
Operating Assistance (DAR) for FY 19/20															
Sub-total Operating	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0						
Sub-total Operating	\$1,867,157	\$182,996	\$1,683,061	\$1,100	\$0	\$0	\$0	\$0	\$0						

Capital															
Project	Total Amount of Funds	FARE	LTF	OTHR LCL	SGR PUC99313	SGR PUC99314	SGR-OB	STA PUC99313	STA PUC99314						
Bus Replacement - 21-01	\$550,000				\$38,436	\$2,286		\$494,987	\$14,291						
Capitalized Fleet Preventative Maintenance - 21-02	\$39,878						\$39,878								
Sub-total Capital	\$589,878	\$0	\$0	\$0	\$38,436	\$2,286	\$39,878	\$494,987	\$14,291						
Total Operating & Capital	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0						
Total Operating & Capital	\$2,457,035	\$182,996	\$1,683,061	\$1,100	\$38,436	\$2,286	\$39,878	\$494,987	\$14,291						

FY 2020/21 Projected Funding Details															
FARE	\$182,996														
LTF	\$1,683,061														
OTHR LCL	\$1,100														
Total Estimated Operating Funding Request	\$1,867,157														
SGR PUC99313	\$38,436														
SGR PUC99314	\$2,286														
SGR-OB	\$39,878														
STA PUC99313	\$494,987														
STA PUC99314	\$14,291														
Total Estimated Capital Funding Request	\$589,878														
Total Funding Request	\$2,457,035														



Table 4.0 - Summary of Funding Requests - FY 2020/21

City of Banning
Amendment # 1

Operating																
Project	Total Amount of Funds	FARE	LTF	OTHR LCL	SGR PUC99313	SGR PUC99314	SGR-OB	STA PUC99313	STA PUC99314							
Comprehensive Operation Analysis	\$135,000		\$135,000													
Operating Assistance (BUS) (FY 2020/21)	\$1,537,300	\$160,446	\$1,375,754	\$1,100												
Operating Assistance (BUS) for FY 19/20	\$0	\$-76,779	\$76,779													
Operating Assistance (DAR) (FY 2020/21)	\$194,857	\$22,550	\$172,307													
Operating Assistance (DAR) for FY 19/20	\$0	\$-10,398	\$10,398													
Sub-total Operating	\$1,867,157	\$95,819	\$1,770,238	\$1,100	\$0	\$0	\$0	\$0	\$0							

Capital																
Project	Total Amount of Funds	FARE	LTF	OTHR LCL	SGR PUC99313	SGR PUC99314	SGR-OB	STA PUC99313	STA PUC99314							
09-08 Schedule Holders for Bus Stops - 09-08																
09-09 Purchase GPS System for Transit Vehicles - 09-09																
09-10 Paratransit Scheduling Software - 09-10																
09-11 Computer Equipment - 09-11																
09-16 Automated Enunciator & Display Equipment - 09-16																
18-02 Schedule Holders for Bus Stops - 18-02																
21-02 Capitalized Fleet Preventative Maintenance - 21-02	\$39,878						\$39,878									
Bus Replacement - 21-01	\$550,000				\$38,436	\$2,286		\$501,713	\$7,565							
Sub-total Capital	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0							
Sub-total Capital	\$589,878	\$0	\$0	\$0	\$38,436	\$2,286	\$39,878	\$501,713	\$7,565							
Total Operating & Capital	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0							
Total Operating & Capital	\$2,457,035	\$95,819	\$1,770,238	\$1,100	\$38,436	\$2,286	\$39,878	\$501,713	\$7,565							

FY 2020/21 Projected Funding Details																
FARE	\$95,819															
LTF	\$1,770,238															
OTHR LCL	\$1,100															
Total Estimated Operating Funding Request	\$1,867,157															
SGR PUC99313	\$38,436															
SGR PUC99314	\$2,286															
SGR-OB	\$39,878															
STA PUC99313	\$501,713															
STA PUC99314	\$7,565															
Total Estimated Capital Funding Request	\$589,878															
Total Funding Request	\$2,457,035															



Table 4.0 - Summary of Funding Requests - FY 2020/21

City of Banning

Amendment # 2

Operating															
Project	Total Amount of Funds	FARE	LTF	OTHR LCL	SGR PUC99313	SGR PUC99314	SGR-OB	STA - OB	STA PUC99313	STA PUC99314					
Comprehensive Operation Analysis	\$0		\$0												
Operating Assistance (BUS) (FY 2020/21)	\$1,912,300	\$42,996	\$1,868,204	\$1,100											
Operating Assistance (BUS) for FY 19/20	\$351,252	\$-76,779	\$293,818					\$134,213							
Operating Assistance (DAR) (FY 2020/21)	\$194,857		\$194,857												
Operating Assistance (DAR) for FY 19/20	\$0	\$-10,398	\$10,398												
Sub-total Operating	\$2,458,409	\$-44,181	\$2,367,277	\$1,100	\$0	\$0	\$0	\$134,213	\$0	\$0					

Capital															
Project	Total Amount of Funds	FARE	LTF	OTHR LCL	SGR PUC99313	SGR PUC99314	SGR-OB	STA - OB	STA PUC99313	STA PUC99314					
09-08 Schedule Holders for Bus Stops - 09-08	\$-5,000							\$-5,000							
09-09 Purchase GPS System for Transit Vehicles - 09-09	\$-25,000							\$-25,000							
09-10 Paratransit Scheduling Software - 09-10	\$-25,000							\$-25,000							
09-11 Computer Equipment - 09-11	\$-53,247							\$-53,247							
09-16 Automated Enunciator & Display Equipment - 09-16	\$-966							\$-966							
18-02 Schedule Holders for Bus Stops - 18-02	\$-25,000							\$-25,000							
21-02 Capitalized Fleet Preventative Maintenance - 21-02	\$39,878						\$39,878								
Bus Replacement - 21-01	\$550,000				\$38,436	\$2,286			\$501,713	\$7,565					
Sub-total Capital	\$455,665	\$0	\$0	\$0	\$38,436	\$2,286	\$39,878	\$-134,213	\$501,713	\$7,565					
Total Operating & Capital	\$2,914,074	\$-44,181	\$2,367,277	\$1,100	\$38,436	\$2,286	\$39,878	\$0	\$501,713	\$7,565					

FY 2020/21 Projected Funding Details															
FARE	\$-44,181														
LTF	\$2,367,277														
OTHR LCL	\$1,100														
STA - OB	\$134,213														
Total Estimated Operating Funding Request	\$2,458,409														
SGR PUC99313	\$38,436														
SGR PUC99314	\$2,286														
SGR-OB	\$39,878														
STA - OB	\$-134,213														
STA PUC99313	\$501,713														
STA PUC99314	\$7,565														
Total Estimated Capital Funding Request	\$455,665														
Total Funding Request	\$2,914,074														

AGENDA ITEM 10

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	May 24, 2021
TO:	Western Riverside County Programs and Projects Committee
FROM:	Eric DeHate, Transit Manager
THROUGH:	Lorelle Moe-Luna, Multimodal Services Director
SUBJECT:	Amendment to Riverside Transit Agency's Fiscal Year 2020/21 Short Range Transit Plan

STAFF RECOMMENDATION:

This item is for the Committee to:

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

BACKGROUND INFORMATION:

RTA reached out to Commission staff in June of 2020 to ask for financial assistance in providing a Meals on Wheels Program in Riverside and San Bernardino counties. This program was outside of the work performed by RTA and was in response to the recent Coronavirus pandemic outbreak also known as COVID-19. Commission staff voiced support of the service performed by RTA and believed that the benefits were extremely important to the community during this pandemic.

The request for RTA to perform the Meals on Wheels program began April 2020 and continued until March 2021, when both counties concluded the program. This project and funding is not currently included in the SRTP, which was approved by the Commission on June 10, 2020.

Staff recommends approval of RTA's FY 2020/21 amendment request (Attachment 1) and the related \$175,000 Measure A allocation for the Meals on Wheels program.

FISCAL IMPACT:

The additional \$175,000 Measure A allocation does not require an adjustment to the FY 2020/21 budget, as minor adjustments for transit operators were anticipated and budgeted.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2020/21	Amount:	\$175,000
Source of Funds:	Measure A Western County Specialized Transit and Consolidated Transportation Service Agency funds			Budget Adjustment:	No
GLA No.:	260 26 86101 270 26 86101				
Fiscal Procedures Approved:	<i>Theresa Trevino</i>			Date:	05/13/2021

Attachment: RTA's FY 2020/21 Amendment 3 Request



May 6, 2021

VIA EMAIL

1825 Third Street
P.O. Box 59968
Riverside, CA 92517-1968
Phone: (951) 565-5000
Fax: (951) 565-5001

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

Subject: Fiscal Year (FY) 2020/21 Short Range Transit Plan (SRTP) Amendment No. 3

Dear Ms. Mayer:

The Riverside Transit Agency (RTA) is requesting a third amendment to its FY 21 SRTP, specifically its Table 4.

The revision includes the following:

- Adding the Meals on Wheels program to its Operating Budget; and
- Adding Measure A funds in the amount of \$175,000.

RTA was approached by the Counties of Riverside and San Bernardino in April 2020 to provide a Meals on Wheels program to the most affected persons in response to the recent Coronavirus pandemic outbreak also known as COVID-19. RTA's support of the food delivery program for FY 20 (April -June) was funded through RTA's Local Transportation Funds (LTF) allocation.

RTA reached out to Commission staff as this program was continued in FY 21 starting in July and concluded in March. Commission staff assisted RTA in an advance payment for this "out-of-scope" service and it was determined that this would come back later for an amendment to RTA's SRTP. We appreciate Commission staff for their support with this program and now request the project and funding be added to RTA's FY 21 SRTP. The following attachment shows the project and funding being added.

Please let me know if you have any questions or require any additional information.

Sincerely,

DocuSigned by:
Charlie Ramirez
EBBF0F0056C2459...

Charlie Ramirez
Chief Financial Officer

Attachment: RTA's Table 4 revisions



Table 4.0 - Summary of Funding Requests - FY 2020/21
Riverside Transit Agency
Amendment # 2

Operating																					
Project	Total Amount of Funds	5307 HS	5307 HS CARES	5307 LALB CARES	5307 MTM	5307 MTM CARES	5307 RS	5307 RS CARES	5310 OB	5311	5311 CARES	5339 LALB OB	5339 MTM OB	5339 RS OB	FARE	INT					
ADA Complementary Paratransit Service	\$2,250,000						\$1,800,000														
Advertising Revenue	\$10,000																				
Capital Cost of Contracting	\$16,006,708						\$1,889,417										\$4,320,000	\$2,006,277			
Capitalized Preventive Maintenance	\$13,242,194																	\$8,932,004	\$2,077,190		
CNG Sales	\$100,000																				
CommuterLink	\$4,871,401						\$1,925,484										\$312,970	\$1,617,458			
General Farebox Revenue	\$776,774																				
Investment Income	\$470,000																				
LCFS Credits	\$500,000																				
Meals on Wheels Program																					
Mobile Ticketing	\$36,000	\$1,986,292	\$7,916,389																		
Operating Assistance	\$40,921,158																	\$3,486,039	\$24,494,417	\$150,000	\$901,729
RINs Credits	\$380,000																				
Route 1 Weekend Improvements																					
Wentworth Lease	\$57,964																				
Youth Fare Promotion	\$2,770,000																				
Sub-total Operating	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0					
Sub-total Operating	\$82,392,199	\$1,986,292	\$9,841,873	\$312,970	\$1,889,417	\$9,423,497	\$12,738,281	\$26,571,607	\$150,000	\$505,365	\$901,729	\$0	\$0	\$0	\$1,052,078	\$470,000					

Capital																													
Project	Total Amount of Funds	5307 HS	5307 HS CARES	5307 LALB CARES	5307 MTM	5307 MTM CARES	5307 RS	5307 RS CARES	5310 OB	5311	5311 CARES	5339 LALB OB	5339 MTM OB	5339 RS OB	FARE	INT													
FY16-10 Bus and Bus Facilities - 16-10	\$-1,898,499												\$-348,070	\$-1,144,462															
FY19-3 (8) Replace. Support Vehicles (electric plus-up) - FY19-3	\$80,500												\$3,870	\$60,530															
FY20-4 (15) Replace. Support Vehicles (electric plus-up) - FY20-4	\$187,575													\$150,060															
FY20-4 (2) Expansion Support Vehicles (electric plus-up) - FY20-4	\$18,525													\$14,820															
FY20-7 UCR Mobility Hub - FY20-7	\$-1,920,006												\$-3,870	\$-455,896			\$-1,076,239												
FY21-1 (2) Replacement S&Z Trucks - FY21-1	\$161,864													\$129,491															
FY21-2 (10) Replacement Support Vehicles (electric) - FY21-2	\$406,915													\$100,995			\$224,537												
FY21-3 (2) Expansion Support Vehicles (electric)	\$95,976																\$76,781												
FY21-4 Associated Transit Improvements - FY21-4	\$968,651																\$774,921												
FY21-5 Capitalized Tire Lease - FY21-5	\$422,016																												
FY21-7 Canyon Crest Bus Turnouts - FY21-7	\$1,898,499																\$348,070	\$1,144,462											
Fy21-8 Facility, Fuel Stn, Vehicle Enhance/Upgrades - FY21-8	\$1,949,234																												
FY21-9 Route Reconstruction Study - FY21-9	\$250,000																												
Sub-total Capital	\$2,621,250												\$0	\$0			\$0	\$0	\$0	\$337,613	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Operating & Capital	\$0												\$0	\$0			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Operating & Capital	\$85,013,449	\$1,986,292	\$9,841,873	\$312,970	\$1,889,417	\$9,423,497	\$13,075,894	\$26,571,607	\$150,000	\$505,365	\$901,729	\$0	\$0	\$0	\$1,052,078	\$470,000													



Table 4.0 - Summary of Funding Requests - FY 2020/21
Riverside Transit Agency
Amendment # 2

Operating															
Project	Total Amount of Funds	LCTOP OB	LCTOP PUC99313	LCTOP PUC99314	LTF	LTF - Deferred Revenue	LTF-OB	OTHR LCL	SGR PUC99313	SGR PUC99314	STA - OB	STA PUC99313			
ADA Complementary Paratransit Service	\$2,250,000				\$450,000										
Advertising Revenue	\$10,000							\$10,000							
Capital Cost of Contracting	\$16,006,708				\$7,285,649										
Capitalized Preventive Maintenance	\$13,242,194				\$2,233,000										
CNG Sales	\$100,000							\$100,000							
CommuterLink	\$4,871,401	\$740,185													
General Farebox Revenue	\$776,774														
Investment Income	\$470,000														
LCFS Credits	\$500,000							\$500,000							
Meals on Wheels Program															
Mobile Ticketing	\$36,000	\$36,000													
Operating Assistance	\$40,921,158				\$1,986,292	\$-5,005,997	\$5,005,997								
RINs Credits	\$380,000							\$380,000							
Route 1 Weekend Improvements															
Wentworth Lease	\$57,964							\$57,964							
Youth Fare Promotion	\$2,770,000		\$2,349,969	\$239,301	\$180,730										
Sub-total Operating	\$82,392,199	\$776,185	\$2,349,969	\$239,301	\$12,135,671	\$-5,005,997	\$5,005,997	\$1,047,964	\$0	\$0	\$0	\$0			
Sub-total Operating	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0			

Capital															
Project	Total Amount of Funds	LCTOP OB	LCTOP PUC99313	LCTOP PUC99314	LTF	LTF - Deferred Revenue	LTF-OB	OTHR LCL	SGR PUC99313	SGR PUC99314	STA - OB	STA PUC99313			
FY16-10 Bus and Bus Facilities - 16-10	\$-1,898,499										\$-405,967				
FY19-3 (8) Replace. Support Vehicles (electric plus-up) - FY19-3	\$80,500										\$16,100				
FY20-4 (15) Replace. Support Vehicles (electric plus-up) - FY20-4	\$187,575										\$37,515				
FY20-4 (2) Expansion Support Vehicles (electric plus-up) - FY20-4	\$18,525										\$3,705				
FY20-7 UCR Mobility Hub - FY20-7	\$-1,920,006										\$-384,001				
FY21-1 (2) Replacement S&Z Trucks - FY21-1	\$161,864										\$32,373				
FY21-2 (10) Replacement Support Vehicles (electric) - FY21-2	\$406,915										\$81,383				
FY21-3 (2) Expansion Support Vehicles (electric)	\$95,976										\$19,195				
FY21-4 Associated Transit Improvements - FY21-4	\$968,651										\$193,730				
FY21-5 Capitalized Tire Lease - FY21-5	\$422,016											\$84,403			
FY21-7 Canyon Crest Bus Turnouts - FY21-7	\$1,898,499										\$405,967				
Fy21-8 Facility, Fuel Stn, Vehicle Enhance/Upgrades - FY21-8	\$1,949,234								\$1,778,722	\$170,512					
FY21-9 Route Reconstruction Study - FY21-9	\$250,000							\$250,000							
Sub-total Capital	\$2,621,250	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000	\$1,778,722	\$170,512	\$0	\$84,403			
Total Operating & Capital	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0			
Total Operating & Capital	\$85,013,449	\$776,185	\$2,349,969	\$239,301	\$12,135,671	\$-5,005,997	\$5,005,997	\$1,297,964	\$1,778,722	\$170,512	\$0	\$84,403			



Table 4.0 - Summary of Funding Requests - FY 2020/21

Riverside Transit Agency

Amendment # 2

FY 2020/21 Projected Funding Details		
5307 HS	\$1,986,292	
5307 HS CARES	\$9,841,873	
5307 LALB CARES	\$312,970	
5307 MTM	\$1,889,417	
5307 MTM CARES	\$9,423,497	
5307 RS	\$12,738,281	
5307 RS CARES	\$26,571,607	
5310 OB	\$150,000	
5311	\$505,365	
5311 CARES	\$901,729	
FARE	\$1,052,078	
INT	\$470,000	
LCTOP OB	\$776,185	
LCTOP PUC99313	\$2,349,969	
LCTOP PUC99314	\$239,301	
LTF	\$12,135,671	
LTF - Deferred Revenue	\$-5,005,997	
LTF-OB	\$5,005,997	
OTHR LCL	\$1,047,964	
Total Estimated Operating Funding Request	\$82,392,199	
5307 RS	\$337,613	
5339 LALB OB	\$0	
5339 MTM OB	\$0	
5339 RS OB	\$0	
OTHR LCL	\$250,000	
SGR PUC99313	\$1,778,722	
SGR PUC99314	\$170,512	
STA - OB	\$0	
STA PUC99313	\$84,403	
Total Estimated Capital Funding Request	\$2,621,250	
Total Funding Request	\$85,013,449	



Table 4.0 - Summary of Funding Requests - FY 2020/21
Riverside Transit Agency
Amendment # 3

Operating																
Project	Total Amount of Funds	5307 HS	5307 HS CARES	5307 LALB CARES	5307 MTM	5307 MTM CARES	5307 RS	5307 RS CARES	5310 OB	5311	5311 CARES	5339 LALB OB	5339 MTM OB	5339 RS OB	FARE	INT
ADA Complementary Paratransit Service	\$2,250,000	\$1,986,292	\$7,916,389	\$312,970	\$1,889,417	\$4,320,000	\$1,800,000	\$2,077,190	\$150,000	\$505,365	\$901,729				\$275,304 \$776,774	\$470,000
Advertising Revenue	\$10,000															
Capital Cost of Contracting	\$16,006,708															
Capitalized Preventive Maintenance	\$13,242,194															
CNG Sales	\$100,000															
CommuterLink	\$4,871,401															
General Farebox Revenue	\$776,774															
Investment Income	\$470,000															
LCFS Credits	\$500,000															
Meals on Wheels Program	\$175,000															
Mobile Ticketing	\$36,000															
Operating Assistance	\$40,921,158															
RINs Credits	\$380,000															
Route 1 Weekend Improvements																
Wentworth Lease	\$57,964															
Youth Fare Promotion	\$2,770,000															
Sub-total Operating	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Sub-total Operating	\$82,567,199	\$1,986,292	\$9,841,873	\$312,970	\$1,889,417	\$9,423,497	\$12,738,281	\$26,571,607	\$150,000	\$505,365	\$901,729	\$0	\$0	\$0	\$1,052,078	\$470,000

Capital																													
Project	Total Amount of Funds	5307 HS	5307 HS CARES	5307 LALB CARES	5307 MTM	5307 MTM CARES	5307 RS	5307 RS CARES	5310 OB	5311	5311 CARES	5339 LALB OB	5339 MTM OB	5339 RS OB	FARE	INT													
FY16-10 Bus and Bus Facilities - 16-10	\$-1,898,499											\$3,870	\$-348,070	\$-1,144,462															
FY19-3 (8) Replace. Support Vehicles (electric plus-up) - FY19-3	\$80,500												\$60,530																
FY20-4 (15) Replace. Support Vehicles (electric plus-up) - FY20-4	\$187,575												\$150,060																
FY20-4 (2) Expansion Support Vehicles (electric plus-up) - FY20-4	\$18,525												\$14,820																
FY20-7 UCR Mobility Hub - FY20-7	\$-1,920,006												\$-455,896	\$-1,076,239															
FY21-1 (2) Replacement S&Z Trucks - FY21-1	\$161,864												\$129,491																
FY21-2 (10) Replacement Support Vehicles (electric) - FY21-2	\$406,915												\$100,995	\$224,537															
FY21-3 (2) Expansion Support Vehicles (electric)	\$95,976													\$76,781															
FY21-4 Associated Transit Improvements - FY21-4	\$968,651													\$774,921															
FY21-5 Capitalized Tire Lease - FY21-5	\$422,016																												
FY21-7 Canyon Crest Bus Turnouts - FY21-7	\$1,898,499												\$348,070	\$1,144,462															
Fy21-8 Facility, Fuel Stn, Vehicle Enhance/Upgrades - FY21-8	\$1,949,234																												
FY21-9 Route Reconstruction Study - FY21-9	\$250,000																												
Sub-total Capital	\$2,621,250												\$0	\$0			\$0	\$0	\$0	\$337,613	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Operating & Capital	\$0												\$0	\$0			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Operating & Capital	\$85,188,449	\$1,986,292	\$9,841,873	\$312,970	\$1,889,417	\$9,423,497	\$13,075,894	\$26,571,607	\$150,000	\$505,365	\$901,729	\$0	\$0	\$0	\$1,052,078	\$470,000													



Table 4.0 - Summary of Funding Requests - FY 2020/21
Riverside Transit Agency
Amendment # 3

Operating																
Project	Total Amount of Funds	LCTOP OB	LCTOP PUC99313	LCTOP PUC99314	LTF	LTF - Deferred Revenue	LTF-OB	MA CTSA	MA SPT	OTHR LCL	SGR PUC99313	SGR PUC99314	STA - OB	STA PUC99313		
ADA Complementary Paratransit Service	\$2,250,000	\$740,185			\$450,000					\$10,000						
Advertising Revenue	\$10,000															
Capital Cost of Contracting	\$16,006,708				\$7,285,649											
Capitalized Preventive Maintenance	\$13,242,194				\$2,233,000											
CNG Sales	\$100,000															
CommuterLink	\$4,871,401															
General Farebox Revenue	\$776,774															
Investment Income	\$470,000															
LCFS Credits	\$500,000				\$500,000											
Meals on Wheels Program	\$175,000				\$87,500											
Mobile Ticketing	\$36,000	\$36,000	\$1,986,292	\$-5,005,997	\$5,005,997											
Operating Assistance	\$40,921,158															
RINs Credits	\$380,000	\$380,000														
Route 1 Weekend Improvements																
Wentworth Lease	\$57,964	\$57,964														
Youth Fare Promotion	\$2,770,000		\$2,349,969	\$239,301	\$180,730											
Sub-total Operating	\$82,567,199	\$776,185	\$2,349,969	\$239,301	\$12,135,671	\$-5,005,997	\$5,005,997	\$87,500	\$87,500	\$1,047,964	\$0	\$0	\$0	\$0		
Sub-total Operating	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		

Capital																														
Project	Total Amount of Funds	LCTOP OB	LCTOP PUC99313	LCTOP PUC99314	LTF	LTF - Deferred Revenue	LTF-OB	MA CTSA	MA SPT	OTHR LCL	SGR PUC99313	SGR PUC99314	STA - OB	STA PUC99313																
FY16-10 Bus and Bus Facilities - 16-10	\$-1,898,499												\$-405,967																	
FY19-3 (8) Replace. Support Vehicles (electric plus-up) - FY19-3	\$80,500												\$16,100																	
FY20-4 (15) Replace. Support Vehicles (electric plus-up) - FY20-4	\$187,575												\$37,515																	
FY20-4 (2) Expansion Support Vehicles (electric plus-up) - FY20-4	\$18,525												\$3,705																	
FY20-7 UCR Mobility Hub - FY20-7	\$-1,920,006												\$-384,001																	
FY21-1 (2) Replacement S&Z Trucks - FY21-1	\$161,864												\$32,373																	
FY21-2 (10) Replacement Support Vehicles (electric) - FY21-2	\$406,915												\$81,383																	
FY21-3 (2) Expansion Support Vehicles (electric)	\$95,976												\$19,195																	
FY21-4 Associated Transit Improvements - FY21-4	\$968,651												\$193,730																	
FY21-5 Capitalized Tire Lease - FY21-5	\$422,016																													
FY21-7 Canyon Crest Bus Turnouts - FY21-7	\$1,898,499												\$405,967																	
Fy21-8 Facility, Fuel Stn, Vehicle Enhance/Upgrades - FY21-8	\$1,949,234												\$1,778,722				\$170,512													
FY21-9 Route Reconstruction Study - FY21-9	\$250,000												\$250,000																	
Sub-total Capital	\$2,621,250												\$0				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$250,000	\$1,778,722	\$170,512	\$0	\$84,403		
Total Operating & Capital	\$0												\$0				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
Total Operating & Capital	\$85,188,449												\$776,185				\$2,349,969	\$239,301	\$12,135,671	\$-5,005,997	\$5,005,997	\$87,500	\$87,500	\$1,297,964	\$1,778,722	\$170,512	\$0	\$84,403		



Table 4.0 - Summary of Funding Requests - FY 2020/21

Riverside Transit Agency

Amendment # 3

FY 2020/21 Projected Funding Details		
5307 HS	\$1,986,292	
5307 HS CARES	\$9,841,873	
5307 LALB CARES	\$312,970	
5307 MTM	\$1,889,417	
5307 MTM CARES	\$9,423,497	
5307 RS	\$12,738,281	
5307 RS CARES	\$26,571,607	
5310 OB	\$150,000	
5311	\$505,365	
5311 CARES	\$901,729	
FARE	\$1,052,078	
INT	\$470,000	
LCTOP OB	\$776,185	
LCTOP PUC99313	\$2,349,969	
LCTOP PUC99314	\$239,301	
LTF	\$12,135,671	
LTF - Deferred Revenue	\$-5,005,997	
LTF-OB	\$5,005,997	
MA CTSA	\$87,500	
MA SPT	\$87,500	
OTHR LCL	\$1,047,964	
Total Estimated Operating Funding Request	\$82,567,199	
5307 RS	\$337,613	
5339 LALB OB	\$0	
5339 MTM OB	\$0	
5339 RS OB	\$0	
OTHR LCL	\$250,000	
SGR PUC99313	\$1,778,722	
SGR PUC99314	\$170,512	
STA - OB	\$0	
STA PUC99313	\$84,403	
Total Estimated Capital Funding Request	\$2,621,250	
Total Funding Request	\$85,188,449	

AGENDA ITEM 11

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	May 24, 2021
TO:	Western Riverside County Programs and Projects Committee
FROM:	Michelle McCamish, Senior Management Analyst Brian Cunanan, Commuter and Motorist Assistance Manager
THROUGH:	David Knudsen, Interim External Affairs Director
SUBJECT:	Fiscal Year 2021/22 Measure A Commuter Assistance Buspool Subsidy Funding Continuation Request

STAFF RECOMMENDATION:

This item is for the Committee to:

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

BACKGROUND INFORMATION:

As part of the 2009 Measure A Western County Commuter Assistance Program, the Commission provides funding support to buspools used by Riverside County residents for their commutes along the State Route 91 corridor. The Commission adopted the Measure A buspool subsidy in October 1990, and established a monthly subsidy rate of \$1,175 or \$25/seat/month in support of commuter buspool operations. To provide additional guidance, the Commission also established a minimum buspool ridership policy in June 1995. In July 2004, the Commission set the monthly subsidy rate at \$1,645 (\$35/seat/month) to help offset increases to operational costs during the previous 14 years. In June 2018, the Commission approved an increase in the monthly subsidy rate to \$2,350 (\$50/seat/month) to offset the buspool's continuing rising costs.

DISCUSSION:

As all commuter assistance incentives provided by the Commission encourage use of alternative modes of transportation, the \$50/seat/month subsidy is administered as a user-end subsidy. The Commission's subsidy is an important factor that makes buspools an attractive alternative for these commuters with roundtrip commutes in excess of 100 miles.

While the monthly cost of each existing buspool varies according to the number of route miles and the resulting negotiated service price, the Commission's monthly subsidy reflects a subsidy

rate of 15 percent. This subsidy rate remains cost-effective compared to the typical public transit subsidy rate of 80 percent.

Maximum Monthly Buspool Fare Per Rider	RCTC Subsidy Per Seat	Subsidy Rate
\$330	\$50	15%

Unlike some of the other Commission-approved ridesharing incentives that have a limited term, the buspool subsidy is ongoing. To renew its annual subsidy, an existing buspool is required to:

- Request, in writing, continuation of funding from the Commission for the new fiscal year;
- Consistently meet minimum ridership requirements; and
- Submit monthly ridership reports throughout the year.

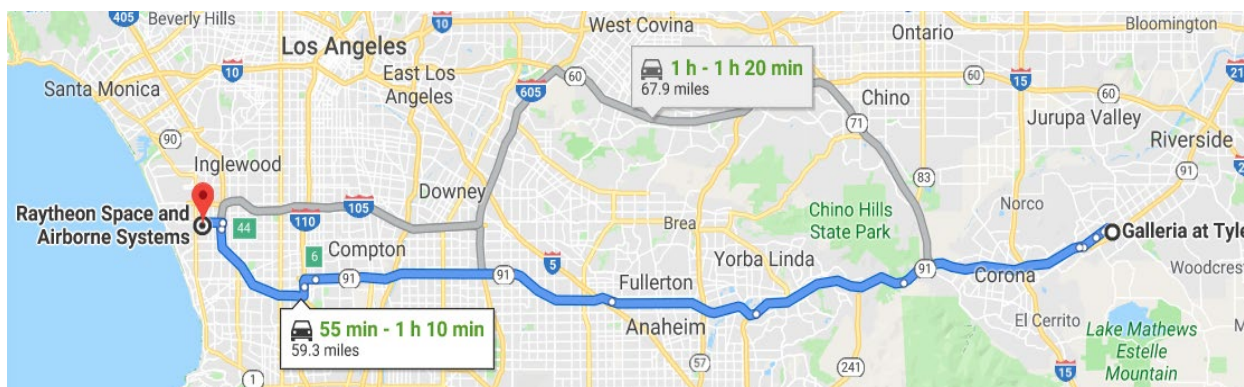


Figure 1: Riverside I Route

In reducing the number of vehicles on SR-91 during peak periods, the Riverside I buspool program is projected to save more than 16,000 commuter trips and over 965,000 miles of travel in Fiscal Year 2020/21. The benefits projected for FY 2020/21 by offering this subsidy are illustrated below:

Buspools	Average Riders/Month	Roundtrip Distance	Annual Miles Saved	Annual One-Way Trips Reduced
Riverside I	31	~121 mi	965,765	16,016

The Riverside I buspool has completed all the requirements for funding as set forth by the Commission, including the submittal of monthly ridership reports and annual funding continuation requests. It has consistently met the minimum ridership level of 25 riders per month and averages 31 riders/month.

At this time, the continuation of the buspool subsidy continues to be crucial due to the COVID-19 pandemic. While a few of the riders have been placed on telework, the majority of the riders work for aerospace/defense companies located in El Segundo that are considered Essential Critical Infrastructure Workers. The riders and driver continue to take many precautions to

safeguard their health. The bus, which is driving them every day, is used solely for their route. The riders are required to wear masks and are able to socially distance themselves on the 54-passenger bus, the driver wipes the bus down daily, and the riders also have their own disinfectant wipes. This buspool ensures the riders still have a reliable means to continue traveling safely back and forth to their jobs.



Figure 2: Example of Riverside I Bus

The buspool subsidy is funded by 2009 Measure A Western County Public Transit-Commuter Assistance funds, and \$84,600 is included in the FY 2021/22 budget for this program. Based on the established \$2,350/month per buspool subsidy policy, the funds will support the continuation of the one existing buspool plus up to two new buspools through FY 2021/22.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2021/22	Amount:	\$84,600
Source of Funds:	2009 Measure A Western County Public Transit-Commuter Assistance funds			Budget Adjustment:	No
GL/Project Accounting No.:	002109 81030 00000 0000 263 41 81002				
Fiscal Procedures Approved:	<i>Theresa Trevino</i>			Date:	05/14/2021

Attachment: Riverside I Renewal Request

Riverside / Corona Buspool

Kim L. Albini
Raytheon Technologies
2000 E. El Segundo Blvd.
Bldg. E01 Rm. B0131P MS. J140
El Segundo, CA 90245-4501
klalbini@rtx.com

May 12, 2020

Michelle McCamish, Management Analyst
Commuter & Motorist Assistance
Riverside County Transportation Commission
P.O. Box 12008
Riverside, CA 92502-2208

Dear Ms. McCamish,

In compliance with the requirements of the Riverside County Transportation Commission (RCTC), I am requesting an extension of funding for the period of July 1, 2021 to June 30, 2022 for the Riverside to El Segundo Commuter Buspool. As buspool coordinator, I manage this commuter service independently from any employer and contract service through Cee Peoples Tour, LLC.

Information on the buspool is available with rideshare programs at Raytheon Technologies, Boeing, Aerospace Corporation and the Los Angeles Air Force base. These employers provide buspool information to their employees through direct mailings, newsletter articles, and electronic messaging. In addition, the rideshare programs at these employers share buspool information with other local employee transportation coordinators in the El Segundo area. Operational information is provided below.

Monthly Rider Fare

Cee People Tours , LLC cost	\$ 330.00
\$2350 RCTC Subsidy offset	\$ (50.00)
Monthly rider fare	\$ 280.00

Raytheon Technologies and Boeing provide employees with a \$75 subsidy which lowers their out-of-pocket cost to \$205.

Daily Schedule

The buspool originates in Riverside at the Galleria at Tyler and makes one additional stop at the Corona Park & Ride on Grand Blvd. There are multiple drop-off points in El Segundo which are listed in the daily schedule on the following page.

Morning

DEPARTURES		
Stop	Time	Location
Riverside	4:10 am	Galleria Mall – corner of Magnolia and Tyler behind Wells Fargo
Corona	4:22 am	Park & Ride – 20 Grand Blvd, Across from Metro/RTA station (park by tree to the left of entrance)
ARRIVALS		
Stop 1	5:13 am	Nash St. at Pedestrian crossing
Stop 2	5:16 am	Gate 3 (Hughes Way) – Behind Boeing cafeteria
Stop 3	5:20 am	Corner of Mariposa and Continental
Stop 4	5:25 am	RTX South Campus – E01 Lobby A Bus Stop
Stop 5	5:30 am	Aerospace – El Segundo Blvd (just past Douglas St. bus stop)
Stop 6	5:33 am	El Segundo Blvd. & Aviation (just past bus stop)*if needed

Afternoon

DEPARTURES		
Stop	Time	Location
Stop 1	3:00 pm	Nash St. at Pedestrian crossing
Stop 2	3:04 pm	Gate 3 (Hughes Way) – Behind Boeing cafeteria
Stop 3	3:06 pm	Corner of Mariposa and Continental
Stop 4	3:12 pm	RTX South Campus – E01 Lobby A Bus Stop
Stop 5	3:18 pm	Aerospace – El Segundo Blvd (just past Douglas St. bus stop)
Stop 6	3:22 pm	El Segundo Blvd. & Aviation (just past bus stop)*if needed
ARRIVALS		
Corona	4:40 – 5:00 pm	Park & Ride – 20 Grand Blvd, Across from Metro/RTA station (park by tree to the left of entrance)
Riverside	4:55 – 5:15 pm	Galleria Mall – corner of Magnolia and Tyler behind Wells Fargo

Thank you for your continued support.

Sincerely,



Kim Albini

Riverside Bus pool Coordinator

AGENDA ITEM 12

ORAL REPORT