



MEETING AGENDA

Western Riverside County Programs and Projects Committee

Time: 1:30 p.m.

Date: October 25, 2021

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

COMMITTEE MEMBERS

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, October 25, 2021

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

INSTRUCTIONS FOR ELECTRONIC PARTICIPATION

Join Zoom Meeting

<https://rctc.zoom.us/j/89941206953>

Meeting ID: 899 4120 6953

One tap mobile

+16699006833,,89941206953# 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 and your comments will be made part of the official record of the proceedings as long as the comment is received before the end of the meeting's public comment period. Members of the public may also make public comments through their telephone or Zoom connection when recognized by the Chair.

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

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

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

- 4. PUBLIC COMMENTS** – *Under the Brown Act, the Board should not take action on or discuss matters raised during public comment portion of the agenda which are not listed on the agenda. Board members may refer such matters to staff for factual information or to be placed on the subsequent agenda for consideration. Each individual speaker is limited to speak three (3) continuous minutes or less.*

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

- 6. CONSENT CALENDAR** - *All matters on the Consent Calendar will be approved in a single motion unless a Commissioner(s) requests separate action on specific item(s). Items pulled from the Consent Calendar will be placed for discussion at the end of the agenda.*

6A. APPROVAL OF MINUTES – SEPTEMBER 27, 2021

Page 1

- 7. CHANGE ORDER TO AMEND THE INTERSTATE 15 EXPRESS LANES PROJECT TOLL SERVICES AGREEMENT WITH KAPSCH TRAFFICOM USA TO PROVIDE MAINTENANCE SERVICES AND IMAGE REVIEW SERVICES FOR THE 91 EXPRESS LANES ROADSIDE SYSTEM**

Page 7

Overview

This item is for the Committee to:

- 1) Approve Change Order No. 23 to Agreement No. 16-31-043-00 for the Interstate 15 Express Lanes Project (I-15 ELP) with Kapsch TrafficCom USA Inc. (Kapsch) to provide five years of maintenance services for the 91 Express Lanes Roadside System and Image Review Services in an amount not to exceed \$3,021,143;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the change order on behalf of the Commission; and
- 3) Forward to the Commission for final action.

8. AMENDMENT TO THE 91 EXPRESS LANES OPERATOR AGREEMENT

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Overview

This item is for the Committee to:

- 1) Approve Agreement No. 13-31-105-06, Amendment No. 6 to the 91 Express Lanes Operator Agreement No. 13-31-105-00 (commonly referred to as the ORCOA), among the Orange County Transportation Authority (OCTA), the Commission, and Cofiroute USA, LLC (Cofiroute), for up to three one-month optional extension periods for an additional amount of \$500,000, and a total amount not to exceed \$36,507,044;
- 2) Authorize the Chair or 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.

9. AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR THE COMMISSION-OWNED COMMUTER RAIL STATIONS AND TOLL FACILITIES

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Overview

This item is for the Committee to:

- 1) Award Agreement No. 22-24-007-00 with Tropical Plaza Nursery Inc. (Tropical) for monthly routine and on-call landscape maintenance services for the Commission-owned commuter rail stations and toll facilities for a five-year term in an amount not to exceed of \$3,759,000;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement on behalf of the Commission;
- 3) Authorize the Executive Director, or designee, to execute task orders awarded to the contractor under the terms of the agreement; and
- 4) Forward to the Commission for final action.

10. EXECUTIVE DIRECTOR REPORT

11. COMMISSIONER COMMENTS

Overview

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

12. ADJOURNMENT

The next Western Riverside County Programs and Projects Committee meeting is scheduled to be held at **1:30 p.m., Monday, November 22, 2021.**

AGENDA ITEM 6A

MINUTES

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE

Monday, September 27, 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: 857 7020 8286. Pursuant to Governor Newsom's Executive Order N-29-20.

2. PLEDGE OF ALLEGIANCE

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

3. ROLL CALL

Members/Alternates Present

Ben Benoit
Jeff Hewitt
Ted Hoffman
Kevin Jeffries
Linda Krupa
Clint Lorimore
Wes Speake*
Michael Vargas
Scott Vinton
Bill Zimmerman

*Arrived after the meeting was called to order.

Members Absent

Brian Berkson
Yxstian Gutierrez

4. PUBLIC COMMENTS

There were no requests to speak from the public.

5. ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

6. APPROVAL OF MINUTES – JUNE 28, 2021

M/S/C (Krupa/Vinton) to approve the minutes as submitted.

7. AGREEMENTS FOR ON-CALL DESIGN ENGINEERING AND ENVIRONMENTAL SERVICES FOR COMMUTER RAIL AND STATION CAPITAL IMPROVEMENT PROJECTS

David Lewis, Capital Projects Manager, presented the on-call design engineering and environmental services agreements for rail projects including background information, the procurement process and task order process

In response to Commissioner Scott Vinton's clarification that the proposed compensation the firms will receive is \$10 million total for their on-call services, David Lewis replied correct, it is a total of \$10 million that would be distributed between the four firms. RCTC is only authorized for the \$10 million.

Commissioner Vinton asked if that amount is included in the option years; Mr. Lewis replied yes.

In response to Commissioner Vinton's inquiry in terms of compensation, each of these firms have subconsultants and if there is a minimum percentage that each of those consultants have to receive of those dollars as he thought the minimum shown was at 52 percent, David Lewis referred to Alicia Johnson, Senior Procurement Analyst, or Jose Mendoza, Procurement Manager, to respond.

Jose Mendoza replied there is no minimum for the subconsultants, it depends on who is awarded the task order and they get that total dollar amount for that scope.

Commissioner Vinton clarified he is not asking about the minimum for the subconsultants he is asking about the minimum for the prime.

Jose Mendoza replied there is no minimum for the prime. Each task order is going to be awarded on qualifications and whatever that dollar amount is for that scope is what they will receive.

At this time, Commissioner Wes Speake joined the meeting.

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

- 1) Award the following agreements to provide on-call design engineering and environmental services for the construction of commuter rail and station capital improvement projects for a three-year term, and one, two-year option to extend the agreements, in an amount not to exceed an aggregate value of \$10 million;**
 - a) Agreement No. 21-33-127-00 to HDR Engineering, Inc.;**

- b) Agreement No. 21-33-128-00 to Moffatt and Nichol;
 - c) Agreement No. 21-33-129-00 to RailPros, Inc.; and
 - d) Agreement No. 21-33-064-00 to STV Incorporated;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements, including option years, on behalf of the Commission;
 - 3) Authorize the Executive Director, or designee, to execute task orders awarded to the consultants under the terms of the agreements; and
 - 4) Forward to the Commission for final action.

At this time, Chair Lorimore asked if there were any public comments that is not on the agenda from the members of the public.

There were no requests to speak from the public.

8. CITY OF LAKE ELSINORE REQUEST FOR ADDITIONAL FUNDS FOR CONSTRUCTION OF INTERSTATE 15/MAIN STREET INTERCHANGE IMPROVEMENT PROJECT

Jenny Chan, Planning and Programming Manager, provided a detailed overview for the city of Lake Elsinore's request for additional funds for the I-15/Main Street Interchange Improvement Project. When describing the project area, the project map was displayed, which is Attachment 2.

Commissioner Scott Vinton clarified if there was no \$7 million savings on the I-15/Railroad Canyon Interchange, would this project have been funded by the city.

Anne Mayer clarified possibly is the answer. The I-15/Main Street Interchange Improvement Project is eligible for Measure A County Regional Arterial (MARA) funds, so if they would not of had the saving from the I-15/Railroad Canyon Interchange Project the city could have still made a request to RCTC to fund it out of or portions of it out of the MARA funds. She stated it is eligible for multiple sources of funding that RCTC has so it could have received RCTC money regardless of whether I-15/Railroad Canyon Interchange came in under or not.

In response to Commissioner Vinton's question if this project was on the project priority's list, Anne Mayer replied in the MARA Program because RCTC has not done a call for projects in a number of years, so she does not think that it was on the last call for projects. She explained RCTC told their member agencies in between calls for projects if there is a project that is ready to go to construction and they need funding to make the request and if RCTC can identify available sources of funding for which they are eligible, then staff would bring items to the Commission for consideration. Anne Mayer stated it is not uncommon in between calls for projects where RCTC establishes priority lists for jurisdictions to come forward and ask for money.

In response to Commissioner Linda Krupa's inquiry these are surplus funds that are available to jurisdictions, and this is not being taken away from any other project that maybe waiting in the line for the accumulation funds to get done, Jenny Chan replied no.

Commissioner Ted Hoffman asked the city of Lake Elsinore's Engineer Remon Habib if this project will help out the SR-74 connection via Dexter, which is the frontage road along the freeway.

Mr. Remon Habib referred to the project map that was displayed earlier and stated the Main Street Interchange works in unison with the Railroad Canyon Road. He discussed how the Railroad Canyon Road and Main Street interchanges are now connected through the Camino Del Norte Extension that is a project the city took on a couple of years ago that extended Camino Del Norte about a mile and it was about a \$3.8 million project the city funded. This provided connectivity between Railroad Canyon Road and Main Street Interchange, and it helped during the construction phase of Railroad Canyon Road. Mr. Habib stated this also provides options whenever there is heavy traffic on Railroad Canyon Road as it moves as far back as Menifee and other cities such as Canyon Lake. He explained the city is confident with the Main Street improvements they are able to move a much higher volume, and these are mostly operational improvements, and the purpose is to improve operational capacity there. The direct impact is mostly the Railroad Canyon Road Interchange and not so much on Central Avenue Interchange. The city is currently working on the Central Avenue Interchange and in the environmental phase and hoping to be in the final design phase within the next year.

Commissioner Hoffman expressed appreciation to Mr. Habib for his comments as he travels that, and it does backup at Central Avenue and SR-74 and asked in the long run if it will help that area or not.

Mr. Habib replied it depends for the folks that live locally maybe in Rosetta Hills and those areas are probably more refined to facilitate the Central Avenue Interchange. If they are a little further out closer to the Main Street area, they could choose to come down the local roads, which could be some help provided there for the folks that live on the westside of the freeway. He stated directly to help the circulation of Central Avenue itself especially the business area frequently those areas are probably going to take Central Avenue and reiterated the final design will start next year.

In response to Chair Lorimore's question if these monies were not approved for this project would they be available to other projects, Anne Mayer replied if this money is not authorized for this project today those funds will stay in the MARA account until another agency asks for funding for a project that is short of funds and or until RCTC does another call for projects where they put an invitation out to all the Western Riverside County member agencies to submit their projects for funding.

Chair Lorimore clarified in terms of the way RCTC arrived at this request, he is unaware of seeing something like this done before and asked if this is standard practice.

Anne Mayer replied it is. She stated probably one of the biggest requests RCTC received was when the city of Corona advertised the Foothill Parkway Project several years ago and it came up \$12 or \$13 million short and they came to the Commission to request to fill that gap. The County has some projects where they needed a gap filled and they have come to the Commission and a couple of other jurisdictions and overall, the Commission's member agencies do a really good job at estimating their projects. She explained this does not happen often and when they start seeing some instability in the contracting world with bid price fluctuation, they do see some requests. Anne Mayer stated there is a jurisdiction currently with bid prices that came in over and they are getting close to sending a letter asking the Commission to provide some funding, but they are trying to value engineer their project to reduce the scope and their request of the Commission. Anne Mayer explained she views this as relatively infrequent though relatively routine, and the goal is that if a member agency can get a project all the way through the environmental and the design phases out to construction to open bids that generally takes several years. RCTC has encouraged their members of the Technical Advisory Committee and the member agencies if they are at this point in a project to come and ask so they can continue to get projects out the door in support of their member agencies.

Chair Lorimore expressed appreciation to Anne Mayer for the explanation.

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

- 1) Approve additional programming of \$2,463,000 of 2009 Measure A Western County Regional Arterial (MARA) funds for the city of Lake Elsinore's (Lake Elsinore) Interstate 15 (I-15)/Main Street Interchange Improvement Project (Main Street IC);**
- 2) Approve Agreement No. 20-72-089-01, Amendment No. 1 to Agreement No. 20-72-089-00, between the Commission and Lake Elsinore for the additional programming of \$2,463,000 of MARA for the construction phase of Main Street IC and a total amount not to exceed \$7,946,000;**
- 3) Approve an adjustment to the Fiscal Year (FY) 2021/22 budget to increase construction expenditures in the amount of \$2,463,000;**
- 4) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreement; and**
- 5) Forward to the Commission for final action.**

9. EXECUTIVE DIRECTOR REPORT

- 9A.** Anne Mayer provided an update on the Commission approved Plan of Refinance for the 91 Express Lanes Toll debt and as soon as there are results, she will update the Commissioners.

10. COMMISSIONER COMMENTS

- 10A.** Commissioner Vinton announced he is resigning from his city council position as of December 21, 2021, and moving to Tennessee at that point. He will be at the December 8 Commission meeting and work with the city of Murrieta's Commission Alternate Lisa DeForest to get her updated. He expressed it has been a pleasure to work with everyone.

Chair Lorimore expressed that he will be missed but is excited for Commissioner Vinton. Chair Lorimore asked if there was any additional business before the committee adjourns.

There was no additional business.

11. ADJOURNMENT

There being no further business for consideration by the Western Riverside County Programs and Projects Committee, the meeting was adjourned at 2:01 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
Administrative Services Manager/
Clerk of the Board

AGENDA ITEM 7

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	October 25, 2021
TO:	Western Riverside County Programs and Projects and Committee
FROM:	Reinland Jones, Toll Technology Manager
THROUGH:	Jennifer Crosson, Toll Operations Director
SUBJECT:	Change Order to Amend the Interstate 15 Express Lanes Project Toll Services Agreement with Kapsch TrafficCom USA to Provide Maintenance Services and Image Review Services for the 91 Express Lanes Roadside System

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve Change Order No. 23 to Agreement No. 16-31-043-00 for the Interstate 15 Express Lanes Project (I-15 ELP) with Kapsch TrafficCom USA Inc. (Kapsch) to provide five years of maintenance services for the 91 Express Lanes Roadside System and Image Review Services in an amount not to exceed \$3,021,143;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the change order on behalf of the Commission; and
- 3) Forward to the Commission for final action.

BACKGROUND INFORMATION:

In April 2017 Governor Brown signed Senate Bill 132 (SB 132) which appropriated \$427 million to the Riverside County Transportation Efficiency Corridor (RCTEC) for five projects. SB 132 allocated \$180 million to the I-15/SR-91 Express Lane Connector (15/91 ELC). The 15/91 ELC will provide a tolled express lanes connector between the existing 91 Express Lanes and the future 15 Express Lanes to the north of SR-91 (Figure 1: Vicinity Map).

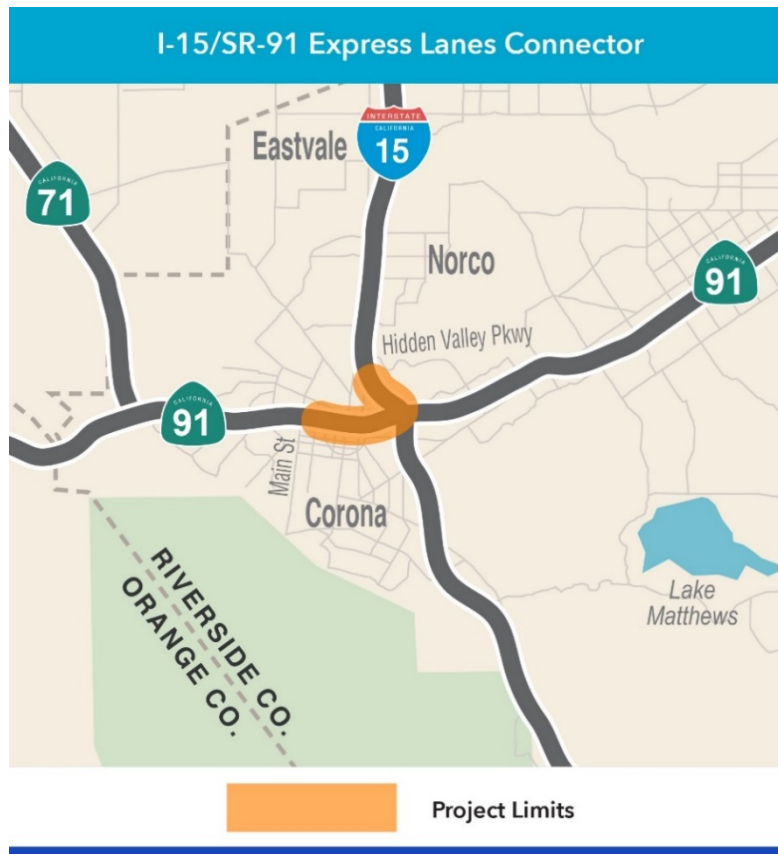


Figure 1: 15/91 Express Lanes Connector Project Vicinity Map

SB 132 also statutorily created a task force to develop recommendations to accelerate project delivery of the RCTEC projects. On June 27, 2017, Governor Brown signed budget trailer bill Assembly Bill 115 (AB 115) through which the Commission received additional project delivery authority to ensure cost-effective and timely delivery of the 15/91 ELC.

At its October 2017 meeting, the Commission approved an overall procurement strategy for the 15/91 ELC to secure all the services and construction needed to deliver the project. The approved strategy consists of a series of contract amendments, as permitted by AB 115, to existing 91 Project and I-15 ELP contracts with engineering companies, contractors, toll vendors, legal, and financial advisors.

With the addition of the 15/91 ELC, a customer travelling between the 91 Express Lanes and the 15 Express Lanes will be required to use tolled segments from both express lanes. In order to provide a seamless customer experience, staff recommended that the same roadside tolling system be used for the 91 Express Lanes, the 15 Express Lanes and the 15/91 ELC. At its July 2018 meeting, the Commission approved Change Order No. 5 to the I-15 ELP Agreement No. 16-31-043-00 for Kapsch to replace the roadside tolling system on the 91 Express Lanes which had been installed and operated by Cofiroute USA LLC (Cofiroute).

At its February 2021 meeting, the Commission approved Change Order No. 7B to allow for Kapsch to provide maintenance of the 91 Express Lanes roadside tolling system for five years through February 2026, which was anticipated to be the end date for the Kapsch 15 Express Lanes maintenance period. The 15 Express Lanes maintenance period began April 14, 2021, with the opening of the 15 Express Lanes, and is for five years ending April 12, 2026. The delay in the opening of the 15 Express Lanes created a one and one-half month gap in maintenance for the 91 Express Lanes roadside tolling system.

Change Order No. 7B did not include maintenance for minor roadside equipment currently maintained by Cofiroute USA (Cofiroute), as the contracted operator for the 91 Express Lanes, under the OCTA/RCTC/Cofiroute Operating Agreement No. 13-31-105-00. Cofiroute will continue to provide services for the minor 91 Express Lanes roadside equipment until the termination of Agreement No. 13-31-105-00 anticipated to be December 31, 2021.

Change Order No. 7B also did not include image processing services for the 91 Express Lanes which Kapsch has been providing since the roadside tolling system transition from Cofiroute to Kapsch.

DISCUSSION:

The proposed Change Order No. 23 to the agreement with Kapsch includes the following:

1. One and one-half additional months of roadside tolling system maintenance;
2. Four years and four months of maintenance of additional roadside equipment; and
3. Image processing services for the 91 Express Lanes through April 14, 2026.

One and One-Half Additional Months of Roadside Tolling System Maintenance

The additional one and one-half months of roadside tolling system maintenance will provide for continued maintenance of the 91 Express Lanes roadside tolling system through the end of the base operations and maintenance period with Kapsch. The additional period is needed to provide for operations and maintenance of the 91 Express Lanes and 15 Express Lanes roadside tolling system through the same period. The cost of the additional one and one-half months is at the same rate approved by the Commission in Change Order No. 7B and totals \$111,392.

Four Years and Four Months of Maintenance of Additional Roadside Equipment

Cofiroute's initial contract to operate the 91 Express Lanes (the OCTA/RCTC/Cofiroute Operating Agreement or ORCOA No. 13-31-105-00) requires Cofiroute to provide maintenance of roadside equipment which was not replaced by Kapsch under Change Order No. 5 through the end of the ORCOA. The ORCOA will terminate with the transition to the new Cofiroute agreement for development and installation of a new back office system and provision of express lanes operator services. The Commission awarded the new agreement to Cofiroute in November 2019. The end date of the ORCOA is anticipated to occur by December 31, 2021. At that time, the new Cofiroute

agreement does not provide for maintenance of the on-road closed circuit television cameras, changeable message signs, the communication network, or the toll utility building operations.

As the operator of the roadside tolling system, Kapsch is better suited to provide the maintenance of these additional items. Kapsch will update the equipment to ensure compatibility with the roadside tolling system. The Kapsch agreement provides a pre-negotiated hourly rate for maintenance personnel on which this change order is based. Staff worked with Kapsch to determine the hours required to perform this additional maintenance and believes the agreed-upon hours and pre-negotiated rate results in a fair and reasonable price. The costs to update the equipment is \$242,351 and four years and four months of maintenance services is \$1,490,231, for a total amount of \$1,732,582.

Two Image Processors

Until the transition of the roadside toll system from Cofiroute to Kapsch, Cofiroute performed manual image review of the 91 Express Lanes transactions. Kapsch has been performing image review of the 91 Express Lanes transactions since April 14, 2021. The toll system generates an image for each transaction on the 91 Express Lanes. Kapsch uses optical character recognition software to review over 75 percent of the image transactions. The remaining 25 percent are reviewed by human reviewers employed by Kapsch. The 91 Express Lanes images require two full time employees to review the images in a timely and accurate manner. Staff evaluated the number of historical images and the current image processors rate of processing to arrive at the need for two additional image reviewers. The cost of the two additional image reviewers for the duration of the operations and maintenance period is \$1,177,169.

Summary

In order to provide for complete maintenance of the 91 Express Lanes roadside system and process image transactions, Change Order No. 23 includes the items listed in the table below. The amounts listed include the overhead burden and profit mark-up according to the Kapsch Agreement.

Item	Amount
1 ½ months roadside toll system maintenance	\$ 111,392
4 years and 4 months additional roadside maintenance	1,732,582
2 image processors	1,177,169
Total	\$ 3,021,143

RECOMMENDATION:

Staff recommends approval of Change Order No. 23 to amend the Toll Services Agreement between the Commission and Kapsch in an amount not to exceed \$3,021,143. Further,

authorization is requested for the Chair or Executive Director to execute the amendment on behalf of the Commission.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$ 657,023 \$ 2,364,120
Source of Funds:	91 Express Lanes toll revenues			Budget Adjustment:	No N/A
GL/Project Accounting No.:		009199 81041 00000 0000 591 31 81002			
Fiscal Procedures Approved:		<i>Theresa Irujo</i>		Date:	10/14/2021

Attachment: Draft Change Order No. 23 with Kapsch



Change Response / TSP Change Request
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
I-15 Toll Services Provider Contract

Change Order No. 23

Pursuant to: (check appropriate box)

- ☒ Written Change Notice No. 8 (RCTC-Kapsch-LTR-0120), dated 6 August 2021, submitted by RCTC to TSP pursuant to Section 20.4.1 of the Contract
- ☐ TSP Change Request No. _____, dated _____, submitted by TSP to RCTC pursuant to Section 20.6 of the Contract
- ☐ Directive Letter No. _____, dated _____, submitted by RCTC to TSP pursuant to Section 20.3 of the Contract

Reference is made to that certain Toll Services Contract (Contract No. 16-31-043-00) dated 26 January 2017, as amended, by and between Riverside County Transportation Commission ("RCTC"), a public entity of the State of California ("RCTC"), and Kapsch TrafficCom USA, Inc., a corporation organized under the laws of Delaware ("TSP"), as amended, together with all Exhibits and prior amendments (the "Contract").

This Change Order amends the Contract.

Capitalized terms used, but not defined, in this Change Order have the meanings given in, and all Section and Exhibit references shall be to the Contract.



**SECTION I – Narrative, Discussion of Additions, Deletions, Modifications to the Requirements
of the Toll Services Contract**

A. Evaluation of Change including whether TSP considers any RCTC-Initiated Change to constitute a Change and the specific provision(s) of this Contract which permit a Change Order (Section 20.4.3(a)(i)):

N/A – RCTC Initiated Change Order

B. Overview of scope of Change (Section 20.4.3(a)(iii)). For detailed scope of Change, please complete the Change Response Price Form:

All capitalized terms used in this Change Order #7B and not defined herein have the meanings given to such terms in the Toll Services Contract dated January 26, 2017 (as amended by this Change Order and the previous Change Orders), between the Riverside County Transportation Commission (**RCTC**) and Kapsch TrafficCom USA, Inc. (**TSP**) (together the **Contract**).

Part 1: Work under this Change Order

A. SR-91 Additional 1 ½ months of O & M

- 1) Due to the delay in the opening of the 15 Express Lanes the O &M period for the 91 Express Lanes currently ends 1 ½ months before the 15 Express Lanes O & M. To provide for O & M through April 14, 2026 for both express lanes an additional 1 ½ months of O & M for the 91 Express Lanes is needed. The cost of this additional O & M is as the same rate approved in change order 7B.

B. Additional Personnel to Support the Addition of the SR-91 Toll Processing into the I-15 Back Office

- 1) Due to the addition of transactions and images, from the SR-91 RCTC Toll locations, into the processing flow of the I-15 Host, Image Review, and Back Office Systems additional personnel are required to handle images review.
- 2) The Contract originally specified staffing to handle the workload for the I-15 system and did not anticipate the additional workload generated by the SR-91 Toll locations (created through Change Orders 5 and 6) being added to the RCTC tolling network.
- 3) This change order adds 2 Image Reviewers to the Customer Service Center staffing, for the duration of the ELP O&M period.

B. SR-91 O&M Work

- 1) This change order no. 23 adds maintenance support for the existing equipment on the SR-91 Express Lanes that was previously under maintenance by Cofiroute USA, Inc.
- 2) Initial update work will be required on the equipment to be taken into maintenance, and the initial update will be performed per the schedule in Attachment 4.

- 3) The items being added for maintenance as indicated as “NEW” in Change #1 in Attachment 2 (Redlined Technical Provisions).

During the SR-91 O&M Term, TSP will perform the following O&M Work (collectively, the **SR-91 O&M Work**):

- (a) Maintenance Services to support the RCTC SR-91 Tolling in accordance with Technical Provisions (TP), Section 16 (the “**SR-91 Maintenance Work**”).
- (b) All other provisions of the Contract apply to this SR-91 O&M Work.

Part 3: Other Material Terms

1) Bonding Requirements

- a. As a condition of performing the O&M work on the SR-91, TSP shall provide and maintain the SR-91 Maintenance Performance Bond (Attachment 3-A) and the SR-91 Maintenance Payment Bond (Attachment 3-B). RCTC will release the SR-91 Maintenance Performance Bond upon expiry of the SR-91 O&M Term, provided that no outstanding claims are then pending or threatened against TSP under the Contract in connection with the SR-91 O&M Work. RCTC will release the SR-91 Maintenance Payment Bond (i) upon receipt of (A) evidence satisfactory to RCTC that all Persons eligible to file a claim against the bond have been fully paid and (B) unconditional releases of Liens and stop notices from all Subcontractors who filed preliminary notice of a claim against the Bond, or (ii) upon expiration of the statutory period for Subcontractors to file a claim against the Bond if no Claims have been filed.

Part 4: SR-91 ROW Access

RCTC will provide TSP with access to the SR-91 ROW for the purposes of performing the SR-91 O&M Work, provided that (i) TSP shall obtain a rider to the existing RCTC encroachment permit providing TSP with access to the SR-91 Site prior to commencing work on the site and shall comply with the requirements of such permit, and (ii) TSP shall comply at all times with TSP’s safety and security procedures and all applicable requirements of this Contract and Technical Provisions.

Part 5: Additional Definitions (Exhibit 1 to the Contract)

All definitions from Change Order 7B still apply.

Part 6: Impacts on Existing Definitions and Contract Provisions

The definition of “Indemnified Parties” is revised to add Orange County Transportation Authority and its officers, directors, board members, employees, consultants, representatives and agents.

For purposes of the SR-91, the Setting Date, the Effective Date and similar reference dates under the Contract will be the date of issuance of this Change Order.

Except as specifically provided otherwise in this Change Order:

- 1) Defined terms previously applying generally to the ELP Project (such as “Project,” “D&D Work,” “Toll Services,” “Work,” “Completion Deadlines,” “Total Capital Cost,” etc.): (a) will retain the same names and the definitions will be revised to include SR-91 (Phase 1, 2, 3, and 4) and ELC; but (b) corresponding ELP Project-specific defined terms will also be created so as to distinguish from SR-91 and ELC as needed.
- 2) Provisions in the Contract of general application to the ELP Project (such as TSP’s indemnities, events of default) will also apply to SR-91 and ELC.

C. Analysis of (impact of the Change on the performance of other aspects of the D&D Work, O&M Work, RCTC or RCTC’s toll operations (as applicable); Section 20.4.3(a)(v)):

All impacts of the Change are reflected in Change Order #7B, and **this Change Order #23**, and there are no other impacts of the Change on the performance of other aspects of the D&D Work, O&M Work, RCTC or RCTC’s toll operations.

D. Proposed plan for mitigating impacts of the Change (Section 20.4.2(a)(x)):

N/A

E. Additions / deletions / modifications to the requirements of the Contract including KPIs (if any) (Section 20.4.3(a)(viii)):

See Redlined Technical Provisions in Attachment 2.



SECTION II – Cost Impact(s)

A. Summary

Compensation under this Change Order is to be paid (check the applicable boxes below):

- ☐ n/a¹ \$0.00 (“no cost”) Change Order.
- ☒ as a lump sum payment in the accordance with Attachment 1B – Initial Update to Support Equipment Maintenance, at the completion of the events shown in the schedule in Attachment 4
- ☒ as a series of monthly payments in accordance with Attachment 1A (for the Image Reviewers) and 1C through 1G – SR-91 O&M – Price Sheet – Monthly Payments in addition to those shown in Change Order #7B,
- ☐ as an adjustment to Total O&M Years 1 and 2 Cost or Total O&M Years 3, 4 and 5 Cost
- ☐ as a Unit Price Change Order for increases or decreases in the Contract Price [not to exceed] / [in the amount of] _____ dollars (\$ _____))
- ☐ as a Time and Materials Change Order, [not to exceed _____ dollars (\$ _____)]
- ☐ as is set forth below, under Section II(B)(2) / (3). ***[select the proper reference]***
- ☐ If more than one box has been checked, also check this box and summarize terms here:

Documentation supporting the Change Order is attached as Annex[es] _____ [through _____].

B. Special Considerations

1. Delay and disruption damages for Excusable Delay (Section 20.10). ☒ n/a

Compensation available for Change Orders are (only) extra Work Costs and delay Costs directly attributable to the proposed Change and exclude certain costs and expenses.

- Total extra Work Costs: \$ _____
- Total delay and disruption damages: \$ _____

¹ If \$0 (i.e., a “no cost” Change Order), leave remainder of Section II blank.



Discussion (if any):

2. Deductive RCTC Changes. ☒ n/a

If this Change Order is a deductive change

Net Cost² Savings attributable to the deductive change \$ _____

Amount due to RCTC attributable to the deductive Change (or which can be used by RCTC, in its sole discretion, to offset payment to TSP) \$ _____

Discussion (if any):

² When both additions and reductions are involved in any one Change Order, the adjustment shall be determined on the basis of net increase or decrease. TSP Margin will be allowed only for the net increase in labor Cost in order to establish the amount to be added to the Contract Price. In determining a deductive change order, any deduction will include the amount of TSP Margin and Audited Overhead which would have been payable on such amounts by RCTC in accordance with Section 20.

SECTION III – Completion Deadline Impacts (Applicable to All Change Orders)

The status of the CSC Commencement Deadline is as follows:

- ☒ Unaffected by this Change Order
- ☐ Affected by [extending] / [accelerating] the date of the CSC Commencement Deadline by _____ calendar days to _____ calendar days prior to Revenue Service Commencement.

The status of the Revenue Service Commencement Deadline is as follows:

- ☒ Unaffected by this Change Order
- ☐ Affected by [extending] / [accelerating] the date of the Revenue Service Deadline by _____ calendar days to _____ Days after the Package 4 Turnover Date.

The status of the total Float is as follows:

- ☒ Unaffected by this Change Order
- ☐ Affected by this Change Order as follows:

If this Change Order is issued as a result of, or relating to, an Excusable Delay or a shortening time, TSP's Critical Path time impact delay analysis is attached as Annex _____ (Section 20.4.3(a)(vi)). ☒ n/a



SECTION IV - (Reviewed and recommended agreed by TSP’s [Project Manager-D&D Work] or [Project Manager-O&M Work])

By: _____

Name: Jim Kirwin

Title: Project Manager

Date: _____

Comments:

SECTION V - (Reviewed and agreed by TSP)

The undersigned Authorized Representative of TSP hereby certifies, under penalty of perjury, as follows:

1. Sections I, II and III of this Change Order, including all Worksheets and Annexes, collectively represent a true, accurate and complete summary of all aspects of this Change Order.
2. The amounts of time and/or compensation set forth in this Change Order (a) are, in each case, justified as to entitlement and amount, (b) reflect all changes to compensation for and scheduling of the Project (inclusive of all Subcontractor and Supplier amounts, impacts), (c) is complete, accurate and current and (d), in each case, the amounts of time, if any, and/or compensation, if any, agreeable to, and is hereby agreed by, TSP.
3. This Change Order includes all known and anticipated impacts or amounts, direct, indirect and consequential, which have been and may be incurred, as a result of the event, occurrence or matter giving rise to this Change Order. This Change Order constitutes a full and complete settlement of all Losses, Claims, matters, issues and disputes existing as of the effective date of this Change Order, of whatever nature, kind or character relating to the event, occurrence or matter giving rise to this Change Order and the performance of any extra Work that this Change Order documents or relates, including all direct and indirect costs for services, equipment, manpower, materials, overhead, profit, financing, delay and disruption arising out of, or relating to, the issues set forth herein. TSP acknowledges that it shall not be entitled to assert any Claim for relief under the Contract for delay, disruption costs or any other adverse financial or Project Schedule impacts existing as of the effective date of this Change Order and arising out of, or relating to, the event, occurrence or matter giving rise to this Change Order or such extra Work.
4. If the foregoing Change Order includes claims of Subcontractors or Suppliers, TSP represents that authorized representatives of each Subcontractor and Supplier, if any, reviewed such claims, this Change Order and accept this Change Order as dispositive on the same, subject to separate Contract between TSP and each such Subcontractor and Supplier, as applicable. Furthermore, TSP has determined in good faith that such claims are justified as to both entitlement and amount.
5. The cost and pricing data forming the basis for the Change Order is complete, accurate and current, with specific reference to the California False Claims Act (Government Code section 12650 et. seq.) and the U.S. False Claims Act (31 USC § 3729 et seq.)
6. It is understood and agreed that this Change Order shall not alter or change, in any way, the force and effect of the Contract, including any previous amendment(s) thereto, except insofar as the same is expressly altered and amended by this Change Order.
7. This Change Order supersedes all prior commitments, negotiations, correspondence, conversations, Contracts or understanding applicable to the issues addressed herein. No deviation from the terms hereof shall be predicated upon any prior representations or Contracts, whether oral or written, other than the Contract, as amended in accordance with its terms.



8. This Change Order is binding upon, and shall insure to the benefit of, each of the parties and their respective heirs, personal representatives, successors and assigns.

IN WITNESS, WHEREOF, TSP, intending to be legally bound, has executed this Change Order as of the date below.

TSP:
Kapsch TrafficCom USA, Inc.

Date: _____

By: _____
Name: Ray Cooper
Title: Vice President and General Manager,
Western Region Delivery and Operations

The undersigned Guarantor hereby (i) acknowledges and consents to this CHANGE ORDER NUMBER 5; (ii) reaffirms that certain Guaranty dated as of _25 August, 2020 (the "Guaranty"), executed by the undersigned; and (iii) agrees that the Guaranty remains in full force and effect and binding upon the undersigned as of the date hereof.

TSP:
Kapsch TrafficCom AG

Date: _____

By: _____
Name: JB Kendrick
Title: President



SECTION VI - (Reviewed and recommended by RCTC)

By: _____
Name: David Thomas
Title: Toll Project Delivery Director
Date: _____

Comments:



SECTION VII - (Agreed by RCTC's Authorized Representative)

IN WITNESS WHEREOF, RCTC, intending to be legally bound, has executed this Change Order as of the date first written above.

Date: _____

(the effective date of this Change Order)

RCTC

**RIVERSIDE COUNTY TRANSPORTATION
COMMISSION**

By: _____

Name: Anne Mayer

Title: Executive Director

ATTACHMENT 1A
PRICE SHEET – SR-91 ADDITIONAL O & M
YEAR 5 – MARCH 2026 THROUGH APRIL 14, 2026

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR 91 Year 5 – O&M work	Month	1	\$90,649.39	\$90,649.39
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$9,894.02	\$9,894
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$3,912.00	\$3,912
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$6,936.41	\$6,936
Total Additional SR-91 Additional Maintenance Costs						\$111,391.82
Monthly Cost						\$74,261.21

ATTACHMENT 1B
PRICE SHEET – ADDITIONAL IMAGE REVIEWERS
MONTHLY PRICING

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	Year 1 (ELP) - 2 Image Reviewers	Month	12	\$19,120.14	\$229,441.68
2	Labor – Kapsch	Year 2 (ELP) - 2 Image Reviewers	Month	12	\$19,031.71	\$228,380.52
3	Labor – Kapsch	Year 3 (ELP) – 2 Image Reviewers	Month	12	\$19,503.63	\$234,043.56
4	Labor – Kapsch	Year 4 (ELP) – 2 Image Reviewers	Month	12	\$19,975.57	\$239,706.84
5	Labor – Kapsch	Year 5 (ELP - 2 Image Reviewers	Month	12	\$20,466.38	\$245,596.56
Total Additional Image Reviewer Costs						\$1,177,169.16

ATTACHMENT 1C
SR-91 O&M – PRICE SHEET
INITIAL UPDATES TO SUPPORT EQUIPMENT MAINTENANCE
NOVEMBER 2021 THROUGH DECEMBER 2021

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR-91 O&M Work	Lot	1	\$172,206	\$172,206
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$0	\$0
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$30,642	\$30,642
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$39,503	\$39,503
Total Initial Update Costs						\$242,351

ATTACHMENT 1D
SR-91 O&M – PRICE SHEET – MONTHLY PAYMENTS
JANUARY 2022 THROUGH DECEMBER 2022

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR-91 O&M Work	Lot	1	\$238,227	\$238,227
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$0	\$0
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$104,543	\$104,543
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$5,549	\$5,549
Total O&M Costs – Year 1						\$348,319
12 months @ per month						\$29,026.58

NOTE: MOT Support based on 4 closures per year (outside of Caltrans closures).

ATTACHMENT 1E
SR-91 O&M – PRICE SHEET – MONTHLY PAYMENTS
JANUARY 2023 THROUGH DECEMBER 2023

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR-91 O&M Work	Lot	1	\$244.164	\$244,164
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$0	\$0
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$103,622	\$103,622
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$5,549	\$5,549
Total O&M Costs – Year 2						\$353,335
12 months @ per month						\$29,444.59

NOTE: MOT Support based on 4 closures per year (outside of Caltrans closures).

ATTACHMENT 1F
SR-91 O&M – PRICE SHEET – MONTHLY PAYMENTS
JANUARY 2024 THROUGH DECEMBER 2024

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR-91 O&M Work	Lot	1	\$250,267	\$250,267
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$0	\$0
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$76,982	\$76,982
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$5,549	\$5,549
Total O&M Costs – Year 3						\$332,798
12 months @ per month						\$27,733.17

NOTE: MOT Support based on 4 closures per year (outside of Caltrans closures).

ATTACHMENT 1G
SR-91 O&M – PRICE SHEET – MONTHLY PAYMENTS
JANUARY 2025 THROUGH DECEMBER 2025

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR-91 O&M Work	Lot	1	\$256,542	\$256,542
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$4,326	\$4,326
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$64,059	\$64,059
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$5,549	\$5,549
Total O&M Costs – Year 4						\$330,476
12 months @ per month						\$27,539.67

NOTE: MOT Support based on 4 closures per year (outside of Caltrans closures).

ATTACHMENT 1H
SR-91 O&M – PRICE SHEET – MONTHLY PAYMENTS
JANUARY 2026 THROUGH APRIL 2026

#	Item	Description	Unit	Qty	Unit Price	Total
1	Labor – Kapsch	SR-91 O&M Work	Lot	1	\$98,662	\$98,662
2	Subcontractors	Maintenance Service Contracts, Lane Closures, Security Services	Lot	1	\$0	\$0
3	ODCs	Technician ODCs – Vehicle Lease, Fuel, Maintenance, tolls, etc.	Lot	1	\$21,092	\$21,092
4	Materials	Spares, Consumables, RMA and Repair	Lot	1	\$5,549	\$5,549
Total O&M Costs – Year 5						\$125,303
12 months @ per month						\$31,325.75

NOTE: MOT Support based on 4 closures per year (outside of Caltrans closures).

ATTACHMENT 1I
SR-91 O&M – SUMMARY

#	Item	Description	Unit	Qty	Total
1	SR-91 Additional 1 ½ months of O & M	5 years in line with ELP O&M Contract	Lot	1	\$111,392.10
2	Additional Image Reviewers	5 years in line with ELP O&M Contract	Lot	1	\$1,177,169.16
3	SR91 Initial Update to Additional Equipment	November 2021 – January 2022	Lot	1	\$242,351
4	SR91 Additional O&M	Year 1	Lot	1	\$348,319
5	SR91 Additional O&M	Year 2	Lot	1	\$353,335
6	SR91 Additional O&M	Year 3	Lot	1	\$332,798
7	SR91 Additional O&M	Year 4	Lot	1	\$330,476
8	SR91 Additional O&M	Year 5	Lot	1	\$125,303
TOTAL					\$3,021,143.26

ATTACHMENT 2
ADDITIONAL AND REVISED TECHNICAL PROVISIONS

CHANGE #1 – The following provisions are modified in the new Subsection 2.13.7 (originally added in Change Order #5):

“2.13.7 Coordination with SR-91 Operator

RCTC is currently under contract with the SR-91 Operator for the operations and maintenance of the toll system on SR-91. TSP shall coordinate with the SR-91 Operator in the deployment and transitions of the ETC on SR91. The TSP shall be responsible for the implementation, operations, coordination and maintenance of SR-91 ETC per Table 1.

No.	Express Lanes	TSP	SR 91 Operator	RCTC	NOTE
Toll Collection System					
1	Toll Utility Buildings (TUB)	X			
2	A/C TUB (See NOTE 1 below)	X			
3	Fire Suppression System (See NOTE 2 below)			X	
4	Phone Communications	X			
5	CCTV TUB Security	X			
6	Security Access	X			
7	TUB Cleaning			X	
8	Toll Gantry Structure (See NOTE 1 below)			X	
9	Equipment Cabinet	X			
10	Generator & ATS	X			NEW
11	Septic Tank (See NOTE 3 below)			X	
12	Plumbing and water system (See NOTE 3 below)			X	
13	Utility – power (See NOTE 1 below)	X			
14	Server Racks & Equipment	X	X (TBD)		
15	Pass through communications (CCTV) – See item 17, 18, and 19 – see Note 5 below	X			NEW
16	High Mast Lighting (within Toll Zone) (See NOTE 2 below)			X	

Communication Network					
17	Conduit	X			NEW
18	Fiber	X			NEW
19	Roadway CCTV	X			NEW
20	Existing CMS (See NOTE 4 below)	X			NEW
21	Utility connection to CCTV – see item 17,18, and 19 – see NOTE 5 below	X			NEW
Coordination					
22	CHP		X		
23	Freeway Service Patrol		X		
24	Caltrans Maintenance		X		
25	Other Agencies			X	

Table 1 – SR-91 Roles and Responsibilities

NOTE 1: TSP shall be responsible for oversight of the repair of damage, regardless of cause. If required and upon approval of RCTC, TSP shall be responsible for acquiring and overseeing any third-party repair. The costs of the third-party repair shall be the responsibility of RCTC. The acquisition of a third-party and oversight of the repair shall be the responsibility of the TSP at no additional cost to RCTC.

NOTE 2: TSP shall provide oversight when third-party contractors are providing service for RCTC items, in order to ensure that there will be no damage to the tolling equipment.

NOTE 3: TSP to notify RCTC immediately if an issue has been seen, detected, or reported.

NOTE 4: RCTC currently maintains the maintenance contract with Daktronics that expires in January 2025. TSP is responsible to manage coordination of activities related to this maintenance contract. TSP shall take over this subcontract upon expiration of the current subcontract period.

NOTE 5: The responsibility split for the network is at the punch panel in the Anaheim Data Center (ADC). TSP is responsible for the roadway elements from the patch panel. SR-91 Operator is responsible for the ADC elements from the patch panel.

CHANGE #2 – The following paragraph is added to Subsection 16.6.1:

“16.6.1 Permitted Lane Closures of 91 Express Lanes

Add the following paragraph:

TSP is allowed six (6) off peak Lane Closure hours for the SR-91 Express Lanes per month. The closures are subject to approval by RCTC and will fall within the off-peak windows set forth in Section 4.7.3, Table 4-1. Closure restrictions for designated holidays and special days are also included in Section 4.7.3. TSP



shall pay to RCTC Lane Closure Charges for Permitted Lane Closures of SR-91 Express Lanes outside the 6 hours per month as set forth in Exhibit 22 of the Contract.



ATTACHMENT 3-A
SR-91 MAINTENANCE PERFORMANCE BOND

ALREADY PROVIDED IN THE EXECUTED CHANGE ORDER 7B.

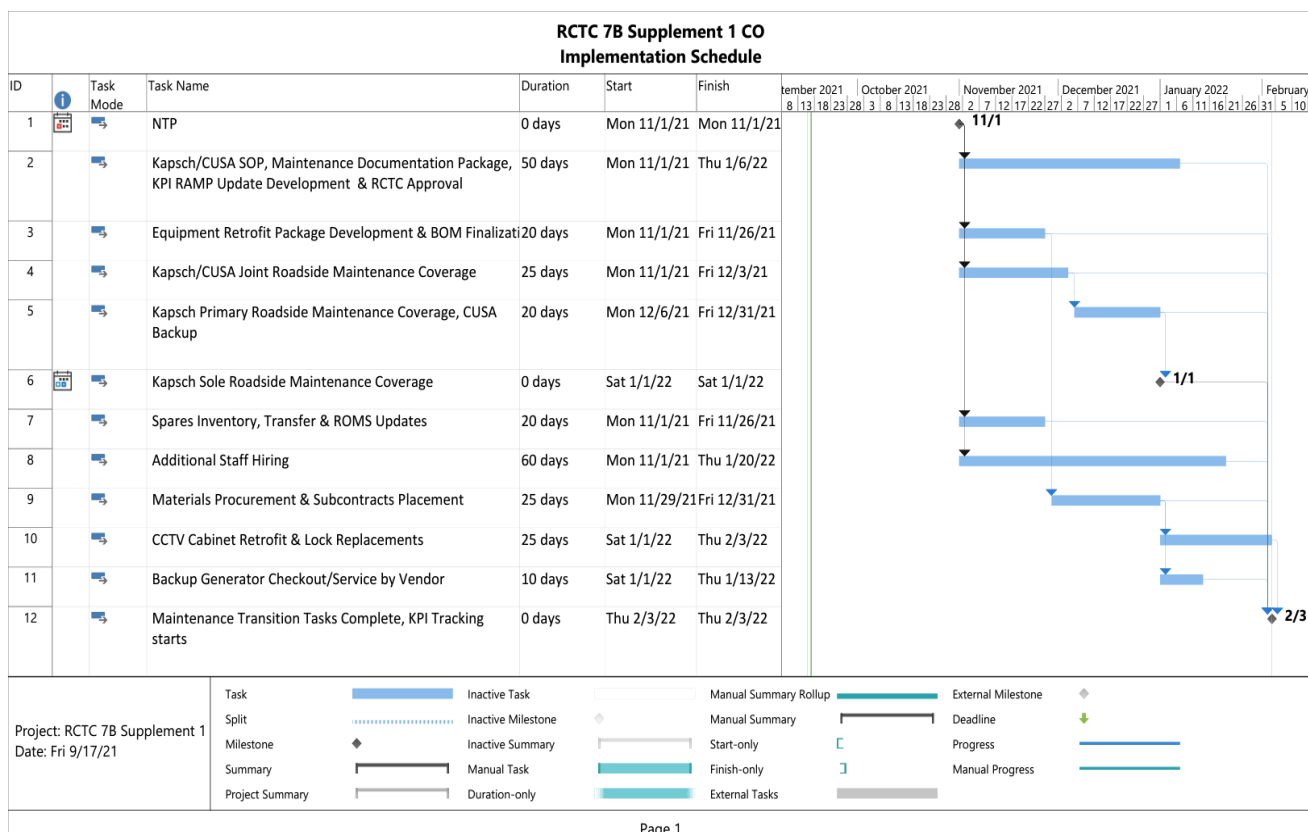


ATTACHMENT 3-B
SR-91 MAINTENANCE PAYMENT BOND

Already provided in the executed change order 7b.

ATTACHMENT 4

EQUIPMENT UPDATE SCHEDULE



ATTACHMENT 5
EQUIPMENT LIST AND KPI PRIORITY

S. No	Equipment	ID number	Direction of travel	MOT required	Priority	Notes
1	CCTV	101	EB		3	
2	CCTV	102	EB		3	
3	CCTV	103	WB		3	
4	CCTV	104	EB		3	
5	CCTV	105	WB		3	
6	CCTV	106	EB		3	
7	CCTV	107	EB		3	
8	CCTV	108	WB		3	
9	CCTV	109	EB		3	
10	CCTV	110	WB		3	
11	CCTV	111	EB		3	
12	CCTV	112	EB		3	
13	CCTV	113	Median	Yes	3	
14	CCTV	114	EB		3	
15	CCTV	115	Median	Yes	3	
16	CCTV	116	Median	Yes	3	
17	CCTV	117	Median	Yes	3	
18	CCTV	118	SB		3	
19	CCTV	119	NB		3	
20	CCTV	120	SB		3	
21	CCTV	121	EB		3	
22	CCTV	122	EB		3	
23	CCTV	123	Median	Yes	1	
24	CCTV	124	Median	Yes	3	
25	CCTV	125	Median	Yes	3	
26	CCTV	126	NB		3	
32	Generator		EB			Generator part of tubs
33	Generator		WB			Generator part of tubs
34	Generator		Tub 3			

AGENDA ITEM 8

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	October 25, 2021
TO:	Western Riverside County Programs and Projects and Committee
FROM:	Silva Mardrussian, Toll Customer Service Manager
THROUGH:	Jennifer Crosson, Toll Operations Director
SUBJECT:	Amendment to the 91 Express Lanes Operator Agreement

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve Agreement No. 13-31-105-06, Amendment No. 6 to the 91 Express Lanes Operator Agreement No. 13-31-105-00 (commonly referred to as the ORCOA), among the Orange County Transportation Authority (OCTA), the Commission, and Cofiroute USA, LLC (Cofiroute), for up to three one-month optional extension periods for an additional amount of \$500,000, and a total amount not to exceed \$36,507,044;
- 2) Authorize the Chair or 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.

BACKGROUND INFORMATION:

In May 2013, the Commission approved the ORCOA to facilitate the joint operation of the 91 Express Lanes between the Commission and OCTA using the existing contractor, Cofiroute. The ORCOA expiration date was June 30, 2021.

On September 11, 2019, the Commission approved Amendment 4 to the ORCOA for six one-month optional extensions to allow for the implementation of a new back-office system, if needed. To date, the Commission has exercised five of the one-month options. The ORCOA is set to expire on December 31, 2021, and has no available extension options.

On November 13, 2019, the Commission approved the award of Agreement No. 19-31-059-00 among OCTA, RCTC and Cofiroute USA, LLC. for Back Office System and Customer Service Center Operations for the 91 Express Lanes to replace the existing ORCOA.

OCTA, RCTC and Cofiroute have been working on the design and implementation of the new back-office system since January 2020. Cofiroute provided a schedule with its proposal that indicated it could complete the work by June 30, 2021. On February 16, 2021, Cofiroute requested an extension of the guaranteed completion date due to delays caused by the

COVID-19 pandemic. OCTA and RCTC reviewed the delay claim, according to the available terms in the Agreement, and awarded Cofiroute the requested extension to September 29, 2021.

Cofiroute's current schedule reflects an implementation date of mid-December 2021, which surpasses the contractual completion date. As a part of the transition to the new back-office system, OCTA is required to change the format of its roadside transactions, which OCTA expects to be completed in mid-December. In anticipation that the transition to the new Cofiroute agreement may not occur before the expiration date of the ORCOA on December 31, 2021, both OCTA and the Commission are seeking to amend the agreement to allow for three one-month extension periods to the ORCOA to prevent a lapse in services.

Cofiroute provides all the systems, staffing and services required to operate the 91 Express Lanes except for the in-lane systems. The work provided under this agreement is necessary to manage the customer accounts, provide transponders, process toll transactions, process toll evasion violations, manage the traffic operations center and answer customer calls and inquiries. Without an extension of the ORCOA, the agencies could put the operation of the 91 Express Lanes at risk.

Cofiroute has agreed to continue performing the work described in the agreement for the same monthly rate provided for in the ORCOA. To date, this agreement has \$921,811 available contingency to offset the cost of this amendment. A total of \$500,000 is being requested should the full, three-month extension be authorized. Table 1 below provides the monthly calculation for the maximum amount. Staff determined the amount is fair and reasonable.

Table 1 – Maximum Amount

Month	Monthly Payment
January 2022	\$ 473,937
February 2022	473,937
March 2022	473,937
Total Amendment Amount	1,421,811
Available Contingency	(921,811)
Amendment No. 6 Additional Authorization Amount	\$ 500,000

A summary of the ORCOA and related amendments is as follows:

Table 2 – ORCOA Amendments

Initial Agreement Authorization	\$ 34,097,946
Amendment No. 1 – Approved Nov. 2016	(2,900,947)
Amendment No. 2 – Approved Jan. 2017	-
Amendment No. 3 – Approved Mar. 2017	1,629,194
Amendment No. 4 – Approved Sept. 2019	3,180,851

Amendment No. 5 – OCTA only	-
<i>Amendment No. 6 – Pending Commission Approval</i>	<i>500,000</i>
Total Proposed Agreement Authorization	\$ 36,507,044

To ensure there is no gap in services for the 91 Express Lanes, staff requests approval of Amendment No. 6 to extend the agreement for up to three additional months to allow for a successful transition to the new back-office system for an additional amount of \$500,000, and a total amount not to exceed \$36,507,044. The extended agreement cost is included in the FY 2021/22 budget; therefore, a budget adjustment is not required.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2021/22	Amount:	\$500,000
Source of Funds:	Toll Revenues			Budget Adjustment:	No
GL/Project Accounting No.:	009199 81041 00000 0000 591 31 81002				
Fiscal Procedures Approved:	<i>Theresa Trevino</i>			Date:	10/15/2021

Attachments: Draft Agreement No. 13-31-105-06

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AMENDMENT NO. 6
OCTA AGREEMENT NO. C-3-1529
RCTC AGREEMENT NO. 13-31-105-06
AMONG
ORANGE COUNTY TRANSPORTATION AUTHORITY,
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND
COFIROUTE USA, LLC

THIS AMENDMENT NO. 6 TO AGREEMENT is entered into this ____ day of _____, 2021, by and among the Orange County Transportation Authority, a public corporation of the State of California (the “AUTHORITY”); the Riverside County Transportation Commission, a public agency (the “COMMISSION”); and Cofiroute USA, LLC, a Delaware limited liability company (“CONTRACTOR”). The AUTHORITY, the COMMISSION and CONTRACTOR are sometimes individually referred to herein as a “Party” and collectively as the “Parties.” The AUTHORITY and the COMMISSION are sometimes individually referred to herein as an “Agency” and collectively as the “Agencies.”

RECITALS

- A. The Parties have entered into that certain three party operating agreement, OCTA Agreement No. C-3-1529, RCTC Agreement No. 13-31-105-00, dated as of May 24, 2013 (the “Original Agreement”), pursuant to which AUTHORITY and COMMISSION engaged CONTRACTOR to provide management and operational services for the 91 Express Lanes, with the mutual intent of the Agencies of operating said lanes as a single, seamless toll facility from the customer’s perspective, which Original Agreement was amended on five (5) prior occasions. The Original Agreement, as previously amended, is referred to herein as the “Operating Agreement”.
- B. As of June 30, 2021, the Agencies had an option to extend the Operating

1 Agreement on a monthly basis, for a period of up to six (6) months. The final option
2 ends on December 31, 2021 (“Expiration Date”).

3 C. The Parties now desire to amend the Operating Agreement and provide
4 Agencies with the option to extend the Expiration Date for an additional (3) months,
5 based on the terms and conditions set forth herein.

6 NOW THEREFORE, it is mutually understood and agreed by the
7 AUTHORITY, COMMISSION and CONTRACTOR as follows:

8 1) The Agencies shall have the option to extend the Expiration Date for
9 three (3) one (1) month periods (each such monthly extension is referred to
10 individually as the “Extension Period” and the three (3) one (1) month options are
11 collectively referred to as the “Extension Periods”).

12 2) The Agencies may exercise the Extension Periods by providing
13 CONTRACTOR ten (10) days written notice prior to the end of each such Extension
14 Period.

15 3) The monthly fee payable to CONTRACTOR by COMMISSION during
16 the Extension Periods shall be Four Hundred Seventy Three Thousand, Nine Hundred
17 Thirty Seven Dollars (\$473,937). The monthly fee payable to CONTRACTOR by
18 AUTHORITY during the Extension Periods shall be Four Hundred Seventy Three
19 Thousand, Nine Hundred Thirty Seven Dollars (\$473,937).

20 4) The Monthly Fee during the Extension Period(s) includes, without
21 limitation, full and complete payment for (i) performance of all services and
22 obligations set forth in the Operating Agreement and all exhibits attached thereto; (ii)
23 all extended software, license, maintenance and escrow agreements and performance
24 of all services thereunder including, without limitation, all software updates and
25 upgrades and the replacement of hardware based on the historical replacement
26 schedule for such hardware; and (iii) the work detailed in the Operating Agreement
27 Transition Plan, to be developed in accordance with Section I-6 of Exhibit A to the
28 Operating Agreement.

1 5) CONTRACTOR shall be solely responsible for, and shall pay in full
2 when due, all subcontractors, vendors, suppliers and all other costs incurred by or at
3 the direction of CONTRACTOR in the performance of CONTRACTOR's obligations
4 under this Amendment No. 6, unless expressly stated otherwise in the Operating
5 Agreement.

6 6) During the Extension Periods, for CONTRACTOR's full and complete
7 performance of its obligations under this Amendment No. 6, CONTRACTOR shall
8 invoice Agencies and Agencies shall make payment for approved invoices in
9 accordance with the following provisions. On January 1, 2022, and on January 15,
10 2022, and on the first and 15th day of each succeeding Extension Period,
11 CONTRACTOR shall submit separate invoices to the AUTHORITY and the
12 COMMISSION for the services performed pursuant to this Amendment No. 6. Each
13 invoice shall include the amount due to CONTRACTOR pursuant to paragraph 3
14 hereof and shall be in the form set forth in the Operating Agreement. AUTHORITY
15 and COMMISSION shall pay the amount set forth in their respective invoices
16 pursuant to the terms of the Operating Agreement.

17 7) Article 7, Payment, subsection J(7) shall be added to the Operating
18 Agreement to read as follows:

19 J(7)(a) AUTHORITY's maximum cumulative payment obligation,
20 hereunder, for the Extension Periods, for the period commencing on
21 January 1, 2022 through March 31, 2022, shall not exceed the amount of
22 One Million, Four Hundred Twenty One Thousand, Eight Hundred
23 Eleven Dollars (\$1,421,811), which shall include all amounts payable to
24 CONTRACTOR for the services contained in Section 7 of this
25 amendment for the Extension Periods.

26 J(7)(b) COMMISSION's maximum cumulative payment obligation,
27 hereunder, for the Extension Periods, for the period commencing on
28 January 1, 2022 through March 31, 2022, shall not exceed the amount of

One Million, Four Hundred Twenty One Thousand, Eight Hundred Eleven Dollars (\$1,421,811), which shall include all amounts payable to CONTRACTOR for the services contained in Section 7 of this amendment for the Extension Periods.

8) All notices hereunder and communications regarding the interpretation of the terms of this Amendment, or changes thereto, shall be affected by delivery of said notices in person or by delivering said notices by recognized overnight mail or courier service, with delivery receipt requested or by depositing said notices in the U.S. mail, registered or certified mail, returned receipt requested, postage prepaid and addressed as follows:

To CONTRACTOR:	To AUTHORITY:
Cofiroute USA, LLC 200 Spectrum Center Dr., Suite 1650 Irvine, CA 92618 ATTN: Richard A. Arcé, CPM, President and Chief Executive Officer	Orange County Transportation Authority 550 South Main St. P.O. Box 14184 Orange, CA 92863-1584 ATTN: Manager, Contracts and Procurement
	To COMMISSION: Riverside County Transportation Commission 4080 Lemon St., 3 rd Floor P.O. Box 12008 Riverside, CA 92502-2208 ATTN: Anne Mayer, Executive Director

Notices shall be deemed received when actually received in the office of the

addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U.S. Postal Service, private carrier or other person making the delivery.

9) This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10) 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.

11) Except as modified and amended herein, the Operating Agreement shall remain unchanged and in full force and effect.

[Signatures on following page]

SIGNATURE PAGE TO AMENDMENT NO. 6 TO
OCTA AGREEMENT NO. C-3-1529
RCTC AGREEMENT NO. 13-31-105-06
AMONG
ORANGE COUNTY TRANSPORTATION AUTHORITY,
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND COFIROUTE USA, LLC.

RIVERSIDE COUNTY
TRANSPORTATION COMMISSION

By: _____

Its: _____

ORANGE COUNTY
TRANSPORTATION AUTHORITY

By: _____

Its: _____

APPROVED AS TO FORM:
BEST BEST & KRIEGER LLP

By: _____

Counsel to the Riverside County
Transportation Commission

APPROVED AS TO FORM:

By: _____

General Counsel to Orange County
Transportation Authority

COFIROUTE USA, LLC

By: _____

Richard A. Arcé, CPM
President and Chief Executive Officer,
VINCI Highways Mobility Solution, Inc.

AGENDA ITEM 9

<i>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</i>	
DATE:	October 25, 2021
TO:	Western Riverside County Programs and Projects Committee
FROM:	Gary Ratliff, Facilities Administrator
THROUGH:	Marlin Feenstra, Project Delivery Director
SUBJECT:	Agreement for Landscape Maintenance Services for the Commission-Owned Commuter Rail Stations and Toll Facilities

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Award Agreement No. 22-24-007-00 with Tropical Plaza Nursery Inc. (Tropical) for monthly routine and on-call landscape maintenance services for the Commission-owned commuter rail stations and toll facilities for a five-year term in an amount not to exceed of \$3,759,000;
- 2) Authorize the Chair or Executive Director, pursuant to legal counsel review, to finalize and execute the agreement on behalf of the Commission;
- 3) Authorize the Executive Director, or designee, to execute task orders awarded to the contractor under the terms of the agreement; and
- 4) Forward to the Commission for final action.

BACKGROUND INFORMATION:

The Commission owns and operates nine commuter rail stations (Riverside-Downtown, Jurupa Valley-Pedley, Riverside-La Sierra, Corona-West, Corona-North Main, Riverside-Hunter Park, Moreno Valley-March Field, Perris-Downtown, and Perris-South). Station landscape maintenance services include routine pruning, weeding, planting, mowing turf, ground cover management, irrigation repair, and other aesthetic activities. Excellent landscape standards and horticultural health practices are achieved by the Commission's continual dedication and support of landscape maintenance services.

As an established toll operator for the RCTC 91 Express Lanes and the 15 Express Lanes, the Commission owns three toll facilities, consisting of a storage and maintenance building and two adjacent office buildings for toll business operations. Of these, the storage and maintenance building at 120 North Joy Street in Corona requires routine landscape maintenance services and irrigation repair.

Since 2016, staff has used state grant funds whenever possible to upgrade aging irrigation systems and landscape infrastructure. The integration of drought tolerant native plantings and

efficient irrigation systems have reduced water usage and maintenance costs. Station landscape beautification, maintenance and water conservation improvement efforts reflect the Commission's commitment to the patrons, environment, and sustainability practices.

In December 2016, the Commission awarded an agreement to Tropical for monthly routine and on-call landscape maintenance services for a seven-year term. With the implementation of new landscape infrastructure over the past five years which staff anticipates will lower maintenance costs, staff pursued a new Request for Proposal (RFP) rather than a contract extension.

Procurement Process

Staff determined the weighted factor method of source selection to be the most appropriate for this procurement, as it allows the Commission to identify the most advantageous proposal with price and other factors considered. Non-price factors include elements such as qualifications of firm and personnel and understanding and approach for landscape maintenance services as set forth under the terms of RFP No. 22-24-007-00.

RFP No. 22-24-007-00 for landscape maintenance services was released by staff on August 12, 2021. The RFP was posted on the Commission's PlanetBids website, which is accessible through the Commission's website. Utilizing PlanetBids, emails were sent to 77 firms, 20 of which are located in Riverside County. Through the PlanetBids site, 20 firms downloaded the RFP, and 2 of these firms are located in Riverside County. Staff responded to all questions submitted by potential proposers prior to the August 26, 2021 clarification deadline date. Two firms – Mariposa Landscapes Inc. (Irwindale), and Tropical (Villa Park) – submitted responsive proposals prior to the 2:00 p.m. submittal deadline on September 23, 2021. Utilizing the evaluation criteria set forth in the RFP, all firms were evaluated and scored by an evaluation committee comprised of Commission and Bechtel staff.

As a result of the evaluation committee's assessment of the written proposals, the evaluation committee recommends contract award to Tropical to provide monthly routine and on-call landscape maintenance services for a five-year term, as this firm earned the highest total evaluation score.

Below is a summary of the total price for the proposed monthly routine maintenance bids submitted with the written proposals, and the total evaluation score rankings following the final evaluation:

Firm	Price	Overall Ranking
Tropical Plaza Nursery Inc.	\$2,641,792	1
Mariposa Landscapes Inc.	\$2,608,348	2

Although Tropical's pricing for the routine maintenance services is slightly higher, Tropical provided a superior approach and understanding to address the aesthetic and horticultural health of the Commission's landscape investment and demonstrated greater relevant

experience. As a result of readvertising for these services, the Commission will save 15 percent per month for routine landscape services compared to the current monthly rate. The routine maintenance services for the toll facility and all nine stations will be funded by toll revenues and Measure A, respectively. Coronavirus Aid, Relief, and Economic Security (CARES) Act and Federal Emergency Management Agency (FEMA) funds will be applied when available.

In addition to the routine monthly maintenance, the bid also includes hourly rates for on-call landscape maintenance services. The recommended agreement authorization includes \$1,117,208 for on-call landscape maintenance services. This will provide about \$223,000 annually for landscape rehabilitation and efficiency projects (drought tolerant plantings and material, irrigation systems to reduce water usage, and other landscape improvements) following the Commission's FY 2021 Short Range Transit Plan Five-Year Station Improvement Plan and funded by available state and federal grants. Task orders will be issued for these projects on an as-needed basis and per the contracted rates provided in the proposal. This on-call task order portion of the agreement does not guarantee work to the contractor.

The Commission's model on-call professional services agreement will be entered into with the contractor, pursuant to legal counsel review. Staff oversight of the contract and task orders will maximize the effectiveness of the contractor and minimize costs to the Commission. Staff recommends authorization for the Chair or Executive Director to finalize and execute the agreement on behalf of the Commission and for the Executive Director, or designee, to execute task orders awarded to the contractor under the terms of the agreement.

Financial Information					
In Fiscal Year Budget:	Yes N/A	Year:	FY 2021/22 FY 2022/23+	Amount:	\$444,000 \$3,315,000
Source of Funds:	2009 Measure A Western County Rail, Toll Revenues, State of Good Repair, Federal Transit Administration Section 5307 grant, CARES Act, and FEMA funds			Budget Adjustment:	No N/A
GL/Project Accounting No.:	244001-73312-00000-0000 265-24-73301 244002-73312-00000-0000 265-24-73301 244003-73312-00000-0000 265-24-73301 244004-73312-00000-0000 265-24-73301 244006-73312-00000-0000 265-24-73301 244010-73312-00000-0000 265-24-73301 244020-73312-00000-0000 265-24-73301 244021-73312-00000-0000 265-24-73301 244022-73312-00000-0000 265-24-73301 244024-73312-00000-0000 265-24-73301 004011-90701-0XXXX-4XXX 265-33-90501 001599-73312-00000-0000 515-31-73301 009199-73312-00000-0000 591-31-73301				
Fiscal Procedures Approved:	<i>Theresa Trevino</i>			Date:	10/15/2021

Attachment: Draft Agreement No. 22-24-007-00 with Tropical Plaza Nursery, Inc.

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
ROUTINE AND ON-CALL
LANDSCAPE MAINTENANCE SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____, _____ by and between the Riverside County Transportation Commission (“Commission”) and Tropical Plaza Nursery, Inc., a Corporation, with its principal place of business at 9642 Santiago Blvd., Villa Park, CA 92861 (“Contractor”). Commission and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

2. RECITALS.

2.1 Commission is the Transportation Commission for the County of Riverside and organized under the laws of the State of California with the power to contract for services necessary to achieve its purpose.

2.2 Commission owns and operates nine (9) commuter rail stations, one transit center, and one toll facility serving Riverside County, the addresses and descriptions of which are set forth in Exhibit “A”, attached hereto and incorporated herein by reference (“Commuter Rail Stations and Toll Facility”).

2.3 On or about August 12, 2021, Commission issued a Request for Proposals No. 22-24-007-00 (“RFP”), pursuant to which Commission sought proposals from contractors to provide routine and on-call landscape maintenance services for the Commuter Rail Stations and Toll Facility.

2.4 Contractor desires to perform and assume responsibility for the provision of certain routine and on-call landscape maintenance services required by Commission on the terms and conditions set forth in this Agreement and, for the on-call portions of the services, in the task order(s) to be issued pursuant to this Agreement and executed by the Commission and Contractor (“Task Order”).

2.5 The work generally includes the complete landscape maintenance of the Commuter Rail Stations and Toll Facility including, but not limited to, controlling plant, disease and pests, irrigation material, maintaining and repairing irrigation systems, removing trash and debris, and other maintenance required to maintain the Commuter Rail Stations and Toll Facility in a safe attractive and useable condition. Contractor represents that it is a professional Contractor, experienced in providing routine and on-call landscape maintenance services to public clients, and is familiar with the plans of Commission.

2.6 Commission desires to engage Contractor to render routine and on-call landscape maintenance services for the Commuter Rail Stations and Toll Facility. Routine landscape maintenance services shall be as set forth in Exhibit "A", attached hereto and incorporated herein by reference. On-call landscape maintenance services shall be ordered by Task Order(s) to be issued pursuant to this Agreement for future projects as set forth herein. The routine services set forth in Exhibit "A" and each individual project ordered under a Task Order shall be referred to, herein, collectively, as the "Project".

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to Commission all labor materials, tools, equipment, services, and incidental and customary work, as necessary, to fully and adequately provide the routine landscape maintenance services for the Commuter Rail Stations and Toll Facility as set forth in Exhibit "A" and any on-call landscape maintenance services for the Commuter Rail Stations and Toll Facility required by Commission, as shall be set forth in a Task Order, collectively referred to herein as the "Services". On-call Services shall be more particularly described in the individual Task Orders issued by the Commission's Executive Director or designee. No on-call Services shall be performed unless authorized by a fully executed Task Order. All Services shall be subject to, and performed in accordance with this Agreement, the relevant Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from January 1, 2022 to December 31, 2026, unless earlier terminated as provided herein. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Contractor.

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

3.2.2 Schedule of Services. Contractor shall perform the routine landscape maintenance Services expeditiously, within the term of this Agreement, and in accordance with the schedule set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor shall perform any on-call Services in accordance with the schedule that shall be set forth in the Task Order (collectively, "Schedule of Services"). **Contractor shall be required to commence work on a Task Order within five (5) days of receiving a fully executed Task Order.** Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with each Schedule, the Commission shall respond to Contractor's submittals in a timely manner. Upon the Commission's request, Contractor shall provide a more detailed schedule of anticipated performance to meet the relevant Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of Commission.

3.2.4 Commission's Representative. The Commission hereby designates the Executive Director or his or her designee, to act as its representative for the performance of this Agreement ("Commission's Representative"). Commission's Representative shall have the power to act on behalf of the Commission for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the Commission's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates Leslie T. Fields, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with Commission staff in the performance of Services and shall be available to Commission's staff, consultants and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined

by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.8 Period of Performance. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the Commission will suffer damage.

3.2.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the Commission. If Contractor disputes the Commission's decision, Contractor shall have such remedies as may be provided by law.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the Commission, Contractor shall be solely responsible for all costs arising therefrom. Commission is a public entity of the State of California subject to, among other rules and regulations, the Public Utilities Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a county transportation commissions are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold Commission, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor.

Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the Commission or its representatives for inspection and copy at any time during normal business hours. The Commission shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.2.10.2 Employment Eligibility; Subcontractors, Sub-subcontractors and consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the Commission to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

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

3.2.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of Commission's Disadvantaged Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by

the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify Commission against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency and the State Water Resources Control Board; the Commission's rules regarding discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or Commission to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the Commission, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by Commission, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, Commission will provide Contractor with a list of training programs that meet the requirements of this paragraph.

3.2.11 Insurance.

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

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

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

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *if Contractor has an employees, Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Practices Liability limits of \$1,000,000 per accident.

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

(A) General Liability.

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

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

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

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

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

(C) Workers’ Compensation and Employers Liability Coverage.

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

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

(D) All Coverages.

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

(ii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified

minimum insurance coverage requirements and/or limits set forth herein shall be available to the Commission, its directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

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

apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of Commission during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.3 Fees and Payments; Labor Code Requirements.

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation to be provided under this Agreement, including all Task Orders issued pursuant to this Agreement shall not exceed Three Million Seven Hundred Fifty-Nine Thousand Dollars (\$3,759,000). The total compensation per Task Order shall be set forth in the relevant Task Order, and shall not exceed said amount without the written approval of the Commissioner's Executive Director. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to Commission a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Commission shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by Commission.

3.3.4 Extra Work. At any time during the term of this Agreement, Commission may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by Commission to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from Commission's Representative.

3.3.5 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$15,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws.

Commission shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.6 Payroll Records. In accordance with the requirements of California Labor Code Section 1776, Contractor shall keep accurate payroll records which are either on forms provided by the Division of Labor Standards Enforcement or which contain the same information required by such forms. Responsibility for compliance with California Labor Code Section 1776 shall rest solely with Contractor, and Contractor shall make all such records available for inspection at all reasonable hours.

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

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

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

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

3.3.9 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less

than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Contractor or the Services are not subject to the Eight-Hour Law. Contractor shall forfeit to Commission as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any sub-contractor under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Contractor or the Services are not subject to the Eight-Hour Law.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. Commission may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to Commission, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, Commission may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, Commission may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 General Provisions.

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

CONSULTANT:
Tropical Plaza Nursery, Inc.
9642 Santiago Blvd
Villa Park, CA 92861

Attn: Leslie T. Fields

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.

3.5.2 Indemnification.

3.5.2.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the Commission, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Contractor, its officials, officers, employees, subcontractors, contractors or agents in connection with the performance of the Services, the Project, this Agreement or any Task Order, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

3.5.2.2 Additional Indemnity Obligations. Contractor shall defend, with Counsel of Commission's choosing and at Contractor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.5.2.1 that may be brought or instituted against Commission or its officials, officers, employees, volunteers and agents. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse Commission for the cost of any settlement paid by Commission or its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for Commission's attorneys' fees and costs, including expert witness fees. Contractor shall reimburse Commission and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Commission, its officials officers, employees, agents, or volunteers.

3.5.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the Commission. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the Commission.

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

3.5.5 Commission's Right to Employ Other Contractors. Commission reserves right to employ other contractors in connection with this Project.

3.5.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.7 Assignment or Transfer. Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Commission. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.5.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to Commission include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

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

3.5.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

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

3.5.13 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration

contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the Commission's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, Commission shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Commission, during the term of his or her service with Commission, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.15 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

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

3.5.17 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.18 Federal Provisions. Funding for the Services is provided, in whole or in part, by the Federal Transportation Administration ("FTA"). Contractor shall also fully and adequately comply with the provisions included in Exhibit "D" (Federal Requirements) attached hereto and incorporated herein by reference ("Federal Requirements"). With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE FOR ROUTINE AND ON-CALL LANDSCAPE MAINTENANCE
SERVICES AGREEMENT
BETWEEN THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AND TROPICAL PLAZA NURSERY, INC.**

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first set forth above.

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

CONTRACTOR

Anne Mayer
Executive Director

Signature

Name

Title

Approved as to form:

ATTEST:

Best Best & Krieger LLP

Signature

General Counsel

Name

Title

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

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

EXHIBIT “A”
SCOPE OF SERVICES

DRAFT

SCOPE OF SERVICES



I. BACKGROUND

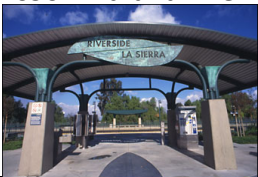

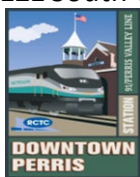
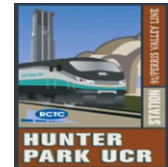
A. Introduction

The Contractor shall provide at his own risk and cost all labor, materials, tools, equipment, transportation, hauling, dumping, fertilizers, insecticides, chemicals and incidentals necessary to perform landscape maintenance work as directed herein.

The Contractor shall provide complete landscape maintenance to the below listed Commission owned properties. The landscape maintenance work shall also include controlling plant, weed abatement, disease and pests, irrigation material, maintaining and repairing irrigation systems; removing trash and debris; and other maintenance required to maintain the work sites in a safe attractive and useable condition. The Contractor shall maintain all plant material in a safe, attractive and useable condition.

B. Locations

<i>Location</i>	<i>In Service Date</i>	<i>Size</i>
Riverside Downtown 4066 Vine Street, Riverside 	June 1993	26.5 acres
Pedley/Jurupa Valley 6001 Pedley Road, Jurupa Valley 	June 1993	4.5 acres

<i>Location</i>	<i>In Service Date</i>	<i>Size</i>
La Sierra 10901 Indiana Avenue, Riverside 	October 1995	24.69 acres
West Corona 155 South Auto Center Drive, Corona 	October 1995	5.49 acres
North Main Corona 250 East Blaine Street, Corona 	November 2002	6.72 acres
Perris-Downtown 121 South C Street, Perris 	June 2016 (bus transit center opened 2010)	5.5 acres
Riverside-Hunter Park/UCR 1101 Marlborough Avenue, Riverside 	June 2016	9.35 acres

<i>Location</i>	<i>In Service Date</i>	<i>Size</i>
Moreno Valley/March Field 14160 Meridian Parkway, Riverside 	June 2016	14.47 acres
Perris-South 1304 Case Road, Perris 	June 2016	40.57 acres
Riverside Downtown Operations Control Center 4344 Vine Street, Riverside	April 2016	3,000 square feet
La Sierra 1091B Indiana Avenue, Riverside 	February 2018	5 acres
Facility and Maintenance FAM 120 N Joy, Corona, CA 92879 		1 acre

C. General Description of Work

The maintenance shall include, but not be limited to, the following:

- Pruning shrubbery;
- Mowing and trimming;
- Shaping and training of trees;
- Tree pruning;
- Shrubs and ground cover - Maintenance and Replacement of dead/dying plants;
- Removing and controlling weeds;
- Controlling plant diseases and pests;
- Irrigation materials;
- Maintaining and repairing irrigation systems;
- Removing trash and debris from planter areas and parking lot;
- Placement and maintenance of Mulch and weed barrier;
- Rodent Control;
- Miscellaneous light construction in landscaping areas (sawcuts, concrete, removal and/or installation of signage/fencing/railings);
- Other maintenance required to maintain the work sites in a safe, attractive and useable condition;
- Trash and debris disposal/hauling away.

The Contractor shall maintain all plant material in good condition within accepted horticultural standards for growth, color, and appearance. A detail description of the maintenance required is included in the following pages.

II. SCHEDULING OF WORK

- A. The Contractor shall accomplish all routine landscape maintenance required under this Agreement between the hours of 6:00 a.m. and 6:00 p.m. Monday through Friday. The Facilities Administrator may grant, on an individual basis, permission to perform maintenance at other hours. No maintenance functions that generate excess noise, which would cause annoyance to residents of any area, shall be commenced before 8:00 a.m. The Contractor shall establish a schedule of routine work to be followed in the performance of this Agreement. A copy of this schedule shall be provided to and approved by the Commission prior to the performance of any work required by these specifications, and any changes in scheduling shall be reported in writing, to the Facilities Administrator.
- B. The Contractor shall conduct the work at all times in a manner so as not to interfere with pedestrian traffic on adjacent sidewalks or vehicular traffic on adjacent streets. In addition, a special notification listing exact starting dates for renovation, pruning and other infrequent operations shall be furnished to the Facilities Administrator at least five (5) working days in advance of performing these activities.

- C. Contractor shall notify the onsite station security when they arrive at the site to start work and when they finish work.
- D. Contractor's Maintenance Supervisor shall meet once a month with the Facilities Administrator or his/her designated representative to discuss the maintenance activities, contract status, condition of the Stations, reoccurring maintenance problems, problem areas, recommendations to minimize maintenance activities, recommendations to reduce water usage, project costs, and schedule.
- E. The Contractor shall provide, on an annual basis, a written schedule detailing the fertilization periods and dates as required by the routine maintenance for ground cover, shrub and tree care. Routine Maintenance Sections A, B, and C of this Scope.

III. WORK FORCE

- A. The Contractor is expected to improve upon the appearance of the landscaped areas.
- B. The Contractor shall insure that all work is supervised by Contractor employed supervisory personnel who are technically qualified and possess management skills. The supervisory personnel must be able to communicate clearly with the Facilities Administrator and field staff. The supervisory personnel, who are listed by the Contractor to accompany the field crews on a regular basis, are expected to perform the necessary management duties along with various landscape maintenance activities.
- C. The Contractor shall identify an irrigation specialist who will be responsible for identifying and making the necessary irrigation repairs. The individual proposed shall be listed by their Prevailing Wage Rate Labor Classification.
- D. The Contractor shall insure that all work is performed by fully qualified, experienced personnel, directly employed by the Contractor.
- E. The Contractor shall be responsible for the skills, methods, appearance and action of Contractor's uniformed employees and for all work done. The Contractor's employees shall be U.S. Citizens or legal residents.
- F. The Contractor shall perform the work provided for in this Agreement under the direction of the Facilities Administrator or his/her designated representative. The Facilities Administrator or his/her representative may make inspections at any time and may request that the Contractor perform additional work or services to bring Contractor's performance to the level required by the Agreement.

- G. The Contractor shall correct discrepancies and deficiencies in the work as soon as practical after being notified by the Facilities Administrator, and in accordance with the terms and requirements of the Agreement.
- H. Two (2) three-member mow crews.
- I. One (1) full time qualified irrigation specialist that can alternatively function as a mow crew member.

IV. MATERIALS

- A. The Contractor shall submit a list to the Facilities Administrator of all materials that the Contractor proposes to use in the execution of the Services including a Safety Data Sheet (SDS). The list shall include the chemical analysis, recommended usage and any other pertinent data by the manufacturer of the material. The Facilities Administrator before use of any product shall approve such list. Contractor shall provide records of all chemical applications and active ingredients used at all locations.
- B. The following shall apply to the material indicated:
 - 1. Fertilizers shall be complete, furnishing the required percentage of nitrogen, phosphoric acid and potash to keep lawns, trees, shrubs and other plants in a healthy and vigorous growing condition.
 - 2. Insecticides, fungicides, herbicides and rodenticides shall be of the best quality obtainable, properly labeled with guaranteed analysis, and brought to the job site in the manufacture's original container. Contractor shall comply and follow all label instructions of each chemical.
 - 3. Tree stakes, tree ties and guy wires shall be of materials matching those existing in the work site or as specified by the Facilities Administrator.
 - 4. Replacement trees, shrubs, ground cover and other plants shall be of a size, condition and variety specified by the Facilities Administrator.
 - 5. Prior to planting the Facilities Administrator shall review and approve replacement plant materials.

V. ROUTINE MAINTENANCE

All routine maintenance shall be performed to the satisfaction of the Facilities Administrator. Routine maintenance shall include but not be limited to the following services.

A. GROUND COVER CARE

1. Edging and detailing

- a. Ground cover beds shall be maintained within their intended bounds, and edged or detailed every two (2) weeks.
- b. Ground cover shall not be permitted to encroach into lawns, shrubs, adjacent desirable bare areas, wall fixtures, furniture, etc. All sites shall be cleaned following each edging/detailing, including streets (when applicable).

2. Fertilization

All ground cover beds shall be fertilized using a complete or approved fertilizer (such as, 16-6-8 Turf Supreme) four (4) times per year. The rate of application shall be two (2) pounds of actual nitrogen per 1,000 square feet. The Facilities Administrator may request proof of application in the form of empty fertilizer bags at any time.

3. Renovation

All ground cover beds shall be thinned and pruned for the health of the planting and the appearance of the site, and at such other times when directed by the Facilities Administrator.

4. Cultivation or Mulch

All bare soil or open areas shall be covered by a minimum of two (2) inches of mulch. Areas around plants shall be cultivated every two (2) weeks.

5. Replanting

The Contractor shall be responsible for the complete removal and replacement of ground cover, at Contractor's own expense, for any ground cover requiring replacement through normal attrition or due to infestation or to negligence resulting from Contractor's failure to provide maintenance in accordance with the provisions of this agreement.

6. Watering

All ground cover shall be properly irrigated to maintain a healthy condition as determined by Facilities Administrator.

B. SHRUB CARE

All shrubs growing in the work areas shall be pruned as required, to maintain plants in a healthy growing condition and to maintain plant growth within reasonable bounds to prevent encroachment of passageways, walks, streets, view of signs or in any manner deemed objectionable by the Facilities Administrator. Dead or damaged limbs or branches shall be made clean with sharp pruning tools with no projections or stubs remaining. Pruning shall be done in a manner to permit plants to grow naturally in accordance with their normal growth characteristics except box hedging may be required on some shrubs, as designated by the Facilities Administrator. Shear hedging or severe pruning of plants, unless authorized by the Facilities Administrator, shall not be permitted. Should the Contractor shear hedge or severely prune plants and disfigure or damage the plants, the Contractor shall be responsible to replace those plants with like kind and size as determined by the Facilities Administrator.

1. Fertilization

All shrubs shall be fertilized using a complete or approved fertilizer (such as, 16, 6, and 8) four (4) times per year. The rate of application shall be two (2) pounds of actual nitrogen per 1,000 square feet.

2. Watering

All shrubs shall be properly irrigated to maintain a healthy condition.

3. Replanting

The Contractor shall be responsible for the complete removal and replacement of shrubs, at Contractor's own expense, for any shrubs requiring replacement through normal attrition or due to infestation or to negligence resulting from Contractor's failure to provide maintenance in accordance with the provisions of this agreement.

C. TREE CARE

All trees located on the station grounds are included in routine maintenance and are part of this Agreement.

1. Pruning

- a. All trees within the scope of work shall be maintained to keep the natural integrity and shapes of the trees. This work shall be accomplished in a manner, which will ensure that each individual tree is pruned.

- b. Regarding Rail Stations all trees should be pruned clear of the Rail right-of-way.
- c. The Contractor shall remove or prevent encroachment where it blocks vision, CCTV camera view or is considered undesirable by the Facilities Administrator. Low branches overhanging sidewalks, driveway lanes and parking areas shall be removed to a height of nine (9) feet above grade. Young trees needing pruning, training, and shaping to develop caliper and a strong structural framework shall allow low branching laterals and or appropriate sucker growth to remain on a continuing basis as needed according to the Facilities Administrator.
- d. Provide palm tree trimming in rail stations on an annual basis.

2. Staking, Tying and Guying

All trees requiring staking shall be securely staked at all times with approved stakes and rubber cinch ties. Rubber hoses and wire will not be permitted. All stakes shall be set perpendicular to prevailing winds unless designated otherwise by the Facilities Administrator. Tree stakes shall also be set a consistent distance away from the trunk of the tree (minimum six (6) inches) to reduce abrasion and cell elongation. The tops of all tree stakes shall be removed approximately three (3) inches above the highest tie to reduce abrasion of main or lateral branches of the tree.

3. Fertilization

All trees shall be fertilized using a complete or approved fertilizer a minimum of one (1) time per year.

4. Watering

All trees shall be properly irrigated to maintain a healthy condition as determined by the Facilities Administrator.

5. Safety Hazard

The Contractor shall bring to the attention of the Facilities Administrator within twenty-four (24) hours any tree displaying, root heaving or girdling (either by roots or a foreign material), leaning, broken or hanging limbs, or any other reason posing a potential safety hazard.

6. Replanting

The Contractor shall be responsible for the complete removal and replacement of any and all trees as necessary, as determined by the Facilities Administrator, including but not limited to, girdling trees with string trimmers or tree ties, improper planting of new trees, improper pruning techniques which disfigure or destroy the trees' natural integrity and shape, or failure to detect and prevent treatable diseases and insect infestations. Replacement shall be made by the Contractor in the kind and size of trees determined by the Facilities Administrator.

D. WEEDS, DISEASE AND PEST CONTROL

1. Weed Control

All areas, including landscaped and hardscape, within the specified scope of work (including, but not limited to, shrub and ground cover, planters, tree wells, ornamental bark or rock areas, asphalt or concrete areas) shall be kept free of weeds at all times. The complete removal of all weed growth shall be accomplished on a continuing basis. Weeds shall be controlled by hand, weed barrier, and approved chemical methods. Weeds shall be hauled away.

2. Disease and Pest Control

- a. The Contractor shall regularly inspect all landscaped areas for presence of disease, insect or rodent infestation. The Contractor shall advise the Facilities Administrator within four (4) days after detection of disease, insect or rodent infestation, and the action to be taken. Upon approval of the Facilities Administrator, the Contractor shall implement approved control measures, following all federal, state, county, and municipal laws, regulations and ordinances required for the approved work.
- b. Approved control measures shall be continued until the disease, insect or rodent is controlled to the satisfaction of the Facilities Administrator. The Contractor shall utilize all safeguards necessary during disease, insect or rodent control operations to ensure safety of the public and the employees of the Contractor.

E. GENERAL MAINTENANCE AND CLEAN-UP

1. The Contractor shall collect all clippings, trimmings, cuttings, rubbish and debris at all work sites and dispose of same in a lawful manner at the Contractor's expense.
2. All trash and debris shall be removed from all work sites as work is being performed.

3. The Contractor shall rake, hand remove, or vacuum leaves that are not absorbed by planting. This shall be done as often as required to maintain a neat appearance, or prevent plants from being smothered by seasonal leaf drop.
4. After heavy windstorms, the entire area shall be cleaned of litter, fallen branches, etc., which are in excess of normal amounts.
5. The Contractor shall keep sidewalks and paved areas in the medians swept and cleaned of any dirt or soil that might be washed from adjacent slopes or planted areas.
6. The Contractor shall provide limited construction services necessary to fully perform necessary landscape related work (sawcuts, concrete, signage, railings, etc.)
7. The Contractor shall provide limited design oversight and consultation services as needed and subject to assent by the contractor.
8. The Contractor shall update all as-built drawing and electronic files at least annually to reflect all new and relocated landscape-related facilities.
9. The Contractor shall remove all leaves that have fallen and or accumulated in the parking lot curb corners and in the parking lot drain inlets.

F. OTHER REQUIREMENTS

1. Replacement of Plant Material
 - a. The Contractor shall notify the Facilities Administrator within five (5) business days of the loss of plant material due to any cause.
 - b. The Contractor shall remove shrub or ground cover, which is damaged or lost due to any cause at no cost.
 - c. The Contractor shall replace, at Contractor's own expense, any ground cover, trees, shrubs, or other plant material requiring replacement through normal attrition or due to infestation or to negligence resulting from Contractor's failure to provide maintenance in accordance with the provisions of this agreement. The size and species of replacement shrubs or ground cover plants shall be consistent with the original landscape plan. The Facilities Administrator shall approve any exceptions.
 - d. It is the intention of the Facilities Administrator to require a high level of quality in landscape maintenance compatible with standard practice.

- e. In order to ensure maximum healthy growth and overall aesthetic appearance of planting in the work area, it may be desirable to replace certain plants. The Facilities Administrator shall determine the necessity or desirability of such plant replacement.

2. Inspection

The Facilities Administrator or his or her designee shall inspect the work area to ensure adequacy of maintenance and that methods of performing the work are in compliance with the contract. However, this shall not be construed to relieve the Contractor of the duty to provide continuous inspection of the work area. The Contractor shall correct discrepancies and deficiencies in the work immediately as determined by the Facilities Administrator.

Contractor shall work with the Facilities Administrator to develop an Inspection Checklist that will be used by the Facilities Administrator to document conformance or non-conformance of the Contractor's work. This checklist will be provided to the Contractor to identify areas requiring corrective action.

3. Emergency Service

Twenty-four (24) hours per day, seven (7) days per week, the Contractor shall be able to receive and respond to the Facilities Administrator or his or her designee's call for emergency service. Response time shall be less than two (2) hours to remove or eliminate a public safety hazard. Contractor shall provide the Facilities Administrator with a local telephone number where Contractor can be contacted twenty-four (24) hours per day, seven (7) days per week.

4. New maintenance Areas

Additional routine maintenance may be required as set forth in the contract. Payment for add-on maintenance shall be based on the square footage of added area.

G. IRRIGATION SYSTEM MAINTENANCE

1. General Responsibilities

- a. Irrigation shall be done by the use of automatic sprinkler systems where available and operable; however, failure of the existing irrigation system to provide full and proper coverage shall not relieve the Contractor of the responsibility to provide adequate irrigation with full and proper coverage to all areas in the work site.
- b. Newly planted-trees, shrubs, and ground cover shall receive special attention until these plants are established. Adequate water shall be applied to

promote normal healthy growth. Proper berms or basins shall be maintained during the establishment period.

- c. Any damages to public or private property resulting from excessive irrigation water or irrigation water runoff shall be charged against the Contractor's payment unless immediate repairs are made by the Contractor to the satisfaction of the Facilities Administrator.
- d. The Contractor shall make whatever adjustments necessary to prevent excessive overspray/runoff into street right-of-ways or other areas not intended to receive irrigation. If overspray/runoff cannot be controlled by adjustments to the sprinklers, the contractor shall notify the Facilities Administrator and recommend a replacement sprinkler which will reduce or eliminate the overspray/runoff. The Contractor shall replace the sprinkler at the direction of the Facilities Administrator.

2. Operation of Automatic Irrigation Controllers

Where the operation of automatic irrigation controllers is required, the Contractor shall:

- a. Not duplicate any code key furnished for access and operation of the controller.
- b. Surrender all keys at the end of the Contract period, or at any time deemed necessary by the Facilities Administrator.
- c. Protect the security of the property by keeping controller cabinet and building doors locked at all times.
- d. Not use premises behind locked areas for storage of materials, supplies or tools, except as approved by the Facilities Administrator.
- e. Program normal irrigation between the hours of 10:00 p.m. and 4:00 a.m.

3. Water Conservation

The Contractor shall turn off the irrigation system, if applicable, during periods of rainfall and times when suspension of irrigation is desirable to conserve water while remaining within the guidelines of good horticulturally acceptable maintenance practices. When the Facilities Administrator acknowledges the necessity to turn on the water once again, all controllers shall be activated within twenty-four (24) hours. Contractor shall perform all services in a manner which

conserves the use of water whenever possible to the extent that such conservation does not interfere with the Contractor's maintenance obligations.

4. Inspection and Reporting

- a. The Contractor shall physically inspect (by manual or semi-automatically running the Controller) the operation of all systems on a weekly basis. The Contractor shall maintain all sprinkler systems in such a way as to guarantee proper coverage and full working capability, and make whatever adjustments necessary to prevent excessive overspray/runoff into street right-of-ways or other areas not intended to receive irrigation overspray/runoff.
- b. A visual inspection of all irrigated areas shall occur, more often, but not less than one (1) time per week. All areas receiving marginal coverage shall be irrigated by a portable irrigation method. The Contractor shall furnish all hoses, nozzles, sprinklers, etc., necessary to accomplish this supplementary irrigation. Care shall be exercised to prevent a waste of water, erosion, and/or detrimental seepage into existing underground improvements or structures.
- c. Contractor shall clean and re-set any spray nozzles that have an erratic spray. Any dirt/silt and debris shall be removed, cleaned & reset.
- d. Any damage to irrigation system components listed below, resulting from vandalism, vehicle damage, tree roots or old age shall be repaired or replaced as part of irrigation system maintenance. The replacement irrigation components shall be new and have the greatest durability and life span available. If the Contractor is aware of a newer technology, which would result in a benefit to the project i.e. longer life, increased durability, less overspray, better coverage, reduced water usage, reduced maintenance, then it should be proposed to the Facilities Administrator for review and approval prior to installation:
 - Irrigation System Components
 - Sprinklers – all types, pop up, bubbler, impacts etc.
 - Sprinkler components
 - Riser Pipes – all components i.e. Elbows, Tees, Reducers, Marlex, Slip Fix, Nipples, Couplers, adapters, etc.
 - Lateral Lines
 - Control wires
 - Valve Boxes
 - Hose bibs / quick connects
 - Controller/Clocks/Timers
 - Backflow preventer
 - Valves

- e. Contractor shall provide annual testing and certification for all backflow preventers.

H. SAFETY

1. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property.
2. Contractor shall submit to RCTC their company Safety Plan prior to work.
3. Contractor shall ensure that their employee are provided with and utilize the proper Personal Protective Equipment (PPE) while performing the work.
4. Contractor shall designate at least one (1) Safety Representative acceptable to RCTC, provided that acceptance may be withdrawn at any time, who shall be responsible for ensuring that the Work is performed in accordance with the requirements set forth in the Contract, the Contractor's Safety Plan, and all applicable laws and regulations.
5. Contractor shall have at least one individual on site who is First Aid and CPR trained. The individual shall be identified and the contractor will provide copies of their safety training certifications.
6. The Contractor shall post and ensure all employees are aware of the name, location, phone numbers of local doctors, hospitals, ambulance services, and emergency services that they contact in the event of an on-site emergency.
7. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work.
8. In carrying out its Work, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be perform.

I. STORM WATER POLLUTION PREVENTATION PROGRAM (SWPPP)

1. Contractor shall ensure that all employees are trained and are aware of the following Site Specific Storm Water Pollution Prevention Requirements:
 - a. No discharge of fertilizers, pesticide, and wastes into street or storm drains;
 - b. No blowing or sweeping debris into street or storm drains;
 - c. No hosing down of the parking lot;
 - d. No vehicle washing or maintenance on site;
 - e. Close dumpster lids at all time;

- f. No disposing of wash water into street or storm drains;
 - g. Remove all foreign objects (leaves, cans, cigarette butts, paper etc.) from in front of drainage inlets and gutter areas;
 - h. Properly dispose all chemical container per label of said chemical used.
2. The Contractor must provide annual refresher training at its own cost on the Site Specific Storm Water Pollution Prevention Requirements.
 3. The Contractor shall document the training on a Site Specific Storm Water Pollution Prevention Training Log and provide it annually to RCTC.

J. CHEMICALS TO BE USED

1. Contractor shall provide a list of all chemicals that are proposed to be used on the project for review and approval, prior to use of the chemicals.
2. Contractor shall provide Safety Data Sheets (SDS)/Label for all chemicals that are to be used on the project.
3. Contractor shall ensure the field crews carry copies of the SDS/Label for all chemicals they have while on-site.
4. Contractor is encouraged to use Bio-degradable or environmentally friendly chemicals.
5. Contractor shall ensure that all employees are properly trained in the use and handling of the approved cleaning products/chemicals.
6. Contractor shall ensure that all employees utilize the proper Personal Protective Equipment (PPE) as specified by the chemical or the Contractor's safety plan, whichever is most stringent.
7. Contract shall follow all label requirements/instructions per chemical.
8. Contractor shall have a qualified person on staff with a Qualified Applicator Certificate (QAC) in category Q or B applying any chemical.
9. Contractor shall follow all California Department of Pesticide Regulations and possess a maintenance gardener pest control business license.

OTHER IRRIGATION REPAIRS - Task Order Based Work

Any damage to irrigation system components listed below, resulting from vandalism, vehicle damage, tree roots or old age shall be brought to the attention of the Facilities Administrator for disposition. Repair or replacement of these

items will be based on the unit and labor costs consistent with this Agreement and as approved through the issuance of a Task Order:

Irrigation System Components shall include:

- Main Line
- Backflow Preventer
- Valves
- Irrigation Controllers – Timers/Clocks
- Irrigation Controller Cabinet
- Electrical Power connection to Controller Cabinet

K. NEW LANDSCAPING-Task Order Based Work

1. Contractor shall replace existing landscaping with drought resistant vegetation and features upon direction from RCTC.
2. Contractor shall implement all modified landscaping plans upon direction from RCTC.
3. Contractor shall install modified irrigation systems upon direction from RCTC.
4. Contractor shall be able to modify planting areas and provide hardscape or safe pedestrian access with sidewalks upon direction from RCTC.

End of Statement of Services

EXHIBIT “B”
SCHEDULE OF SERVICES

DRAFT



Yearly Maintenance Calendar

West Corona

West Corona 155 Auto Center Drive Corona CA 92880	DAY OF SERVICE	TIME	CREW
	Monday	6:30 - 11:30	1

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X		
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

North Main Corona

North Main Corona 250 E. Blaine St Corona CA 92880	DAY OF SERVICE	TIME	CREW
	Monday	11:30am - 3:30pm	1

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X		
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Facility and Maintenance (FAM)

Facility and Maintenance (FAM) 120 N Joy St	DAY OF SERVICE	TIME	CREW
	Friday	11:30am - 3:30pm	2

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X		
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

La Sierra

La Sierra 10903 Indiana Ave Riverside CA 922503	DAY OF SERVICE	TIME	CREW
	Tuesday & Wednesday	11:30am - 3:30pm & 6:30am - 3:30pm	1

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X		
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Pedley/Jurupa Valley

Pedley/Jurupa Valley 6001 Pedley Road Riverside, CA 92509	DAY OF SERVICE	TIME	CREW
	Tuesday	6:30am - 3:30pm	1

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming												
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Riverside Downtown

Riverside Downtown 4066 Vine Street Riverside, CA 92507	DAY OF SERVICE	TIME	CREW
	Thursday & Friday	6:30am - 1:30pm & 6:30am - 3:30pm	1

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X		
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Hunter Park

Hunter Park 1101 Marborough Ave Riverside CA, 92507	DAY OF SERVICE	TIME	CREW
	Monday	6:30am - 1:30pm	2

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas				X				X				
Lawn Aeration												
Lawn Broad Leaf Weed Control								X				
Date Palm Trimming										X		
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization			X				X				X	
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Moreno Valley/ March Field

Moreno Valley/ March Field 14160 Meridian Pkwy, Riverside, CA 92518	DAY OF SERVICE	TIME	CREW
	Tuesday	6:30am - 3:30pm	2

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming												
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization			X				X				X	
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Perris - Downtown

Perris - Downtown 121 C Street Perris, CA 92570	DAY OF SERVICE	TIME	CREW
	Wednesday	6:30am - 3:30pm	2

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X	X	
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X



Yearly Maintenance Calendar

Perris - South

Perris - South 1304 Case Road Perris, CA 92570	DAY OF SERVICE	TIME	CREW
	Thursday	6:30am - 3:30pm	2

Task	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Lawn Areas												
Lawn Aeration												
Lawn Broad Leaf Weed Control												
Date Palm Trimming										X	X	
Tree Trimming										X	X	
Tree Pruning											X	
Tree Staking (checked weekly)	X	X	X	X	X	X	X	X	X	X	X	X
Tree and Palm Fertilization				X								
Ground Cover Detail	X	X	X	X	X	X	X	X	X	X	X	X
Weed Control	X	X	X	X	X	X	X	X	X	X	X	X
Pruning Shrubs, as needed	X	X	X	X	X	X	X	X	X	X	X	X
Shrub Fertilization		X			X			X			X	
Ground Cover Fertilization		X			X			X			X	
Turf Fertilization												
Supervisor Inspection	X	X	X	X	X	X	X	X	X	X	X	X
Trash Pick-up	X	X	X	X	X	X	X	X	X	X	X	X
Cultivate bare areas	X	X	X	X	X	X	X	X	X	X	X	X
Mulch Cover Bare areas											X	
Roden Control	X	X	X	X	X	X	X	X	X	X	X	X
3-man crew	X	X	X	X	X	X	X	X	X	X	X	X
Irrigation Check	X	X	X	X	X	X	X	X	X	X	X	X
SWPPP Prevention Requirments									X			
Month Inspection for plant disease	X	X	X	X	X	X	X	X	X	X	X	X

EXHIBIT “C”
COMPENSATION

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EXHIBIT "C"

COMPENSATION SUMMARY

FISCAL YEAR	PROJECT	COST
FY 2021/22	Landscape Maintenance Services	\$ 444,000.00
FY 2022/23	Landscape Maintenance Services	679,000.00
FY 2023/24	Landscape Maintenance Services	682,000.00
FY 2024/25	Landscape Maintenance Services	694,000.00
FY 2025/26	Landscape Maintenance Services	733,000.00
FY 2026/27	Landscape Maintenance Services	527,000.00
TOTAL COSTS		\$ 3,759,000.00

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EXHIBIT “D”

FEDERAL REQUIREMENTS

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**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)
AND
STATE (CALTRANS)
FUNDING REQUIREMENTS**

The following additional funding requirements apply depending on the funding source identified as applicable for a Task Order.

I. SCAQMD REQUIREMENTS

Non-Discrimination - In the performance of this Contract, CONTRACTOR shall not discriminate in recruiting, hiring, promotion, demotion, or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age, or physical handicap and shall comply with the provisions of the California Fair Employment & Housing Act (Government Code Section 12900, *et seq.*), the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, Executive Order No. 11246 (30 Federal Register 12319), and all administrative rules and regulations issued pursuant to said Acts and Order. CONTRACTOR shall likewise require each subcontractor to comply with this clause and shall include in each such subcontract language similar to this clause.

II. CALTRANS REQUIREMENTS

* Section 2 below is also applicable to FTA Funded Task Orders.

1. Invoices & Payments.

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

Payment shall be made for costs incurred by Contractor in performance of the Services. No advance payment or payment for work not actually performed shall be made under this Agreement or any Task Order.

2. Cost Principles and Administrative Requirements.

Contractor 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.

Contractor 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.

Any costs for which payment has been made to Contractor 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 Contractor to Commission.

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

3. 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; Contractor, subcontractors, and Commission shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under this Agreement. The State, State Auditor, Commission, or any duly authorized representative of the State Government shall have access to any books, records, and documents of Contractor and its certified public accountants (CPA) work papers that are pertinent to this Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

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

5. Travel & Subsistence. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Task Order, as may be applicable. In addition, any payments to Contractor for travel and subsistence expenses claimed for reimbursement or applied as local match credit shall not exceed rates authorized to be paid exempt non-represented State employees under current State Department of Personnel Administration (DPA) rules, 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 Contractor is responsible for the cost difference and any overpayments shall be reimbursed to the Commission on demand.

6. Equipment Purchase

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

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

Any equipment purchased as a result of this Agreement is subject to the following: Contractor 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, Contractor 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 Contractor elects to keep the equipment, fair market value shall be determined at Contractor's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by Commission and Contractor. If Contractor 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.

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

7. National Labor Relations Board Certification.

In accordance with Public Contract Code Section 10296, and by signing this Agreement, Contractor 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 Contractor within the immediately preceding two-year period, because of Contractor's failure to comply with an order of a federal court that orders Contractor to comply with an order of the National Labor Relations Board.

8. Nondiscrimination; Statement of Compliance.

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

During the performance of this Agreement, Contractor and its subcontractors 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. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors 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 Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

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FTA FUNDING REQUIREMENTS

The following FTA terms will be incorporated into all Task Orders utilizing FTA funds, unless otherwise determined in writing by RCTC. As used herein, "RCTC" shall have the same meaning as the "Commission." The term "contract" or "Contract" shall have the same meaning as the "Agreement."

1. No Obligation by the Federal Government

a. RCTC and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

b. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statements or Related Acts

a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

c. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. Access to Records

The Contractor agrees to the following access to records requirements:

- a. To provide RCTC, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- b. To make available in the case of a contract for a capital project or improvement, as defined above and awarded by other than competitive bidding in accordance with 49 U.S.C. 5325(a), records related to the contract to RCTC, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- c. To maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until RCTC, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- d. To permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

4. Federal Changes

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between RCTC and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

5. Civil Rights

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332 and 49 CFR part 21, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed,

national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623, Federal transit law at 49 U.S.C. § 5332, the Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability, and that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

6. FTA Disadvantaged Business Enterprise (DBE) Requirements

A. General DBE Requirements: In accordance with Federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), Commission has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs" (the "Regulations"). This RFP is subject to these stipulated regulations. In order to ensure that Commission achieves its overall DBE Program goals and objectives, Commission encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds.

It is the policy of the Commission to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

B. Discrimination: Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Any terms used herein that are defined in 49 CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations.

C. Commission's Race-Neutral DBE Program: A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. Therefore, under a Race-Neutral DBE Program, Commission does not establish numeric race-conscious DBE participation goals on its DOT-assisted contracts. There is no FTA DBE goal on this Project.

Consultant shall not be required to achieve a specific level of DBE participation as a condition of contract compliance in the performance of this DOT-assisted contract. However, Consultant

shall adhere to race-neutral DBE participation commitment(s) made at the time of award of any Task Order (as defined in the Model Contract).

D. Race-Neutral DBE Submissions and Ongoing Reporting Requirements (Post-Award): For each Task Order proposal, the successful Consultant shall complete and submit to Commission a “DBE Race-Neutral Participation Listing” in the form provided by Commission. In the event DBE(s) are utilized in the performance of the Task Order, Consultant shall comply with applicable reporting requirements.

E. Performance of DBE Subconsultants: DBE subconsultants listed by Consultant in its “DBE Race-Neutral Participation Listing” submitted at the time of Task Order proposal shall perform the work and supply the materials for which they are listed, unless Consultant has received prior written authorization from Commission to perform the work with other forces or to obtain the materials from other sources. Consultant shall provide written notification to Commission in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

F. DBE Certification Status: If a listed DBE subconsultant is decertified during the life of any Task Order, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a non-DBE subconsultant becomes a certified DBE during the life of the Task Order, the DBE subconsultant shall notify Consultant in writing with the date of certification. Consultant shall furnish the written documentation to Commission in a timely manner. Consultant shall include this requirement in all subcontracts.

G. Consultant’s Assurance Clause Regarding Non-Discrimination: In compliance with State and Federal anti-discrimination laws, Consultant shall affirm that it will not exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, Consultant shall affirm that they will consider, and utilize subconsultants and vendors, in a manner consistent with non-discrimination objectives.

H. Violations: Failure by the selected Consultant(s) to carry out these requirements shall be a material breach of the contract to be awarded pursuant to this RFP, which may result in the termination of the contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the Consultant from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

I. Prompt Payment: Consultant shall pay its subconsultants for satisfactory performance of their contracts no later than 30 days from receipt of each payment Commission makes to the Consultant. 49 C.F.R. § 26.29(a), unless a shorter period is provided in the contract.

J. Compliance with DBE Requirements Contained in FTA Provisions: Consultant shall comply with all DBE reporting and other requirements contained in this Agreement.

7. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any RCTC requests which would cause RCTC to be in violation of the FTA terms and conditions.

8. ADA Access Requirements

The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC Section 12101 et seq; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC Section 794; 49 USC Section 5301(d).

9. Fly America

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

10. Cargo Preference - Use of United States-Flag Vessels

The Contractor agrees:

1. To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
2. To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading.)

3. To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

11. Buy America

The following shall apply unless otherwise specified in a Task Order request.

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

Contractor must submit to RCTC the appropriate Buy America certification with all bids on FTA-funded contracts (including Task Orders), except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

12. Employment Provisions

To the extent applicable to the Services, Consultant shall comply with the following:

A. Equal Employment Opportunity — Consultant must comply with Executive Order 11246 (3 CFR, 1964–1965 Comp., p. 339), “Equal Employment Opportunity,” as amended by Executive Order 11375 (3 CFR, 1966–1970 Comp., p. 684), “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR chapter 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

B. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) — Consultant must comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, “Consultants and Subconsultants on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Commission shall report all suspected or reported violations to the responsible DOE contracting officer.

C. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333) — Consultant must comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each Consultant is required to compute the wages of every mechanic and

laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

D. Davis-Bacon Act (40 U.S.C. 276a) — Consultant shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).

13. Release of Retainage

No retainage will be withheld by the RCTC from progress payments due Contractor. Retainage by Contractor 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 Contractor 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 Contractor or subconsultant in the event of a dispute involving late payment or nonpayment by Contractor or deficient subconsultant performance, or noncompliance by a subconsultant.

14. Termination for Convenience

RCTC may terminate the Agreement for convenience in accordance with the terms of the Agreement.

After such termination, the Contractor shall submit a final termination settlement proposal to RCTC as directed. If the Contractor fails to submit a proposal within the time allowed, RCTC may determine, on the basis of information available, the amount, if any due the Contractor because of the termination and shall pay the amount determined. After the Contractor's proposal is received, RCTC and Contractor shall negotiate a fair and equitable settlement and the contract will be modified to reflect the negotiated agreement. If agreement cannot be reached, RCTC may issue a final determination and pay the amount determined. If the Contractor does not agree with this final determination or the determination resulting from the lack of timely submission of a proposal, the Contractor may appeal under the Disputes clause.

15. Administrative and Contractual Remedies on Breach; Termination for Cause

a. The Contractor may be declared in breach of this Agreement ("Breach") if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms. In case of any of the foregoing, RCTC shall notify the Contractor of the Breach, and the Contractor shall have a period of ten (10) days (or such longer period as RCTC may authorize in writing) after receipt of notice from RCTC to cure the Breach.

b. RCTC may, by written notice of termination to the Contractor specifying the effective date thereof, terminate the whole or any part of this contract, in the case of a Breach that is not cured within the timeframe set forth in (a) above (“Uncured Breach”).

c. If the contract is terminated in whole or in part for an Uncured Breach, RCTC may procure upon such terms and in such manner as RCTC may deem appropriate, supplies or services similar to those so terminated, or may complete the services with its own forces. The Contractor shall be liable to RCTC for any excess costs for such similar supplies or services, and for any other costs incurred by RCTC as a result of the Uncured Breach. The Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

d. Except with respect to defaults of Subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required project completion schedule.

e. Payment for completed services or supplies delivered to and accepted by RCTC shall be at the contract price. RCTC may withhold from amounts otherwise due the Contractor for such completed services or supplies such sum as RCTC determines to be necessary to protect RCTC against loss because of outstanding liens or claims of former lien holders, or to reimburse RCTC for any other costs related to the Uncured Breach.

f. If, after notice of termination of this contract for cause, it is determined for any reason that an Uncured Breach did not exist, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the provisions for termination for convenience of RCTC.

g. The rights and remedies of RCTC provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this contract including, but not limited to, the right to specific performance.

h. Notwithstanding the above, RCTC may, without providing an opportunity to cure, terminate the contract in accordance with the timeframe set forth in Section 3.4 of the contract, if RCTC determines such action is in its best interest based on the nature of the Breach. Such actions shall not limit any of RCTC’s remedies set forth above.

16. Disputes

a. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by supplemental agreement shall be

decided by RCTC's Deputy Executive Director, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the RCTC Deputy Executive Director shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, Contractor mails or otherwise furnishes to the RCTC Deputy Executive Director a written appeal addressed to RCTC's Executive Director. The decision of RCTC Executive Director or duly authorized representative for the determination of such appeals shall be final and conclusive.

b. The provisions of this Paragraph shall not be pleaded in any suit involving a question of fact arising under this Agreement as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged, provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Paragraph, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

c. Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision of RCTC's Deputy Executive Director. This "Disputes" clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final the decision of any RCTC official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

17. Lobbying

See the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The Offeror shall complete and submit with its bid/proposal the attached Certification Regarding Lobbying, and if applicable, the Standard Form-LLL, "Disclosure Form to Report Lobbying."

18. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

19. Clean Water

a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to RCTC and understands and agrees that RCTC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

b. The Contractor further agrees that:

- (1) It will not use any violating facilities;
- (2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
- (3) It will report violations of use of prohibited facilities to FTA; and
- (4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

20. Clean Air

a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to RCTC and understands and agrees that RCTC will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

b. The Contractor further agrees that:

- (1) It will not use any violating facilities;
- (2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
- (3) It will report violations of use of prohibited facilities to FTA; and
- (4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

c. The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

21. Recycled Products

Recovered Materials - The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order

12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

21. Safe Operation of Motor Vehicles

Pursuant to Federal Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

a. The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or RCTC.

b. The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.