

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
REQUEST FOR QUALIFICATIONS (RFQ)
RFQ NO. 10-31-058-00**

FOR

**Construction Management Services, Materials Testing, and Construction
Surveying**

**For the Construction of the
Perris Valley Line Metrolink Improvement Project
in
Riverside County, California**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
4080 Lemon Street, 3rd floor
Riverside, CA 92501
Mailing address: P.O. Box 12008
Riverside, CA 92502-2208
RFQ Contact Person: Greg Moore**

Key RFQ Dates:

| | |
|--|--------------------------------------|
| Request for Qualifications Issued | Thursday – January 14, 2010 |
| Pre-Submittal Meeting | Tuesday – February 2, 2010 |
| Request for Clarifications Due | Thursday – February 11, 2010 |
| RCTC Posting of Responses | *Thursday – February 25, 2010 |
| Qualifications Submittal | Thursday – March 11, 2010 |
| Short Listed Firms Notified | *Thursday – April 8, 2010 |
| Interview & Selection | *Monday – April 26, 2010 |
| Initiation of Negotiations | *Monday – May 3, 2010 |
| Commission Contract Approval | *Wednesday – June 9, 2010 |

***Tentative**

TABLE OF CONTENTS

| | <u>PAGE</u> |
|---|-------------|
| NOTICE FOR REQUEST FOR QUALIFICATIONS..... | 1 |
| SECTION I. BACKGROUND | 4 |
| A. ABSTRACT | 4 |
| B. PROJECT DESCRIPTION | 4 |
| SECTION II. INSTRUCTIONS TO OFFERORS | 6 |
| A. NON-MANDATORY PRE SUBMITTAL CONFERENCE | 6 |
| B. EXAMINATION OF SOQ DOCUMENTS | 6 |
| C. ADDENDA..... | 6 |
| D. COMMISSION CONTACT/ADDRESS | 6 |
| E. REQUESTS FOR CLARIFICATIONS, EXCEPTIONS, DEVIATIONS OR CHANGES..... | 7 |
| 1. EXAMINATION AND CLARIFICATION OF RFQ DOCUMENTS..... | 7 |
| 2. EXCEPTIONS TO OR RECOMMENDATIONS FOR CHANGE OF THE RFQ | 7 |
| 3. EXCEPTIONS OR CLARIFICATIONS TO STANDARD CONTRACT | 8 |
| 4. SUBMITTING REQUESTS..... | 8 |
| 5. COMMISSION RESPONSES..... | 8 |
| F. SUBMISSION OF SOQ | 9 |
| 1. DATE AND TIME..... | 9 |
| 2. IDENTIFICATION OF SOQS..... | 9 |
| G. COMMISSION RIGHTS | 9 |
| H. SOQ PREPARATION EXPENSES..... | 10 |
| I. PROTEST PROCEDURES | 10 |
| J. CONTRACT TYPE | 11 |
| K. CONTRACT TERM | 11 |
| L. CONFLICTS OF INTEREST..... | 11 |

| | | |
|---------------------|---|-----------|
| SECTION III. | SOQ CONTENT | 12 |
| A. | SOQ FORMAT AND CONTENT | 12 |
| 1. | FORMAT | 12 |
| 2. | LETTER OF TRANSMITTAL | 12 |
| 3. | TECHNICAL PROPOSAL | 13 |
| 4. | INSURANCE | 15 |
| SECTION IV. | EVALUATION AND AWARD | 16 |
| A. | EVALUATION CRITERIA | 16 |
| B. | EVALUATION PROCEDURE | 17 |
| C. | AWARD | 17 |
| D. | NOTIFICATION OF AWARD AND DEBRIEFING..... | 18 |
| EXHIBIT A | SCOPE OF WORK | |
| EXHIBIT B | MODEL AGREEMENT | |
| EXHIBIT C | DISCLOSURE OF CAMPAIGN CONTRIBUTIONS TO COMMISSIONERS | |
| EXHIBIT D | FEDERAL CERTIFICATIONS AND FORMS TO BE SUBMITTED AS PART OF SOQ. | |

January 14, 2010

SUBJECT: NOTICE OF REQUEST FOR QUALIFICATIONS FOR CONSTRUCTION MANAGEMENT, MATERIALS TESTING, AND CONSTRUCTION SURVEYING SERVICES FOR THE PERRIS VALLEY LINE METROLINK IMPROVEMENT PROJECT

The Riverside County Transportation Commission (Commission) invites Statements of Qualifications (SOQs) from qualified consultants ("Offeror") to provide Construction Management (CM), Materials Testing and Construction Surveying services for the Perris Valley Line (PVL) Metrolink Improvement Project.

SOQs must be submitted no later than 2:00 p.m. on March 11, 2010. See Instructions to Offerors for further details regarding SOQ submissions.

SOQs delivered in person or by a means other than the U.S. Postal Service shall be submitted to the following:

**Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Attention: Greg Moore, Procurement and Assets Manager**

SOQs delivered using the U.S. Postal Service shall be addressed as follows:

**Riverside County Transportation Commission
P. O. Box 12008
Riverside, CA 92502-2208
Attention: Greg Moore, Procurement and Assets Manager**

SOQs and amendments to the SOQs received after the date and time specified above will be returned to the Offeror unopened. Faxed or electronically submitted SOQs will not be accepted.

It is the Commission's intent that all firms obtain the full content of this Request for Proposal (RFQ) and all Addenda via the Commission's website located at www.rctc.org/rfps.asp.

Except for Greg Moore, no contact of any kind regarding this RFQ shall be made with any of the Commission's Board members or the Commission's staff including the Riverside County Transportation Commission's (RCTC's) program

management consultant, Bechtel Infrastructure Corporation, or other members of the Project Delivery Team including but not limited to the Southern California Regional Rail Authority (SCRRRA), Federal Transit Administration (FTA), Burlington Northern Santa Fe (BNSF) Railroad, and the STV Consultants (planning/environmental/design) team. It is intended that the Consultant selection shall be made on merit alone within the process described in this RFQ. Violation of this condition may result in immediate disqualification of an Offeror's proposal.

A pre-submittal meeting will be held on **Tuesday, February 2, 2010**; at 2:00 p.m. at RCTC's Conference Room A located at 4080 Lemon Street, 3rd Floor, Riverside, CA 92501. Attendance is not mandatory, but prospective Offerors are encouraged to attend. Minutes of the pre-submittal meeting will be posted on the RCTC website. Any unanswered questions from the meeting will be addressed. Changes to the RFQ, if any, will be addressed through the issuance of an Addendum to the RFQ.

All questions, including questions that could not be specifically answered at the pre-submittal conference, must be put in writing and must be received by the Commission by **February 11, 2010, by 2:00 pm**.

Please note that Commission will ***not*** be responsible for mailing any addenda. All addenda will be published on the Commission's website. Offerors are encouraged to check the website regularly since each Offeror will be responsible for downloading the RFQ and all addendums.

A "Shortlist" of firms to be interviewed will be developed by the Commission. The Commission anticipates that the "Shortlisted" firms will be notified on or about **April 8, 2010**. Interviews are tentatively scheduled for **April 26, 2010**. Please keep this date open. Failure to appear at the interview will cause the Offeror to be eliminated from further evaluation. The Commission reserves the right to postpone the interview date, or cancel an interview, in its sole and absolute discretion. Offeror shall be notified in advance of any such postponement or cancellation.

In conjunction with the federal funding anticipated to be used to fund all or a portion of the services solicited pursuant to this RFQ, all Offerors will be required to submit, as part of their SOQ, the completed federal certifications and forms attached as Exhibit "D" to this RFQ. These forms include the Debarment and Suspension Certification, Equal Employment Certification, the Bidder's List and the Disclosure of Lobbying Activities form.

RCTC does not discriminate against, or provide preferential treatment to any individual or group on the basis of race, color, ethnicity, age over 40, religion, gender, national origin, ancestry, physical disability, disability including AIDS, mental condition, cancer-related medical condition, political affiliation, sexual orientation, or marital status in its contracting activities.

Funding for the Agreement resulting from this RFQ may come from Federal, State, and/or local funds. The Offeror will be required to comply with all applicable Federal, State, and local laws and regulations.

Greg Moore
Procurement and Assets Manager
Riverside County Transportation Commission

SECTION I. BACKGROUND

A. ABSTRACT

On November 8, 1988 and November 5, 2002, respectively, the Voters of Riverside County approved the adoption and subsequently the extension of Measure A, authorizing the collection of a one-half percent (1/2 %) retail transactions and use tax to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the "Plan").

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

The services proposed in the RFQ are consistent with the commuter rail improvement projects identified on the November 5, 2002 Ballot as projects to be funded with Measure A funds. The services to be procured pursuant to this RFQ will be funded with Measure A proceeds or other State/Federal funds as applicable.

B. PROJECT DESCRIPTION

The PVL project consists of implementing an extension of Metrolink service on the existing San Jacinto Branch Line (SJBL) in western Riverside County owned by RCTC. The new service will run north from RCTC's downtown Riverside Metrolink Station on the BNSF existing mainline, depart the BNSF mainline near Citrus Street in Riverside, run eastward on a new Citrus Connection to the SJBL, and then running southerly on the existing SJBL ending near the I-215 east of Perris, CA. The project consists of extensive track rehabilitation, construction of new track, construction of at least three new Metrolink Stations (Marlborough, Moreno Valley/March Field, and South Perris) and expansion of the downtown Perris Multimodal Center. Associated construction includes grading and paving, bridges and drainage structures, upgrade of multiple grade crossings, installation of new utilities (water, electric, storm water), and addition of communication and system equipment. The anticipated cost of construction is approximately \$150 million. The SJBL is an active line with regular freight service that will continue through construction governed by Construction Agreement between RCTC, BNSF, and SCRRRA. The project is anticipated to be constructed under a single low bid construction contract although some material supply may be provided by the SCRRRA.

RCTC is seeking proposals from qualified engineering professionals to provide CM; Materials and Shop Testing; Inspection; and Commissioning and Startup services for construction of the PVL Improvement Project located in western Riverside County, CA.

The Offeror shall provide a single point of contact to direct and coordinate all field activities under this contract. Insofar as the Offeror's approach described in the SOQ, the scope of responsibility and the total number of personnel assigned to the project is left to the discretion of the Offeror. Each SOQ shall include a preliminary staffing plan and an organization chart.

The Construction contract will be funded from a mixture of Measure A funds; State Transportation Funds, and Federal Transit Administration (FTA) Small Start funds. RCTC intends to authorize performance of the services to be procured pursuant to this RFQ in at least two Notices-to-Proceed (NTP) as follows: Pre-Construction Services and Construction Phase Services. Please note that issuance of the second NTP is contingent upon execution of a Project Construction Grant Agreement between RCTC and the FTA.

Reference materials that will be made available to the Offerors to enhance their understanding of the project are identified in Exhibit A, Scope of Work.

SECTION II. INSTRUCTIONS TO OFFERORS

A. NON-MANDATORY PRE-SUBMITTAL CONFERENCE

A pre-submittal meeting will be held on February 2, 2010 at 2:00 pm at RCTC's Conference Room A located at 4080 Lemon Street, 3rd Floor, Riverside, CA. Attendance is not mandatory, but prospective Offerors are encouraged to attend.

B. EXAMINATION OF SOQ DOCUMENTS

By submitting a SOQ, the Offeror indicates that it has thoroughly examined and become familiar with the work required under this RFQ and that it is capable of performing quality work to achieve the Commission's objectives.

C. ADDENDA

The Commission reserves the right to revise the RFQ documents. Any Commission changes to the requirements will be made by written addenda to this RFQ. Any written addenda issued pertaining to this RFQ may be incorporated into the terms and conditions of any contract resulting from this RFQ. Addenda will be posted on the Commission's website. It is the Offerors responsibility to check the Commission's website to determine if any addenda have been issued. The Commission will not be bound to any modifications to or deviations from the requirements set forth in this RFQ as the result of oral instructions. Offerors shall acknowledge all posted addenda in their SOQ. Failure to acknowledge all posted addenda may cause the SOQ to be deemed non-responsive to this RFQ and be rejected without further evaluation.

D. COMMISSION CONTACT/ADDRESS

All correspondence, questions, and submissions in connection with this RFQ should be addressed as follows:

U.S. Mail: **Riverside County Transportation Commission**
 P.O. Box 12008
 Riverside, CA 92502-2208

Personal Courier/
Hand Delivery **Riverside County Transportation Commission**
 4080 Lemon Street, 3rd Floor
 Riverside, CA 92501

Facsimile: **(951) 787-7920**

Correspondence concerning procedure, contract, or technical matters should be directed to the attention of **Greg Moore, Procurement and Assets Manager**. Correspondence via e-mail is also acceptable and should be addressed to:

GMoore@rctc.org. Please note that, as further specified below, that faxed or electronically submitted SOQs will not be accepted.

Except for Greg Moore, no contact regarding this RFQ shall be made with any of the Commission's Board members or any of the Commission's staff including RCTC's program management consultant, Bechtel Infrastructure Corporation, or other members of the Project Delivery Team including but not limited to the SCRRA, FTA, BNSF Railway, and the STV, Inc. (planning/environmental/design) team. It is intended that the Consultant selection shall be made on merit alone within the process described in this RFQ. Violation of this condition may result in immediate disqualification of an Offeror's SOQ.

E. REQUESTS FOR CLARIFICATIONS, EXCEPTIONS, DEVIATIONS OR CHANGES

All requests for clarifications, exceptions, deviations or changes must be submitted to the Commission in writing as set forth in this Section E no later than the Written Question Deadline **2:00 P.M., February 11, 2010**. Any requests received after this date and time shall not be considered.

1. Examination and Clarification of RFQ Documents

Offeror is responsible for reviewing the RFQ documents prior to the submittal deadline (March 11, 2010) and for requesting clarification or interpretation of any discrepancy, deficiency, ambiguity or error, or omission contained in the RFQ documents. Offeror shall notify the Commission in writing, in accordance with Section E.4 below. Should it be found by Commission that the point in question is not clearly and fully set forth, the Commission will issue a written addendum clarifying the matter, which will be posted on Commission's website. Submissions by e-mail should be sent to GMoore@rctc.org.

2. Exceptions to or Recommendations for Change of the RFQ

Any questions or request for exceptions to or deviations from the requirements of this RFQ must be submitted in writing in accordance with Section E.4 below. The request should clearly identify and segregate "technical" exceptions from "contractual" exceptions. Where Offeror wishes to propose alternative approaches to meeting the Commission's technical or contractual requirements, these should be thoroughly explained. The Commission will review the request and may, but shall not be required to, post a response to any such request on the Commission's website. Submissions by e-mail should be submitted to GMoore@rctc.org.

3. Exceptions or Clarifications to Standard Contract

Offerors shall familiarize themselves with the model Agreement (attached to the RFQ as Exhibit B) and all of the Exhibits attached thereto. Commission intends to use the attached model Agreement as the contract resulting from this RFQ. Should the Offeror have concerns, questions, or recommended changes to the model Agreement requirements, then those concerns/recommended changes must be specified in detail and submitted in writing to the Commission as set forth in Section E.4 below or as part of the Offeror's SOQ at the time of proposal submission. No changes will be considered if they are not submitted in writing either as set forth in Section E.4 below or as part of the Offeror's SOQ at the time of proposal submission. The Commission will review Offeror's concerns/recommendations and consider them in the evaluation. Commission will discuss Offerors comments during formal negotiations with the successful Offeror. Changes to the Commission's model Agreement shall be made at the Commission's sole and absolute discretion.

4. Submitting Requests

All questions, requests for clarifications, exception, deviations or changes, except as otherwise specified herein, including questions that could not be specifically answered at the pre-submittal conference, must be put into writing and must be received by Greg Moore no later than 2:00 p.m. on February 11, 2010.

Requests for clarifications, exceptions, deviations or changes and/or questions and comments must be clearly labeled, "Written Questions". The Commission is not responsible for failure to respond to a request that has not been appropriately labeled. Requests for clarifications, exceptions, deviations, or changes and/or questions received after this time and date will not be responded to and may not be introduced during contract negotiations.

Any of the methods of Commission Contact set forth above, including submissions by e-mail, may be utilized for delivering written requests and questions as long as the requests and/or questions are directed to Greg Moore and received no later than the date and time specified above.

5. Commission Responses

Commission will acknowledge receipt of all requests whether responded to or not. Responses from the Commission will be posted on Commission's website. Offerors may download responses from the Commission's website at www.rctc.org/rfps.asp. Commission responses may be in the form of Addenda or a simple posting of the response.

F. SUBMISSION OF SOQ

1. Date and Time

SOQs must be submitted at or before 2:00 p.m. on March 11, 2010.

SOQs received after the specified date and time may be rejected without consideration or evaluation. SOQs may be delivered via U.S. Mail, personal delivery or commercial courier service to:

**Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
Attention: Greg Moore, Procurement and Assets Manager**

Faxed or electronically submitted SOQs will not be accepted.

2. Identification of SOQs

Offeror shall submit one original, eight copies and one CD of its SOQ in a sealed package. The package should be addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

"Perris Valley Line Construction Management RFQ"

Offerors shall be entirely responsible for any consequences resulting from any inadvertent opening of unsealed or improperly identified packages. It is the Offerors' sole responsibility to see that its SOQ is received as required.

G. COMMISSION RIGHTS

The Commission may investigate the qualifications of any Offeror under consideration, require confirmation of information furnished by an Offeror, and require additional evidence of qualifications to perform the Scope of Work described in this RFQ. The Commission reserves the right to:

1. Accept or reject any and all SOQs, or any item or part thereof, or to waive any informalities or irregularities in SOQs;
2. Issue new or subsequent RFQs;
3. For any reasons, withdraw or cancel this RFQ, or any part thereof at any time without prior notice and the Commission makes no representations that any contract will be awarded to any Offeror responding to this RFQ;
4. Require confirmation of information furnished by Offeror or for the Offeror to provide additional evidence of qualifications to perform the work or to obtain

information from any source that has the potential to improve the understanding and evaluation of the SOQs;

5. Postpone SOQ openings for its own convenience;
6. Release the SOQs, received as public information, upon request after award (submitted SOQs are not to be copyrighted);
7. Remedy or overlook technical errors in the RFQ process;
8. Appoint an Evaluation Committee to review SOQs;
9. Seek the assistance of outside technical experts in SOQ evaluation;
10. Approve or disapprove the use of particular subconsultants;
11. Establish a short list of Offerors eligible for interview after review of written SOQs;
12. Negotiate with any, all or none of the Offerors to the RFQ;
13. Solicit best and final offers from all or some of the Offerors;
14. Award a contract to one or more Offerors; and
15. Waive informalities and minor irregularities in SOQs;

H. SOQ PREPARATION EXPENSES

The Commission shall not, in any event, be liable for any expenses incurred by Offeror in the preparation of its SOQ. Offeror shall not include any such expenses as part of its SOQ. SOQ preparation expenses include the following:

1. Preparing its SOQ in response to this RFQ;
2. Submitting that SOQ to the Commission;
3. Negotiating with the Commission any matter related to this RFQ; or
4. Any other expenses incurred by Offeror prior to the date an agreement is executed.

I. PROTEST PROCEDURES

RCTC has on file and posted on its website a set of written protest procedures applicable to this RFQ. The procedures may be downloaded from the website or may be obtained by contacting Greg Moore at GMoore@rctc.org. Any protest filed by a firm in connection with this RFQ must be submitted in accordance with Commission's written procedures.

J. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a cost plus fixed fee contract, with a total not to exceed amount.

K. CONTRACT TERM

The services to be performed under the Agreement shall begin on approximately June 9, 2010 and shall terminate on or about June 9, 2013.

L. CONFLICTS OF INTEREST

Offerors must complete and submit with their SOQ the "Disclosure of Campaign Contributions to Commissioners" form attached to this RFQ as Exhibit C.

SECTION III. SOQ CONTENT

A. SOQ FORMAT AND CONTENT

1. Format

SOQs should be typed and submitted on 8.5-inch x 11-inch paper with a single method of fastening. Charts and schedules may be included in 11" x 17" format, which will be counted as 2 pages and included in the total page count. SOQs may use both sides of a page, but each side will be counted as a page. Offers should not include any unnecessarily elaborate or promotional material. SOQs should not exceed seventy-five (75) pages in length. The page limit does not include the outside cover, section dividers, cover letters, and subconsultant commitment memorandum, contract comments, or duplication of the organizational chart. All pages shall be sequentially numbered and each section should be separately and clearly tabbed. SOQs should include a complete table of contents for the entire SOQ with respective page numbers opposite each topic that is included.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Greg Moore, Procurement and Assets Manager, Riverside County Transportation Commission and must, at a minimum, contain the following:

1. Identification of Offeror that will have the authorization to commit to the contractual terms and conditions. Identification shall include legal company name, corporate address, telephone, fax number and e-mail address. Include name, title, address, telephone number and e-mail address of the contact person during the SOQ evaluation phase.
2. Identification of proposed subconsultants, including legal company name, contact person's name, address, and phone number. Working relationship between Offeror and subconsultants, if applicable.
3. Acknowledgment of receipt of all RFQ addenda, if any.
4. A statement to the effect that the SOQ shall remain valid for a period of not less than 180 days from the date of submittal.
5. Signature of a person authorized to bind Offeror to the terms of the SOQ.
6. A statement to the effect that by signing the letter of transmittal, Offeror is attesting that all information submitted with the SOQ is true and correct.

3. **Technical Proposal**

a. **Qualifications, Related Experience and References of Offeror**

This section of the SOQ should establish the ability of Offeror to satisfactorily perform the required work by evidence of: experience in performing work of a similar nature; demonstrated competence in the services identified in Exhibit A; experience with rail infrastructure and station projects; familiarity with SCRRRA design and CM processes; familiarity with construction of grade crossings to California Public Utility Commission requirements; familiarity with implementation of projects utilizing State and Federal funds; familiarity with implementation of National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) environmental requirements; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror shall:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFQ, and highlight the participation in such work by the key personnel proposed for assignment to this project. Describe experience in working with RCTC or other public agencies similar in nature or responsibilities, the SCRRRA, FTA, the BNSF or other railroad, and other applicable local agencies.
- (4) Identify subconsultants by company name, address, contact person, telephone number and project function. Describe Offeror's experience working with each subconsultant.
- (5) At a minimum three (3) corporate project references shall be provided. Furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. Identify Offeror's key personnel who worked on the referenced projects. Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

This section of the SOQ should identify key personnel and establish their abilities to perform the required work by evidence of experience in performing work of a similar nature and demonstrated competence in the services identified in Exhibit A. Key personnel shall include the Project Manager, key leads (such as Resident Engineers depending on proposed organization) for major project components such Trackwork and Stations, Safety Manager, Quality Assurance Manager, Project Controls/Scheduler, Lead for Signals/Systems, Lead for Commissioning/Startup.

Offeror shall:

- (1) Provide education, experience, and applicable professional credentials of project staff. Include copies of applicable professional credentials.
- (2) Furnish resumes for the proposed Project Manager and other key personnel.
- (3) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subconsultant work. Include the person's name, current assignment and its duration, proposed position for this project, and how long this person has been with the firm.
- (4) Provide education, experience, and applicable professional credentials of proposed subconsultants.
- (5) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff. Provide a second organization chart showing the proposed communication/reporting relationship between project staff and RCTC staff.
- (6) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Commission.
- (7) At a minimum two (2) references for each of the Key Personnel shall be provided. Furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed.

c. Project Understanding and Approach

Offeror shall provide a narrative and staffing plan, which addresses the project scope, CM, quality assurance, safety, and commissioning/startup and shows the Offeror's understanding of the Commission's needs and requirements.

Offeror shall:

- (1) Describe the project scope to be managed by this CM contract;
- (2) Describe the approach and work plan for completing the tasks and specify who would perform them;
- (3) Where the Scope of Services does not adequately define the tasks required to provide complete professional services, provide descriptions of recommended additional services and programs;
- (4) Furnish an estimate time of completion for completing the representative tasks in terms of elapsed weeks from the project commencement date. Provide a proposed summary schedule for completion of the work showing work sequence and Milestones;
- (5) Identify methods that Offeror will use to provide oversight of construction contractor quality and safety as well as budget and schedule control for the project;
- (6) Provide a proposed staffing plan for all elements of the work that correspond with the project schedule provided; and
- (7) Identify any special issues or problems that are likely to be encountered with the services identified herein and how the Offeror would propose to address them.

4. **Insurance**

The Offeror shall submit evidence of ability to provide insurance in the amounts and with coverages as required in the attached Agreement. The Offeror shall also provide evidence of their ability to obtain Railroad Protective Liability Insurance.

SECTION IV. EVALUATION AND AWARD

A. EVALUATION CRITERIA

The Commission will evaluate the offers received based on the following criteria:

1. Corporate Qualifications of the Offeror and Team 20

Experience in performing the various work elements on commuter rail improvement projects of similar scope and size; experience in working in operating environments including mixed freight and commuter rail situations; experience working with public agencies such as FTA, SCRRA, and the Cities of Riverside and Perris; strength, stability, depth of resources, experience and technical competence of subcontractors; assessment by client references.

2. Qualifications of Key Team Personnel 25

Qualifications of project staff, particularly key personnel including Project Manager, Section Leads (such as Resident Engineers), Quality Assurance Manager, Safety Manager, Lead for Systems/Signals, and Lead for Commissioning/Startup.

SOQ should identify key personnel's level of involvement in performing related work cited in the team's "Corporate Qualifications of the Offeror and Team" section; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel; and references from past projects.

3. Construction Management Organization and Staffing 15

Overall quality and logic of organization and staffing plan; appropriateness of labor distribution among the tasks; resources; and ability to meet project deadlines.

4. Project Understanding – General Approach 20

Depth of Offeror's understanding of Commission's requirements; overall quality and logic of project approach plan; technical and proactive approaches to key services; and utility of suggested technical or procedural innovations. Key services to address including complying with SCRRA, BNSF, and FTA requirements specifically including Funding Compliance, and Operational Control, and Commissioning/Startup.

5. Project Understanding - Quality Assurance Program 10

Depth of Offeror's understanding of Commission's Quality Assurance requirements including QA procedures, material testing, construction inspection,

shop inspection, and oversight/auditing of contractor's Quality Assurance/Quality Control (QA/QC) program; appropriateness of labor distribution with the construction management firm; resources and ability to meet project deadlines; utility of suggested technical or procedural innovations.

6. Project Understanding - Safety Program

10

Depth of Offeror's understanding of RCTC/BNSF/SCRRRA safety requirements including coordination of construction schedule with operations/dispatching, compliance with construction agreements, training of Construction Manager and Contractor personnel, protocols for energizing or de-energizing railroad signals and grade crossing equipment, appropriateness of labor distribution with the CM firm; resources and ability to meet project deadlines; utility of suggested technical or procedural innovations.

B. EVALUATION PROCEDURE

An Evaluation Committee will be appointed to review all SOQs received. The Evaluation Committee will be comprised of Commission staff and may include personnel from stakeholder agencies and other consultants to the Commission. The Evaluation Committee members will read the SOQs separately then convene to receive input on reference checks, and to discuss and score the written SOQs. The Commission will invite the shortlisted firms to an interview and provide additional direction as to its conduct and content.

Following the interviews, the Evaluation Committee will further discuss and score the presentations and responses to questions using the same set of scoring criteria as used for the SOQs. The SOQ scoring will be combined with the scoring of the interviews. The SOQ score will count for 50% of the overall combined score and the interview will count for 50% of the combined score. The final combined score will determine a final ranking of the firms. Negotiations will be initiated with the highest ranked Offeror. Should the Commission be unable to negotiate a satisfactory contract with the highest ranked Offeror, the Commission retains the right to terminate negotiations with the highest ranked Offeror and open negotiations with the next highest ranked Offeror.

C. AWARD

The Evaluation Committee will submit, with the approval of the appropriate Committee of the Commission Board (Board Committee), as may be applicable, its recommendation for the Offer (s) considered to be the most competitive to the Commission's Board for consideration and selection.

The Commission reserves the right to award its total requirements to any of the Offeror(s), or to one Offeror or multiple Offerors as the Commission may deem to be in its best interest. It also reserves the right to not award individual elements of

the requirements should the Commission believe that it is in their interest to obtain a requirement through alternate means. The contents of the SOQ of the successful Offeror will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

Award of the contract by the Commission shall not be considered final until any and all protests have been resolved to the satisfaction of the Commission.

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit an SOQ in response to this RFQ shall be notified in writing regarding the results of the final ranking developed by the Evaluation Committee. Offerors who submit an SOQ in response to this RFQ will be notified in writing within ten (10) days of the date the contract is to be awarded by the RCTC Board. Award of the contract by the Commission shall not be considered final until any and all protests have been resolved.

Unsuccessful Offerors (those who were not awarded the contract) may obtain an explanation concerning the strengths and weaknesses of their SOQ. Unsuccessful Offerors who wish to be debriefed should request a debriefing within 30 days after award of contract award.

EXHIBIT "A"
SCOPE OF WORK

EXHIBIT "A"
SCOPE OF WORK

I. Background

The PVL project is in advanced preliminary design and environmental review (CEQA and NEPA). The following documents are being made available for the Offeror to assess project scope:

- Project Definition Report;
- 30% Plans and Specifications;
- Preliminary Schedule;
- Preliminary Construction Cost Estimate;
- RCTC Draft QA Plan;
- RCTC Draft CM Procedures Manual;
- CPUC Matrix;
- Excerpts from Draft Environmental Documents;
- Geotechnical Report;
- Hazardous Materials Report;
- Permit Matrix;
- Long Lead Procurement List; and
- Draft Construction Staging Plan.

Note: The PVL project (approximately 24 track miles) is being built on a portion of the SJBL owned by RCTC. The line is active with regular BNSF freight service. Construction will proceed under operating conditions in accordance with construction agreements yet to be negotiated between RCTC, SCRRRA, and BNSF defining work windows and operations/safety protocols. It is anticipated that SCRRRA will assume operations and dispatching authority for the SJBL from the BNSF prior to the start of construction. An essential responsibility of the Offeror is monitoring construction contractor compliance with the construction agreements and to coordinate construction activities with SCRRRA operations.

Preliminary Schedule of Services:

- NTP for CM Pre-Construction Services: June 9, 2010
- Construction Bidding Period: February 16, 2011 to May 18, 2011
- NTP for CM Construction Phase Services: May 19, 2011
- Revenue Service: October 16, 2012
- Post Construction Services: October 16, 2012 to April 16, 2012

II. Pre-Construction Services

1. Complete CM Procedures Manual;
2. Conduct Constructability Analysis. Understand that the Engineer of Record will support this analysis and coordinate appropriately;
3. Participate in pre-final and final design review;
4. Review schedule and cost and construction phasing strategy;
5. Support Bid/Award Process (coordinate with Engineer of Record). STV provides: special conditions, performance specs (if necessary), special construction conditions, pre-qualification support, IFB support, bid analysis support, conformed documents, and addenda support;
6. Conduct Pre-Condition Survey;
7. Prepare Construction Environmental Control Plan (address all NEPA/CEQA mitigations);
8. Prepare Construction Safety Plan and Roadway Worker Safety Manual (as appendix to Safety Plan);
9. Support Engineer of Record with Environmental Survey (prior to construction);
10. Prepare Construction Manager QA/QC Plan (including review and Audits of Contractor QA/QC Plan); and
11. Prepare Project Procedures Manual.

III. Construction Phase Services

1. Progress Management: monitor permits, submittals, shop drawings, material procurement, schedule slippages and recovery plans, coordination with agencies, jurisdictions, utilities, and Designer of Record and issues monthly Progress Report to RCTC and FTA;
2. Progress Schedule: review and monitor contractor's schedule for accuracy, compliance, completed work, forecast reasonableness;
3. Changes/Claims: Recommend and implement change orders and claim avoidance practices. Analyze, negotiate, facilitate settlement of claims, and timely processing of associated change orders. The Engineer of Record will revise design documents as required;
4. Track/analyze/report on contractor/subcontractor lien releases.
5. Construction Safety and Security: Review contractor's site-specific Safety and Security Plans for compliance with RCTC's Safety Plan. Monitor, document, and prepare accident reports;
6. Utility Coordination: Assist construction contractor and coordinate right-of-way with Epic Land Solutions;
7. Coordinate Flagging: Schedule SCRRRA flagging, assign watch persons for protection of workers and equipment under CM purview, assure that all CM field personnel complete and stay current with freight railroad safety training;
8. Quality Control: Provide Resident Engineers, QC inspection, and materials compliance with QA/QC Plan and Specifications;

9. Materials Testing and Support Services: Provide QC, follow RCTC QA Plan, obtain laboratory testing services, and provide independent verification of contractor compliance with specifications;
10. Coordinate construction issues with local agencies;
11. Systems Inspection, Testing, Commissioning, and Start-up: The CM shall coordinate with the Engineer of Record who will perform factory visits, do manufacturers quality audits, test reports, safety certifications, and verify as-built drawings and calculations. The CM shall also coordinate with RCTC and SCRRA in implementing both Construction Phase and Start-Up Phase testing in achieving acceptance and approval by appropriate agencies and authorities;
12. Environmental Services: Follow Construction Environmental Control Plan requirements, ensure compliance with environmental permits, mitigations, and sound management practices;
13. Progress Payments: Review/approve/reject contractor's monthly progress payment requests. Measure and track quantities installed for all unit rate items and maintain Schedule of Values progress payment in FTA format;
14. Submittals, Non Conformance Reports, and RFIs: Review for quality and completeness, process and track. Note that the Engineer of Record has a supporting role in responding to RFIs and reviewing Non-Conformance reports and also reviewing contractor submittals and shop drawings for adherence to design and specifications;
15. Conferences/Meetings: Conduct pre-construction conference, weekly progress, pre-work, weekly safety, third party coordination;
16. Participate in Partnering conferences (and potentially supply facilitator);
17. Reports and Records: Monthly report, daily diaries, field change notices, drawing registers/control logs, progress and record photos, documentation of RFIs, potential claims, changes. Prepare weekly progress reports, monthly manpower reports, deficiency logs, contract status, claims evaluation, meeting minutes;
18. Review of Traffic Plans (Detours and Lane Closures): Review construction contractor plans; assist with resolution of issues; assist with coordination of the Traffic Plans with the affected Cities and adjacent property owners.
19. Survey Support (QC) Services: Monitor construction contractor compliance with surveying requirements; verify layout and controls, spot check contractor reference points (RCTC provides construction control surveys);
20. Railroad Force Account: Record any SCRRA or BNSF force account work and review invoices;
21. Public Affairs: Provide assistance to RCTC public and community outreach program;
22. Document Control: Adhere to RCTC procedures and maintain hard copies. All documents are to be scanned and saved electronically in the field with weekly backups maintained off site;
23. Contractor Insurance: Track policies and renewals, including subcontractors;
24. Labor Compliance and Disadvantaged Business Enterprise (DBE) Monitoring: Support RCTC by obtaining certified payrolls; ensure that DBEs are performing designated work. Obtain contractor's DBE compliance reports. Track and

- document contractor compliance with Prevailing Wages, Equal Employment Opportunity (EEO) including performing field interviews of contractor personnel:
25. Cost Engineering/Estimating: Maintain an up-to-date Trend System which identifies all potential cost (and cost of schedule) impacts and forecast to complete;
 26. As-Built Drawings: Ensure construction contractor maintains as-builts and coordinate with Engineer of Record. Document and track all design changes. Review final As-Built drawings prepared by the Engineer of Record to ensure all changes have been incorporated;
 27. Storm Water Pollution Prevention (SWPPP): Track compliance with the project SWPPP (and/or Water Quality Control Plan (WQCP)). Perform site inspections to ensure Best Management Practices (BMPs) have been implemented as outlined in the SWPPP/WPQP and the they are properly installed and performing correctly. Perform weekly or daily inspections during the rainy season. Perform run-on/run-off sampling and testing if required by the SWPPP/WQCP.

IV. Post Construction Phase Services

1. Contract Closeout: Expedite process, perform final inspection and testing, resolve outstanding issues, changes, deficiencies, and claims, assess liquidated damages, process final payment, prepare and transfer final as-builts to RCTC; and
2. Warranties: Monitor and track warranties.

EXHIBIT "B"

MODEL AGREEMENT

**MODEL PROFESSIONAL SERVICES AGREEMENT
WITH FEDERAL TRANSIT ADMINISTRATION ASSISTANCE**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
AGREEMENT WITH
[___ CONSULTANT ___]
FOR
CONSTRUCTION MANAGEMENT, MATERIALS TESTING AND CONSTRUCTION
SERVEYING SERVICES
FOR THE
PERRIS VALLEY LINE METROLINK IMPROVEMENT PROJECT**

1. PARTIES AND DATE.

This Agreement is made and entered into this ___ day of _____, 2010, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (“the Commission”) and **[Name of Consultant]** (“Consultant”), **[Legal Status of Consultant]**.

2. RECITALS.

2.1 On November 8, 1988, the voters of Riverside County approved Measure A authorizing the collection of a one-half percent (½%) retail transactions and use tax to fund transportation programs and improvements within the County of Riverside, and adopting the Riverside County Transportation Improvement Plan (the “Plan”).

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

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

2.4 A source of funding for payment for professional services provided under this Agreement is federal funds from the Federal Transit Administration (“FTA”). This Agreement shall not be deemed to be approved by the Commission until the certifications shown in Exhibits “E” and “F,” attached hereto and incorporated herein by reference, are executed and incorporated in this Agreement.

2.5 Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Commission on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing **construction management, materials testing, and construction**

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

2.6 The Commission desires to engage Consultant to render such services for the **Perris Valley Line Metrolink Improvement Project** ("Project"), as set forth in this Agreement.

2.7 The Commission intends to authorize performance of the Services, as that term is defined in this Agreement, in at least two Notices-to-Proceed ("NTP") identified as follows: Pre-Construction Phase Services and Construction Phase Services. Consultant acknowledges and agrees that issuance of an NTP for the Construction Phase Services will be contingent on execution of a Construction Grant Agreement by and between the Commission and the FTA.

3. TERMS.

3.1 General Scope of Services. Consultant shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, and incidental and customary work necessary to fully and adequately supply the construction management, materials testing, and construction surveying services necessary for the Project ("Services"). The Pre-Construction Phase Services are more particularly described in Exhibit "A" Part 1, attached hereto and incorporated herein by reference. The Construction Phase Services are more particularly described in Exhibit "A" Part 2, attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.2 Commencement of Services.

3.2.1 Pre-Construction Phase Services. The Consultant shall commence performance of the Pre-Construction Services upon receipt of a written NTP or "Limited NTP" from Commission. As a result of the federal funding for this Project, and to the extent the FTA or the California Department of Transportation ("Caltrans") procedures apply in connection therewith, issuance of a NTP is conditional until completion and approval of a post award audit. The attached Exhibit "C" and the Consultant's cost proposal for the Services are subject to a post award audit. After any post award audit recommendations are received, the attached Exhibit "C" and the Consultant's cost proposal shall be adjusted by the Consultant and approved by the Commission's Executive Director or his designee to conform to the audit recommendations. The Consultant agrees that individual items of cost may be incorporated into the Agreement at the Commission's sole discretion. Refusal by the Consultant to incorporate the interim audit or post award recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement. The federal aid provided under this Agreement is contingent on meeting all

Federal requirements and could be withdrawn, thereby entitling the Commission to terminate this Agreement, if the procedures are not completed. The Consultant's files shall be maintained in a manner to facilitate Federal and State process reviews. In addition, the applicable federal agency, or Caltrans acting on behalf of a federal agency, may require that prior to performance of any work for which Federal reimbursement is requested and provided, that said federal agency or Caltrans must give to Commission an "Authorization to Proceed".

3.2.2 Construction Phase Services. The Consultant shall not commence performance of the Construction Phase Services until Consultant receives a written NTP or "Limited NTP" from the Commission for the Construction Phase Services. Consultant shall not be entitled to compensation for any Construction Phase Services rendered prior to the issuance by the Commission of a written NTP or Limited NTP specifically for the Construction Phase Services. As applicable, the above referenced provisions regarding federal procedures and requirements shall apply to this Section 3.2.2.

3.3 Term. The term of this Agreement shall be from the date of execution of this Agreement or the date of issuance of the "Notice to Proceed" by the Commission, whichever occurs first, to the issuance by the Commission to Consultant of a Notice of Final Acceptance, as defined in paragraph 3.12 below, or _____ whichever occurs earlier, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

3.4 Commission's Representative. The Commission hereby designates the Commission's 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 authority to act on behalf of the Commission for all purposes under this Agreement. Commission's Representative shall also review and give approval, as needed, to the details of Consultant's work as it progresses. Consultant shall not accept direction or orders from any person other than the Commission's Representative or his or her designee.

3.5 Consultant's Representative. Consultant hereby designates [**__INSERT NAME OR TITLE__**] to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to act on behalf of Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his professional skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with Commission's Representative and any other agencies which may

have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the Commission staff at all reasonable times. Any substitution in Consultant's Representative shall be approved in writing by Commission's Representative.

3.6 Substitution of Key Personnel. Consultant has represented to the Commission that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval by the Commission. In the event that the Commission and Consultant cannot agree as to the substitution of the key personnel, the Commission shall be entitled to terminate this Agreement for cause, pursuant to the provisions of Section 3.14. The key personnel for performance of this Agreement are: [LIST NAMES AND TITLES].

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

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

3.9 Standard of Care; Licenses. Consultant represents and maintains that it is skilled in the professional calling necessary to perform all Services, duties and obligations required by this Agreement to fully and adequately complete the Project. Consultant shall perform the Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents and warrants to the Commission that its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Commission, any services necessary to correct errors or omissions which are

caused by the Consultant's failure to comply with the standard of care provided for herein, and shall be fully responsible to the Commission for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the Consultant's errors and omissions. Any employee of Consultant or its sub-consultants who is determined by the Commission to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Commission, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

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

3.11 Inspection of Work. Consultant shall allow the Commission's Representative to inspect or review Consultant's work in progress at any reasonable time.

3.12 Final Acceptance. Upon determination by the Commission that Consultant has satisfactorily completed the Services required under this Agreement and within the term set forth in Section 3.3, the Commission shall give Consultant a written Notice of Final Acceptance. Upon receipt of such notice, Consultant shall incur no further costs hereunder, unless otherwise specified in the Notice of Final Acceptance. Consultant may request issuance of a Notice of Final Acceptance when, in its opinion, it has satisfactorily completed all Services required under the terms of this Agreement. In the event copyrights are permitted under this Agreement, then in connection with federal funding, it is hereby acknowledged and agreed that the FTA shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

3.13 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. For example, and not by way of limitation, Consultant shall keep itself fully informed of and in compliance with all implementing regulations, design standards, specifications, previous commitments that must be incorporated in the design of the Project, and administrative controls including those of the FTA. Compliance with federal procedures may include completion of the applicable environmental documents and approval by the FTA. For example, and not by way of limitation, a signed Categorical Exclusion, Finding of No Significant Impact, or published Record of Decision may be required to be approved and/or completed by the FTA. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary

to such laws, rules and regulations and without giving written notice to the Commission, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold Commission, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

Further, and to the extent applicable, Consultant 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 South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad, Consultant shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Consultant shall indemnify the Commission against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its Subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.14 Termination.

3.14.1 Notice; Reason. Commission may, by written notice to Consultant, terminate this Agreement, in whole or in part, at any time by giving written notice to Consultant of such termination, and specifying the effective date thereof ("Notice of Termination"). Such termination may be for Commission's convenience or because of Consultant's failure to perform its duties and obligations under this Agreement, including, but not limited to, the failure of Consultant to timely perform Services pursuant to the Schedule of Services described in Section 3.15 of this Agreement. Consultant may not terminate this Agreement except for cause.

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

3.14.3 Effect of Termination For Convenience. If the termination is to be for the convenience of the Commission, the Commission shall compensate Consultant for Services fully and adequately provided through the effective date of termination. Such payment shall include a prorated amount of profit, if applicable, but no amount shall be paid for anticipated profit on unperformed Services. Consultant shall provide documentation deemed adequate by Commission's Representative to show the Services actually completed by Consultant prior to the effective date of

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

3.14.4 Effect of Termination for Cause. If the termination is for cause, Consultant shall be compensated for those Services which have been fully and adequately completed and accepted by the Commission as of the date the Commission provides the Notice of Termination. In such case, the Commission may take over the work and prosecute the same to completion by contract or otherwise. Further, Consultant shall be liable to the Commission for any reasonable additional costs incurred by the Commission to revise work for which the Commission has compensated Consultant under this Agreement, but which the Commission has determined in its sole discretion needs to be revised, in part or whole, to complete the Project because it did not meet the standard of care established in Section 3.9. Termination of this Agreement for cause may be considered by the Commission in determining whether to enter into future agreements with Consultant.

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

3.14.6 Procurement of Similar Services. In the event this Agreement is terminated, in whole or in part, as provided by this Section, the Commission may procure, upon such terms and in such manner as it deems appropriate, services similar to those terminated.

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

3.15 Schedule and Progress of Services.

3.15.1 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services for the Pre-Construction Phase Services as set forth in Exhibit "B" Part 1, and for the Construction Phase Services as set forth in Exhibit "B" Part 2, both attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedules for the Pre-Construction Phase Services and the Construction Phase Services, the Commission shall respond to Consultant's submittals in a timely manner. Upon request of Commission's Representative, Consultant shall provide a more detailed schedule of anticipated performance to meet each Schedule of Services.

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

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

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

3.16 Delay in Performance.

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

3.16.2 Written Notice. If Consultant believes it is entitled to an extension of time due to conditions set forth in subsection 3.16.1, Consultant shall provide written notice to the Commission within seven (7) working days from the time Consultant knows, or reasonably should have known, that performance of the Services will be delayed due to such conditions. Failure of Consultant to provide such timely notice shall constitute a waiver by Consultant of any right to an excusable delay in time of performance.

3.16.3 Mutual Agreement. Performance of any Services under this Agreement may be delayed upon mutual agreement of the Parties. Upon such agreement, Consultant's Schedule of Services shall be extended as necessary by the

Commission. Consultant shall take all reasonable steps to minimize delay in completion, and additional costs, resulting from any such extension.

3.17 Status of Consultant/Subconsultants.

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

3.17.2 Prevailing Wages. By its execution of this Agreement, Consultant certifies that it is aware of the requirements of California Labor Code Sections 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 certain "public works" and "maintenance" projects. If 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 \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Copies of the prevailing rate of per diem wages are on file at the Commission's offices. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Certified Payrolls are to be submitted whenever required by Prevailing Wage laws.

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

3.17.4 Subcontracting. Consultant shall not subcontract any portion of the work or Services required by this Agreement, except as expressly stated herein, without prior written approval of the Commission. If Consultant wishes to use a firm as a subcontractor which is not specified in the proposal upon which this Agreement was awarded, prior written approval must be obtained from the Commission. The Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

Consultant has, as part of its proposal, identified certain companies/firms that will be subconsultants utilized by Consultant ("Subconsultants") for Project delivery. A list of said Subconsultants is attached hereto as Exhibit "C" Part 2 and made a part hereof. The Commission hereby approves the use by Consultant of the Subconsultants identified in Exhibit "C" Part 2. In the event and prior to the replacement of any Subconsultant approved herein, the Consultant shall seek and obtain the Commission's written approval. Exhibit "C" Part 2 also sets forth the rates at which each Subconsultant shall bill the Consultant for Services and that are subject to reimbursement by the Commission to Consultant. Additional Direct Costs, as defined in Exhibit "C" Part 1 shall be the same for both the Consultant and all subconsultants, unless otherwise identified in Exhibit "C" Part 2.

Consultant acknowledges that approval of Consultant's utilization of the identified Subconsultants together with the incorporation of Subconsultants' rate schedules and cost proposals into this Agreement shall in no way be construed to create any contractual relationship between any Subconsultant and the Commission. The Subconsultant rate schedules and cost proposals contained herein are for accounting purposes only. In the event that any Subconsultant shall bring any action, claim or proceeding purporting to enforce any right purportedly arising under this Agreement, the Consultant shall be responsible for the Commission's reasonable legal fees without regard to the merits of any such claim.

3.18 Ownership of Materials/Confidentiality.

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

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

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data.

Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the Commission.

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

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

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

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

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

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

3.18.3 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written

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

3.19 Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold Commission, its directors, officials, officers, employees, consultants, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions, or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages, expert witness fees, and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Commission, its directors, officials, officers, employees, consultants, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against Commission or its directors, officials, officers, employees, consultants, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse Commission and its directors, officials, officers, employees, consultants, agents, and/or volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Commission, its directors, officials officers, employees, consultants, agents, or volunteers. Notwithstanding the foregoing, to the extent Consultant'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 Consultant. Consultant's obligations as set forth in this Section 3.19 shall survive expiration or termination of this Agreement.

3.20 Insurance.

3.20.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Commission that it has secured all insurance required under this section. In addition, Consultant shall not

allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

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

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

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence for bodily injury, personal and advertising 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) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.20.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim.

3.20.4 Aircraft Liability Insurance. Prior to the direct or indirect use of any civil aircraft to provide Services under this Agreement, Consultant shall procure and maintain, or cause to be procured and maintained, aircraft liability insurance or equivalent form, with a single limit of not less than \$5,000,000 per each occurrence. Such insurance shall include coverage for owned, hired and non-owned aircraft and passengers, and shall name, or be endorsed to name, the Commission, its directors, officials, officers, employees, consultants and agents as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant.

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

(A) General Liability. The general 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 Services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; 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 Consultant'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 Consultant's insurance and shall not be called upon to contribute with it in any way.

(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 Consultant or for which the Consultant 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 Consultant'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 Consultant's insurance and shall not be called upon to contribute with it in any way.

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

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Commission; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the Commission, its directors, officials, officers, employees and agents.

3.20.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Commission. If the Commission does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of the Commission, either: (1) the insurer

shall reduce or eliminate such deductibles or self-insured retentions as respects the Commission, its directors, officials, officers, employees and agents; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.20.7 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the Commission, its directors, officials, officers, employees, and agents.

3.20.8 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.

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

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

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

3.22 Fees and Payment.

3.22.1 Compensation. Consultant 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 shall be on the basis of direct costs plus a fixed fee as further set forth in Exhibit "C". The maximum compensation for Pre-Construction Phase Services rendered under this Agreement shall not exceed _____.

The maximum compensation for Construction Phase Services rendered under this Agreement shall not exceed _____.

3.22.2 Payment of Compensation. Consultant shall submit a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. 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. Charges specific to each Milestone listed in the Schedule of Services shall be listed separately on an attachment to each statement. Each statement shall be accompanied by a monthly progress report and spreadsheets showing hours expended for each task for each month and the total Project to date. Each statement shall include a cover sheet bearing a certification as to the accuracy of the statement signed by the Consultant's Project Manager or other authorized officer.

3.22.3 Additional Work. Any work or activities that are in addition to, or otherwise outside of, the Services to be performed pursuant to this Agreement shall only be performed pursuant to a separate agreement between the parties. Notwithstanding the foregoing, the Commission's Executive Director may make a change to the Agreement, other than a Cardinal Change. For purposes of this Agreement, a Cardinal Change is a change which is "outside the scope" of the Agreement; in other words, work which should not be regarded as having been fairly and reasonably within the contemplation of the parties when the Agreement was entered into. An example of a change which is not a Cardinal Change would be where, in a contract to construct a building there are many changes in the materials used, but the size and layout of the building remains the same. Cardinal Changes are not within the authority of this provision to order, and shall be processed by the Commission as "sole source" procurements according to applicable law, including the requirements of FTA Circular 4220.1F, paragraph 9(f).

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

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

3.22.4 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by the Commission's Representative.

3.23 Prohibited Interests.

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

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

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

3.23.4 Covenant Against Contingent Fees. As required in connection with federal funding, the Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Commission shall have the right to terminate this Agreement without liability pursuant to Section 3.14, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

3.23.5 Covenant Against Expenditure of Local Agency, State or Federal Funds for Lobbying. [**INCLUDE ONLY IF FEDERAL FUNDING WILL EXCEED \$100,000, OTHERWISE DELETE THIS SECTION 3.23.5 AND EXHIBIT "J"**] The Consultant certifies that to the best of his/ her knowledge and belief no state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for the purpose of influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the award of any state or federal contract, grant, loan, or cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

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

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

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

3.24 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred and fees charged under this Agreement. As required in connection with federal funding, the Federal Acquisition Regulations in Title 48, CFR 31 shall be the governing factors regarding allowable elements of cost. All such records shall be clearly identifiable. Consultant shall allow a representative of the Commission during normal business hours to examine, audit, and make transcripts or copies of any and all ledgers and books of account, invoices, vouchers, canceled checks, and any other records or documents created pursuant to this Agreement. All such information shall be retained by Consultant for at least three (3) years following termination of this Agreement. Following final settlement of the contract accounts with the FTA under this Agreement,

such records and documents may be microfilmed at the option of the Commission, but in any event shall be retained for said three (3) year period after processing of the final voucher by the FTA.

Any costs for which payment has been made to the Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq. are subject to repayment by the Consultant to the Commission.

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

3.26 Right to Employ Other Consultants. Commission reserves the right to employ other consultants in connection with the Project. Consultant shall cooperate fully with any other consultant engaged by the Commission on the Project.

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

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

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

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

3.31 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:

Attn: _____

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.

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

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

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

3.35 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.

3.36 Provisions Applicable When Federal Transit Administration Are Involved. Since funding for the Services provided by this Agreement are provided, in whole or in part, from the FTA, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Federal Transit Administration Requirements) attached hereto and incorporated herein by reference.

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

3.38 Survival. All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this Agreement shall survive any such expiration or termination.

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE TO
PROFESSIONAL SERVICES AGREEMENT
WITH FEDERAL TRANSIT ADMINISTRATION ASSISTANCE**

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

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

**CONSULTANT
[INSERT NAME]**

By: _____
Robert E. Magee, Chair

By: _____
Signature

Name

Title

Approved as to Form:

Attest:

By: _____
Best Best & Krieger LLP
General Counsel

By: _____
Its: Secretary

EXHIBIT "A"
PART 1

PRE-CONSTRUCTION PHASE SERVICES

SCOPE OF SERVICES

[__ TO BE INSERTED __]

EXHIBIT "A"
PART 2

CONSTRUCTION PHASE SERVICES

SCOPE OF SERVICES

[___ TO BE INSERTED ___]

EXHIBIT "B"
PART 1

PRE-CONSTRUCTION PHASE SERVICES

SCHEDULE OF SERVICES

[__ TO BE INSERTED __]

EXHIBIT "B"
PART 2

CONSTRUCTION PHASE SERVICES

SCHEDULE OF SERVICES

[__ TO BE INSERTED __]

EXHIBIT "C"

COMPENSATION AND PAYMENT

For the satisfactory performance and completion of the Services under this Agreement, the Commission will pay the Consultant compensation as set forth herein.

1. ELEMENTS OF COMPENSATION.

Compensation for the Services will be comprised of the following elements: 1.1 Direct Labor Costs; 1.2 Fixed Fee; and 1.3 Additional Direct Costs.

1.1 DIRECT LABOR COSTS.

Direct Labor costs shall be paid in an amount equal to the product of the Direct Salary Costs and the Multiplier which are defined as follows:

1.1.1 DIRECT SALARY COSTS

Direct Salary Costs are the base salaries and wages actually paid to the Consultant's personnel directly engaged in performance of the Services under the Agreement. (The range of hourly rates paid to the Consultant's personnel appears in Section 2 below.)

1.1.2 MULTIPLIER

The Multiplier to be applied to the Direct Salary Costs to determine the Direct Labor Costs is _____, and is the sum of the following components:

1.1.2.1 Direct Salary Costs _____

1.1.2.2 Payroll Additives _____

The decimal ratio of Payroll Additives to Direct Salary Costs. Payroll Additives include all employee benefits, allowances for vacation, sick leave, and holidays, and company portion of employee insurance and social and retirement benefits, all federal and state payroll taxes, premiums for insurance which are measured by payroll costs, and other contributions and benefits imposed by applicable laws and regulations.

1.1.2.3 Overhead Costs _____

The decimal ratio of allowable Overhead Costs to the Consultant firm's total direct salary costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

Total Multiplier _____
(sum of 1.1.2.1, 1.1.2.2, and 1.1.2.3)

1.2 FIXED FEE. The Fixed Fee is the Profit. The Maximum Fixed Fee under this Agreement is as follows:

Pre-Construction Phase Services Maximum Fixed Fee: ___[insert \$]__.

Construction Phase Services Maximum Fixed Fee: ___[insert \$]_____.

1.3 ADDITIONAL DIRECT COSTS.

ITEM REIMBURSEMENT RATE

[__insert charges__]

| | |
|------------------|-----------|
| Per Diem | \$ /day |
| Car mileage | \$ /mile |
| Travel | \$ /trip |
| Computer Charges | \$ /hour |
| Photocopies | \$ /copy |
| Blueline | \$ /sheet |
| LD Telephone | \$ /call |
| Fax | \$ /sheet |
| Photographs | \$ /sheet |

Travel by air and travel in excess of 100 miles from the Consultant's office nearest to the Commission's office must have the Commission's prior written approval to be reimbursed under this Agreement.

2. DIRECT SALARY RATES

Direct Salary Rates, which are the range of hourly rates to be used in determining Direct Salary Costs in Section 1.1.1 above, are given below and are subject to the following:

- 2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.
- 2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Consultant's adjustments to individual compensation. The Consultant shall notify the Commission in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION RANGE OF HOURLY RATES

[*sample*]

| | |
|--------------------------|----------------------|
| Principal | \$.00 - \$.00/hour |
| Project Manager | \$.00 - \$.00/hour |
| Sr. Engineer/Planner | \$.00 - \$.00/hour |
| Project Engineer/Planner | \$.00 - \$.00/hour |
| Assoc. Engineer/Planner | \$.00 - \$.00/hour |
| Technician | \$.00 - \$.00/hour |
| Drafter/CADD Operator | \$.00 - \$.00/hour |
| Word Processor | \$.00 - \$.00/hour |

- 2.3 The above rates are for the Consultant only. All rates for subconsultants to the Consultant will be in accordance with the Consultant's cost proposal.

3. INVOICING

- 3.1 Each month the Consultant shall submit an invoice for Services performed during the preceding month. The original invoice shall be submitted to the Commission's Executive Director with two (2) copies to the Commission's Project Coordinator.
- 3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by the Commission's Representative.

- 3.3 Base Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Services, shall be listed separately. The charges for each individual assigned by the Consultant under this Agreement shall be listed separately on an attachment to the invoice.
- 3.4 A charge of \$500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to the Commission such as invoices, telephone logs, etc.
- 3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.
- 3.6 Each invoice shall indicate payments to DBE subconsultants or supplies by dollar amount and as a percentage of the total invoice.
- 3.7 Each invoice shall include a certification signed by the Consultant's Representative or an officer of the firm which reads as follows:

I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed.

Signed _____
 Title _____
 Date _____
 Invoice No. _____

4. PAYMENT

- 4.1 The Commission shall pay the Consultant within four to six weeks after receipt by the Commission of an original invoice. Should the Commission contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.
- 4.2 The final payment for Services under this Agreement will be made only after the Consultant has executed a Release and Certificate of Final Payment.

EXHIBIT "D"

FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS

**NOTE DBE PROVISIONS NOT FINALIZED, ADDITIONAL INFO NEEDED
EXHIBITS "H" AND "I" MAY BE REPLACED**

Notwithstanding anything to the contrary contained in the Agreement, including the other Exhibits attached thereto, the following provisions shall apply if funding for the Services is provided, in whole or in part, from the Federal Transit Administration ("FTA"). In addition, Exhibits "H" and "I" attached to this Agreement, may be replaced and substituted with similar forms required by FTA. Consultant agrees to complete any such substitute forms.

1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD-PARTIES BY USE OF A DISCLAIMER

(Master Agreement¹ §2.f)

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

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

2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(Master Agreement §3.f)

¹ UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION MASTER AGREEMENT For Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, U.S.C. (Highways), Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the National Capital Transportation Act of 1969, as amended, the Transportation Equity Act for the 21st Century, as amended, 23 U.S.C. § 101 note, or other Federal enabling legislation; FTA MA(14); October 1, 2007; [<http://www.fta.dot.gov/documents/14-Master.pdf>].

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

(2) The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation 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. chapter 53 or any other Federal law, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323 on the Consultant, to the extent the Federal Government deems appropriate.

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

3. ACCESS TO RECORDS

(Master Agreement §§ 8.c, d, t)

1. Consultant agrees to provide the Commission, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States or any of their authorized representatives access to all Project work, materials, payrolls, and other data of the Consultant which are directly pertinent to this contract as required by 49 U.S.C. § 5325(g).

2. The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. The Consultant agrees 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 transmission of the final expenditure report, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Consultant agrees to maintain same until the Commission, 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).

4. FTA does not require the inclusion of these requirements in subcontracts.

4. FEDERAL CHANGES

(Master Agreement §2.c(1))

Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Grant Agreement or Cooperative Agreement between the Commission or the Riverside Transit Agency and the Federal Government ("Grant Agreement or Cooperative Agreement"), as they may be amended or promulgated from time to time during the term of this contract. Consultant's failure to so comply shall constitute a material breach of this contract.

5. CIVIL RIGHTS REQUIREMENTS

(Master Agreement §12)

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, U.S. DOT regulations, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, FTA Circular 4702.1A, "Title VI and Title VI – Dependent Guidelines for Federal Transit Administration Receipts," May 13, 2007, Federal transit law at 49 U.S.C. § 5332, the Consultant 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 Consultant 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 - The Consultant agrees to comply with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and equal employment opportunity provisions of 49 U.S.C. § 5332, 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 Consultant 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 Consultant agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with the Age Discrimination in Employment Act, as amended, 29 U.S.C. §§ 621 through 634 and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Consultant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(3) DBE Program Compliance - The Commission has established a DBE Program pursuant to 49 C.F.R. Part 26, which applies to FTA funded agreements. The requirements and procedures of the Commission's DBE Program are hereby incorporated by reference into this Agreement. Consultant shall complete Exhibits "H" through "I" of this Agreement, or similar forms to be provided by the Commission, in compliance with the Commission's DBE Program for FTA funded agreements. Failure by Consultant or its subcontractor(s) to carry out the Commission's DBE Program procedures and requirements, or the applicable requirements of 49 C.F.R. Part 26, section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26, shall be considered a material breach of this Agreement. Such a material breach may be grounds for termination of this Agreement or such other appropriate administrative remedy as the Commission deems appropriate. The Consultant shall ensure that a provision mandating compliance with the Commission's DBE Program for FTA funded agreements is included in any and all sub-agreements entered into which arise out of or are related to this Agreement. Consultant shall also promptly provide the Commission with all necessary information related to the DBE status of its subcontractors. Should the DBE status of any of its subcontractors change in any way, Consultant shall promptly inform the Commission of this change.

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

6. TERMINATION PROVISIONS

(Master Agreement §11)

The termination provisions found at Section 3.14 of this Agreement are consistent with the termination provisions suggested by FTA for the protection of the Federal Government. The termination provisions found at Section 3.14 of this Agreement control termination under this Agreement.

7. DEBARMENT AND SUSPENSION

(Master Agreement §3.b)

Instructions for Certification

1. By signing and submitting this Agreement, the Consultant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Commission may pursue available remedies, including suspension and/or debarment.
3. The Consultant shall provide immediate written notice to Commission if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact Commission for assistance in obtaining a copy of those regulations.
5. The Consultant agrees by executing this Agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Commission.
6. The Consultant further agrees by executing this Agreement that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction”, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, Commission may pursue available remedies including suspension and/or debarment.

10. The Consultant agrees to comply, and assures the compliance of each subconsultant, lessee, or third party contractor, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," 49 C.F.R. Part 29.

11. The Consultant agrees to, and assures that its subconsultants, lessees and third party contractors will review the "Excluded Parties Listing System" at <http://elgs.gov/> before entering into any third subagreement, lease or third party contract.

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion"

(1) The Consultant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the Consultant is unable to certify to the statements in this certification, it shall attach an explanation to this proposal.

8. PROVISIONS FOR RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

(Master Agreement §53)

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Commission's [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Consultant mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Consultant and the Consultant shall abide by the decision.

Performance During Dispute - Unless otherwise directed by Commission, Consultant shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Commission and the Consultant arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Commission is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Commission, (Architect) or Consultant shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

FTA Notification – Consultant shall notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project. If the Consultant wishes to name the Federal Government as a party to litigation, the Consultant shall inform FTA in writing before doing so.

9. LOBBYING

(Master Agreement §3.d)

Lobbying Restrictions. To the extent applicable, Consultant agrees to:

(1) Comply, and assure the compliance of each subcontractor at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.

(2) Comply with Federal statutory provisions, to the extent applicable, prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.

10. CLEAN AIR

(Master Agreement §25.b)

(1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. The Consultant agrees to report each violation to the Commission and understands and agrees that the Commission will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

11. CLEAN WATER

(Master Agreement §25.c)

(1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 through 1377. The Consultant agrees to report each violation to the Commission and understands and agrees that the Commission will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

12. ENERGY CONSERVATION

(Master Agreement §26)

Energy Conservation. To the extent applicable, Consultant agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 et seq. To the extent applicable, Consultant agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

13. CONFORMANCE WITH NATIONAL ITS ARCHITECTURE

(Master Agreement §15.m)

National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, Consultant agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other subsequent Federal directives that may be issued.

14. IMMIGRATION REFORM AND CONTROL ACT OF 1986

Consultant assumes full responsibility for verifying the identity and employment authorization of all of its employees performing work under this Agreement in compliance with the Immigration Reform and Control Act of 1986, and rules and regulations promulgated in connection therewith (hereinafter "IRCA"). Consultant shall indemnify, defend and hold Commission harmless from and against any claims, loss, damage, liability, costs or expenses arising from any noncompliance with the provisions or IRCA.

15. SPECIAL PROVISIONS

(Master Agreement § 39, 40, 41, 42, 43, 48)

To the extent applicable, Consultant agrees to comply with the Federal programs specified below and, with regard to such programs, Consultant agrees not to compromise the Commission's compliance with Federal requirements as pertains to the Project.

The Programs are as follows:

(1) Urbanized Area Formula Program authorized under 49 U.S.C. § 4307.

(2) Elderly Individuals and Individuals with Disabilities Formula Program authorized under 49 U.S.C. § 5310 as amended by SAFETEA-LU and subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, respectively.

- (3) New Freedom Program authorized under 49 U.S.C. § 5317.
- (4) Nonurbanized Area Formula Program authorized under 49 U.S.C. § 5311(b).
- (5) Clean Fuels Grant Program authorized under 49 U.S.C. § 5308.
- (6) Job Access and Reverse Commute Formula Grant Program authorized under 49 U.S.C. § 5316.

16. RELEASE OF RETAINAGE

(49 CFR 26.29)

The Commission may hold retainage from the prime contractor and, if it does so, shall make prompt and regular incremental acceptances of portions, as determined by the Commission of the contract work and pay retainage to prime contractors based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Commission. Federal regulations (49 CFR 26.29) require that any delay or postponement of payment over 30 days may take place only for good cause and with the Commission's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

17. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by the Federal Transit Authority, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the Federal Transit Authority, as set forth in FTA Circular 4220.1E, 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 Commission requests which would cause the Commission to be in violation of the FTA terms and conditions.

EXHIBIT "E"

CERTIFICATE OF CONSULTANT

I HEREBY CERTIFY that I am the _____ and
duly authorized representative of the firm of _____
whose address is _____,
and that, except as hereby expressly stated, neither I nor the above firm that I represent
have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

By: _____
Signature

Name

Title

Date

EXHIBIT "F"

CERTIFICATE OF COMMISSION

I HEREBY CERTIFY that I am the _____
of the RIVERSIDE COUNTY TRANSPORTATION COMMISSION, and that the
consulting firm of _____ or its representative has not been required
(except as herein expressly stated), directly or indirectly, as an express or implied
condition in connection with obtaining or carrying out this Agreement to:

- (a) employ, retain, agree to employ or retain, any firm or person; or
- (b) pay or agree to pay, to any firm, person or organization, any fee,
contribution, donation, or consideration of any kind.

By: _____
Signature

Name

Title

Date

EXHIBIT "G"

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

CONSULTANT CONTRACT REQUIREMENTS

The provisions of Title 49, Part 26, Code of Federal Regulations (49 CFR 26) and the RIVERSIDE COUNTY TRANSPORTATION COMMISSION'S adopted DBE Program require that Disadvantaged Business Enterprises (DBEs) have the opportunity to participate in federally-funded, transportation projects. The Commission's overall annual DBE goal for projects funded by Federal Transit Administration (FTA) Funds for the 2009-2010 Fiscal Year is _____.

Notwithstanding anything to the contrary contained in the Agreement, and the exhibits attached hereto, the following provisions shall apply if funding for the Services is provided, in whole or in part, from the United States Department of Transportation (DOT):

1. DISCRIMINATION

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

Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, of sex in the performance of this contract. Consultant shall carry out applicable requirements of 49 CFR Part 26 and the Commission's DBE program in the award and administration of DOT-assisted contracts, as further set forth below.

2. PROMPT PAYMENT

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

3. RELEASE OF RETAINAGE

The Commission shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Commission of the contract work and pay retainage to prime contractors based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from

a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Commission. Federal regulations (49 CFR 26.29) require that any delay or postponement of payment over 30 days may take place only for good cause and with the Commission's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

4. LEGAL REMEDIES

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

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

5. DBE PARTICIPATION

As stated above, the Commission's overall annual DBE goal for projects funded by Federal Transit Administration (FTA) funds for the 2009-2010 Fiscal Year is _____. Even if no DBE participation will be reported, Consultant shall complete Exhibits "H" and "I" of this Agreement in compliance with the Commission's DBE program.

A. This Agreement is subject to Title 49, Part 26, Code of Federal Regulations (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In order to ensure that the Commission achieves its federally mandated overall DBE goal, the Commission encourages the participation of DBEs, as defined in 49 CFR 26, in the performance of Agreements financed in whole or in part with federal funds. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

As required by federal law, the Commission has established an overall DBE goal for projects funded by FTA funds. In order to ascertain whether that overall DBE goal is being achieved, the Commission is tracking DBE participation on all FTA funded contracts.

B. The Commission advises that participation of DBEs in the specified percentage is not a condition of award.

C. Contractor has agreed to carry out the applicable requirements of Title 49 CFR 26, in the award and administration of federally assisted Agreements. The regulations in their entirety are incorporated herein and by reference.

D. The Contractor should notify Commission's Representative in writing, of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

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

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

6. DBE PARTICIPATION GENERAL INFORMATION

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

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

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

C. A DBE joint-venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint-venture commensurate with its ownership interest.

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

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

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

7. COMMERCIALY USEFUL FUNCTION

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

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

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

8. DBE CERTIFICATION AND DE-CERTIFICATION STATUS

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

9. DBE RECORDS

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

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

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

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

10. REPORTING MATERIAL OR SUPPLIES PURCHASED FROM DBEs

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

A. If the materials or supplies are obtained from a DBE manufacturer, 100 % of the cost of the materials or supplies will count toward the DBE participation. A DBE manufacturer is a firm that operates or maintains a factory or establishment that

produces on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

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

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

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

11. REPORTING PARTICIPATION OF DBE TRUCKING COMPANIES

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

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

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

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

D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit

for the total value of the transportation services the lessee DBE provides on the Agreement.

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

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

Exhibit "H"

FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS
 (FEDERALLY FUNDED PROJECTS)
 CP-CEM 2402(F) (Rev 10/99) CT #7541-3502-2

| | | | | | | | | | | |
|------------------------------------|--|--|----------------------------|--|----------------------|--------------------------|---------------------------------|------------------|--------------------|-----------------------|
| CONTRACT NUMBER | COUNTY | ROUTE | POST MILES/POST KILOMETERS | FEDERAL AID PROJECT No. | ADMINISTERING AGENCY | CONTRACT COMPLETION DATE | | | | |
| PRIME CONTRACTOR | | | BUSINESS ADDRESS | | | | ESTIMATED CONTRACT AMOUNT \$ | | | |
| ITEM NO. | DESCRIPTION OF WORK PERFORMED AND MATERIALS PROVIDED | | DBE CERT. NO. | CONTRACT PAYMENTS | | | | | | |
| | | | | Non-DBE | DBE* | DBE, SMBE* | DBE, SWBE* | DBE, SMBE, SWBE* | DATE WORK COMPLETE | DATE OF FINAL PAYMENT |
| | | | | \$ | \$ | \$ | \$ | \$ | | |
| ORIGINAL COMMITMENT | | | TOTAL | \$ | \$ | \$ | \$ | \$ | | |
| \$ _____ DBE \$ _____ DBE, SWBE | | \$ _____ DBE, SMBE \$ _____ DBE, SMBE, SWBE | | <p>*The decision of which column to be used for entering the DBE dollar value is based on what Program(s) the firm is Certified. This Program status is determined by the Civil Rights Certification Unit based on ethnicity, gender, ownership and control issues at time of certification. The certified firm is issued a certificate by the Civil Rights unit that states their program status as well as the firm's Expiration Date. DBE Program status may be obtained by accessing the Civil Rights website (http://www.dol.ca.gov/hq/bep/) and downloading the Calcert Extract or by calling (916) 227-2207.</p> | | | | | | |

List all First Tier Subcontractors, Disadvantaged Business Enterprises (DBE's) regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at time of event, provide comments on a separate page. List actual amount paid to each DBE, even if different than originally listed for goal credit.

| | | |
|--|-----------------------|------|
| I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT | | |
| CONTRACTOR REPRESENTATIVE SIGNATURE | BUSINESS PHONE NUMBER | DATE |
| TO THE BEST OF MY KNOWLEDGE THE ABOVE INFORMATION IS COMPLETE AND CORRECT | | |
| RESIDENT ENGINEER SIGNATURE | BUSINESS PHONE NUMBER | DATE |

Distribution: (1) Original plus one copy to DLAE included in the Report of Expenditures (original forwarded to Division of Structures, Office of External Liaison Agreements)
 (2) Copy – local agency project files (3) Copy – OLP Area Engineer

EXHIBIT "I"

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
PARTICIPATION GOALS FOR CONTRACT AND PROJECT

LOCAL AGENCY BIDDER DBE INFORMATION

This information may be submitted with your bid proposal. If it is not, and you are the apparent low bidder or the second of third low bidder, it must be submitted and received by the administering agency no later than the time specified in the special provisions.

CO.RTE.PM: _____ **BIDDER'S NAME:** _____

CONTRACT NO.: _____ **ADDRESS:** _____

BID AMOUNT: \$ _____

BID OPENING DATE: _____ **DBE GOAL FROM CONTRACT** _____ **%**

| CONTRACT ITEM NO. | ITEM OF WORK AND DESCRIPTION OF WORK OR SERVICES TO BE CONTRACTED OR MATERIALS TO BE PROVIDED | NAME OF DBE ** (Name of DBE's, Certification Number, and Telephone Number) | DOLLAR AMOUNT *** DBE | PERCENT |
|----------------------|---|---|--------------------------------|----------|
| | | | | |
| | | | | |
| Total | | | | |
| Claimed | | | | |
| Participation | | | | % |

*If 100% of item is not to be performed or furnished by DBE, describe exact portion, including planned location of work to be performed, or item to be performed or furnished by DBE.

**DBE's must be certified by a California Unified Certification Program certifying agency on the date bids are opened. Subcontractors and suppliers certified State-funded only cannot be used to meet goals on federally funded contracts.

***Credit for a DBE supplier, who is not a manufacturer is limited to 60% of the amount paid to the supplier. (See Section "Disadvantaged Business" DBE of the special provisions.)

IMPORTANT: Names of DBE subcontractors and their respective item(s) of work listed above should be consistent with the name and items of work in the "List of Subcontractors" submitted with your bid pursuant to the Subcontractors Listing Law.

| | | |
|--|------|---------------------------|
| | | |
| Signature of Bidder | Date | (Area Code) Telephone No. |
| | | |
| Person to Contact (Please Print or Type) | | |

**INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT
(CONSULTANT CONTRACTS)**

ALL PROPOSERS:

PLEASE NOTE: It is the proposer’s responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A “UDBE” is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer’s Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See “Notice to Proposers Disadvantaged Business Enterprise Information,” (Exhibit 10-1) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer’s good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-01 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS)**

SUCCESSFUL PROPOSER:

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-1) to determine how to count the participation of DBE firms.

Exhibit 10-02 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

EXHIBIT "J"

DISCLOSURE OF LOBBYING ACTIVITIES

[ATTACHED BEHIND THIS PAGE]

Exhibit 10-Q Disclosure of Lobbying Activities

DISCLOSURE OF LOBBYING ACTIVITIES

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

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

Standard Form LLL Rev. 04-28-06

**INSTRUCTIONS FOR COMPLETION OF SF-LLL,
DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4. checks "Subawardee" then enter the full name, address, city, State and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in Item 4. to influenced the covered federal action.
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

SF-LLL-Instructions Rev. 06-04-90«ENDIF»

EXHIBIT "C"

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS TO COMMISSIONERS

EXHIBIT "C"
RIVERSIDE COUNTY TRANSPORTATION COMMISSION

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS TO COMMISSIONERS

Government Code Section 84308, 2 California Code of Regulations 18438.1, Et Seq

No Commissioner of the Riverside County Transportation Commission shall receive or solicit a campaign contribution of more than \$250 from Bidder, or Bidder's agent, during the time of: 1) Bid solicitation; 2) Consideration of Bids received; and, 3) Awarding of a contract based on a Bid (collectively referred to as the "Proceeding"), and for three (3) months following the conclusion of the Proceeding. This prohibition does not apply to the awarding of contracts that are competitively bid. In addition, Commissioners cannot participate in any such matters if they have received more than \$250 in campaign contributions within the last year from anyone financially interested in the Proceeding, such as Bidder and/or Bidder's agent.

Pursuant to these requirements, Bidder shall disclose any campaign contribution in an amount of more than \$250 made by Bidder, and/or Bidder's agent, to any Commissioner within 12 months from the date of these Bid Documents/Request For Proposals (as applicable). For the purposes of this disclosure obligation, contributions made by Bidder within the preceding 12 months shall be aggregated with those made by Bidder's agent within the preceding 12 months or the period of the agency relationship between Bidder and Bidder's agent, whichever is shorter. In addition, Bidder and/or Bidder's agent shall not make a contribution of more than \$250 to a Commissioner during the Proceeding and for three (3) months following the conclusion of the Proceeding.

The disclosure by Bidder, as set forth, herein, shall be incorporated into the written record of the Proceeding and shall be made available to the public for inspection and copying.

The following is a list of the Commissioners of the Riverside County Transportation Commission:

Bob Buster, County of Riverside
John F. Tavaglione, County of Riverside
Jeff Stone, County of Riverside
Roy Wilson, County of Riverside
Marion Ashley, County of Riverside
Bob Botts, City of Banning
Roger Berg / Jeff Fox, City of Beaumont
Joseph DeConinck / Robert Crain, City of Blythe
Ray Quinto / Jim Hyatt, City of Calimesa
Mary Craton / Ehrenkranz, City of Canyon Lake

Date of Disclosure (Same As Bid Date) _____

BIDDER:

Signature of Bidder _____

Name _____

Title _____

Company _____

EXHIBIT "D"

FEDERAL CERTIFICATIONS AND FORMS
TO BE SUBMITTED AS PART OF SOQ

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder , proposed subcontractor , hereby certifies that he has , has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Name of Offeror

Signature

DEBARMENT AND SUSPENSION CERTIFICATION

CERTIFICATION OF CONSULTANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS PURSUANT TO TITLE 49 CFR PART 29

The undersigned certifies to the best of his or her knowledge and belief, that _____ (name of Consultant) and its principles:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default. The Contractor certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 USC Sections 3801 et seq. are applicable thereto.

By: _____
(Signature)

By: _____
(Signature)

(Print Name)

(Print Name)

(Title)

(Title)

(Date)

(Date)

CERTIFICATION OF SUBCONSULTANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS PURSUANT TO TITLE 49 CFR PART 29 (To be provided for each first tier subconsultant following bid award and prior to NTP)

The undersigned certifies to the best of his or her knowledge and belief, that _____ (name of Subconsultant) and its principles:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this subcontract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three-year period preceding this subcontract had one or more public transactions (Federal, State, or local) terminated for cause or default. We shall require each lower tier Subcontractor to likewise complete this Certification. The Subcontractor certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 USC Sections 3801 *et seq.* are applicable thereto.

By: _____
(Signature)

By: _____
(Signature)

(Print Name)

(Print Name)

(Title)

(Title)

(Date)

(Date)

BIDDERS LIST

The U.S. Department of Transportation (DOT) requires the Commission to create and maintain a "Bidders List" containing information about all firms (DBE and non-DBE) that bid, propose or quote on the Commission's DOT-assisted contracts, in accordance with 49 CFR Part 26.11. The Bidder/Proposer is to complete all requested information for every firm who submitted a bid, proposal or quote, including the primary Bidder/Proposer, and submit the "Bidders List" form with their bid/proposal, or within 48 hours of bid opening or proposal due date and timeline. The Commission will utilize this information to assist in the Commission's Overall Annual DBE goal setting process. ***The "Bidders List" content will not be considered in evaluating the bid/proposal or determining award of any contract.***

| a. Prime Bidder/Proposer Information: | |
|---|--|
| Name of Prime's Firm: | Phone: () |
| Firm Address: | Fax: () |
| Number of years in business: | Type of work/services/materials provided: |
| Contact Person: | Title: |
| Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No | Check the box below for your firm's annual gross receipts last year: |
| | <input type="checkbox"/> Less than \$1 million |
| | <input type="checkbox"/> Less than \$5 million |
| | <input type="checkbox"/> Less than \$10 million |
| | <input type="checkbox"/> Less than \$15 million |
| | <input type="checkbox"/> More than \$15 million |

| | |
|---|--|
| b. Provide the following information for every firm (DBE and non-DBE) that submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract: | |
| Name of Prime's Firm: | Phone: () |
| Firm Address: | Fax: () |
| Number of years in business: | Type of work/services/materials provided: |
| Contact Person: | Title: |
| Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | Check the box below for your firm's annual gross receipts last year: |
| | <input type="checkbox"/> Less than \$1 million |
| | <input type="checkbox"/> Less than \$5 million |
| | <input type="checkbox"/> Less than \$10 million |
| | <input type="checkbox"/> Less than \$15 million |
| | <input type="checkbox"/> More than \$15 million |

If necessary, this "Bidders List" form can be duplicated to include all firms (DBE and non-DBE) that have submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract.

Failure of the Bidder/Proposer to submit the required "Bidders List" form may deem the Bidder/Proposer non-responsive.

CERTIFICATION FOR FEDERAL AID PROJECTS

The prospective participant certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Name of Offeror

Signature

Typed or Printed Name

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Federal Aid Project No: _____

| | | |
|--|---|--|
| <p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p> | <p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. id/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p> | <p>3. Report Type:</p> <p><input type="checkbox"/> a. initial <input type="checkbox"/> b. material change</p> <p>For Material Change Only: year _____ quarter _____ date of last report _____</p> |
| <p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i></p> <p>Congressional District, if known</p> | <p>5. If Reporting Entity in No. 4 is Subawardee. Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p> | |
| <p>6. Federal Department/Agency:</p> | <p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable _____</p> | |
| <p>8. Federal Action Number, if known:</p> | <p>9. Award Amount, if known:</p> <p align="center">\$</p> | |
| <p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):</p> | <p>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</p> | |
| <p align="center"><i>(attach Continuation Sheet(s) if necessary)</i></p> | | |

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|--|---|
| <p>11. Amount of Payment (<i>check all that apply</i>): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p> | <p>13. Type of Payment (<i>check all that apply</i>)</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____</p> |
| <p>12. Form of Payment (<i>check all that apply</i>):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind: specify: nature _____ value _____</p> | |
| <p>14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</p> <p style="text-align: center;"><i>(attach Continuation Sheet(s) if necessary)</i></p> | |
| <p>15. Continuation Sheet(s) attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> | |
| <p>16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p> | <p>Signature: _____</p> <p>Print _____ Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p> |
| <p>Federal Use Only:</p> | <p>Authorized for Local Reproduction Standard Form –LLL</p> |

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include by are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation to Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial(MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contact or the officer(s), employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.