

**AGREEMENT FOR THE FUNDING OF SB 125  
TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FUNDING FOR GRADE  
SEPARATION CONSTRUCTION WITH THE CITY OF CORONA**

1. Parties and Date.

1.1 This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2024, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (“RCTC”) and CITY OF CORONA (“City”). RCTC and City are sometimes collectively referred to herein as the “Parties”.

2. Recitals.

2.1 RCTC is a county transportation commission created and existing pursuant to California Public Utilities Code Sections 130053 and 130053.5.

2.2 Transit and Intercity Rail Capital Program (TIRCP) was created by the state as a competitive program in 2014 to provide grants from the Greenhouse Gas Reduction Fund (GGRF) via cap-and-trade proceeds to fund transformative capital improvements that will modernize California’s intercity, commuter, and urban rail systems, and bus systems, to significantly reduce emissions of greenhouse gases, vehicle miles traveled, and congestion. In July 2023 AB 102 and SB 125 amended the Budget Act of 2023 to appropriate about \$4 billion of state general funds to the TIRCP over the next two years.

2.3 SB 125 Formula-Based TIRCP establishes funding for transit operations and capital improvements, and grade separations and rail crossing improvements to be funded by the TIRCP.

2.4 RCTC intends, by this Agreement, to distribute TIRCP funding (“TIRCP Funds”), subject to the conditions provided herein, and to participate in the joint development of the Project, as defined herein.

2.5 The Parties acknowledge that certain state requirements apply to the TIRCP Funds, and City shall be obligated to comply with all TIRCP funding requirements as set forth in Exhibit “D” (“TIRCP Funding Requirements”).

3. Terms.

3.1 Description of Work. This Agreement is intended to distribute TIRCP Funds to the City for the Construction phase of the McKinley Road Grade Separation Project (“the Work”). The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit “A” attached hereto and, pursuant to Section 3.15 below, is subject to modification as requested by the City and approved by RCTC. It is understood and agreed that the City shall expend TIRCP Funds

only as set forth in this Agreement and only for the Work. To this end, any use of funds provided pursuant to this Agreement shall be subject to the review and approval of RCTC.

3.2 RCTC Funding Amount. RCTC hereby agrees to distribute to the City, on the terms and conditions set forth herein, a sum not to exceed Ten Million Dollars (\$10,000,000), to be used exclusively for reimbursing the City for eligible Work expenses as described herein (“Funding Amount”). The City acknowledges and agrees that the Funding Amount may be less than the actual cost of the Work, and that RCTC shall not contribute TIRCP Funds in excess of the maximum authorized in this section.

3.2.1 Eligible Work Costs. The total Work costs (“Total Work Cost”) may include the following items, provided that such items are included in the scope of work attached as Exhibit “A”: (1) City and/or consultant costs associated with direct Work coordination and support; (2) construction costs, including change orders to construction contract approved by the City; and (3) construction management, field inspection and material testing costs.

3.2.2 Ineligible Work Costs. The Total Work Cost shall not include the following items which shall be borne solely by the City without reimbursement: (1) City administrative costs; (2) City costs attributed to the preparation of invoices, billings and payments; (3) any City fees attributed to the processing of the Work; (4) expenses for items of work not included within the scope of work in Exhibit “A”; (5) any costs that are not in compliance with the TIRCP Funding Requirements.

3.3 City’s Funding Obligation to Complete the Work. In the event that the TIRCP Funds allocated to the Work represent less than the total cost of the Work, the City shall provide such additional funds as may be required to complete the Work as described in Exhibit “A”.

3.3.1 City’s Obligation to Repay TIRCP Funds to RCTC. In the event that: (i) the City, for any reason, determines not to proceed with or complete the Work; or (ii) the Work is not timely completed, subject to any extension of time granted by RCTC pursuant to Section 3.15; the City agrees that any TIRCP Funds that were distributed to the City for the Work shall be repaid in full to RCTC. The Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism.

3.3.2 City’s Local Match Contribution. There is no local match requirement for this award.

3.4 Work Responsibilities of the City. The City shall be responsible for the following aspects of the Work, in compliance with state and federal law provided that such items are included in the Project scope of work attached as Exhibit “A”: (i) all aspects of bidding, awarding, and administration of the contracts for the Work; (ii) all construction management of any construction activities undertaken in connection with the Work, including survey and material testing; and (iii) development of a budget for the Work prior to award of any contract for the Work, taking into consideration available funding, including TIRCP Funds.

3.5 Term/Notice of Completion. The term of this Agreement shall be from the date first herein above written until: (i) the date RCTC formally accepts the Work as complete, pursuant to Section 3.2.3; (ii) termination of this Agreement pursuant to Section 3.9; or (iii) the City has fully satisfied its obligations under this Agreement, “including full repayment of TIRCP Funds to RCTC as provided herein”. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

3.6 Representatives of the Parties. RCTC’s Executive Director, or his or her designee, shall serve as RCTC’s representative and shall have the authority to act on behalf of RCTC for all purposes under this Agreement. The City hereby designates Savat Khamphou, Public Works Director, as the City’s representative to RCTC. The City’s representative shall have the authority to act on behalf of the City for all purposes under this Agreement and shall coordinate all activities of the Work under the City’s responsibility. The City shall work closely and cooperate fully with RCTC’s representative and any other agencies which may have jurisdiction over or an interest in the Work.

3.7 Expenditure of Funds by City Prior to Execution of Agreement. Nothing in this Agreement shall be construed to prevent or preclude the City from expending funds on the Work prior to the execution of the Agreement, or from being reimbursed by RCTC for such expenditures. However, the City understands and acknowledges that any expenditure of funds on the Work prior to the execution of the Agreement is made at the City’s sole risk, and that some expenditures by the City may not be eligible for reimbursement under this Agreement.

3.8 Review of Services. The City shall allow RCTC’s Representative to inspect or review the progress of the Work at any reasonable time in order to determine whether the terms of this Agreement are being met.

3.9 Termination. This Agreement may be terminated for cause or convenience as further specified below.

3.9.1 Termination for Convenience.

3.9.1.1 Notice. Either RCTC or the City may, by written notice to the other party, terminate this Agreement, in whole or in part, for convenience by giving thirty (30) days’ written notice to the other party of such termination and specifying the effective date thereof.

3.9.1.2 Effect of Termination for Convenience. In the event that the City terminates this Agreement for convenience, the City shall, within 180 days, repay to RCTC in full all TIRCP Funds provided to the City under this Agreement. In the event that RCTC terminates this Agreement for convenience, RCTC shall, within 90 days, distribute to the City TIRCP Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Work at the time of the notice of termination; provided, however, that RCTC shall be entitled to exercise its rights under Section 3.14.2, including but not limited to conducting a review of the invoices and requesting additional information. This Agreement shall terminate upon receipt by the non-terminating party of the amounts due it under this Section 3.9.1.2.

### 3.9.2 Termination for Cause.

3.9.2.1 Notice. Either RCTC or the City may, by written notice to the other party, terminate this Agreement, in whole or in part, in response to a material breach hereof by the other party, by giving written notice to the other party of such termination and specifying the effective date thereof. The written notice shall provide a 30-day period to cure any alleged breach. During the 30-day cure period, the Parties shall discuss, in good faith, the manner in which the breach can be cured.

3.9.2.2 Effect of Termination for Cause. In the event that the City terminates this Agreement in response to RCTC's uncured material breach hereof, RCTC shall, within 90 days, distribute to the City TIRCP Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Work at the time of the notice of termination. In the event that RCTC terminates this Agreement in response to the City's uncured material breach hereof, the City shall, within 180 days, repay to RCTC in full all TIRCP Funds provided to the City under this Agreement. Notwithstanding termination of this Agreement by RCTC pursuant to this Section 3.9.2.2, RCTC shall be entitled to exercise its rights under Section 3.14.2, including but not limited to conducting a review of the invoices and requesting additional information. This Agreement shall terminate upon receipt by the terminating party of the amounts due it under this Section 3.9.2.2.

3.9.3 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.

3.10 Prevailing Wages. The City and any other person or entity hired to perform services on the Work are alerted to the requirements of California Labor Code Sections 1770 et seq., which would require the payment of prevailing wages were the services or any portion thereof determined to be a public work, as defined therein. The City shall ensure compliance with these prevailing wage requirements by any person or entity hired to perform the Work. The City shall defend, indemnify, and hold harmless RCTC, its officers, employees, consultants, and agents from any claim or liability, including without limitation attorneys, fees, arising from its failure or alleged failure to comply with California Labor Code Sections 1770 et seq.

3.11 Progress Reports. RCTC may request the City to provide RCTC with progress reports concerning the status of the Work.

### 3.12 Indemnification.

3.12.1 City Responsibilities. In addition to the indemnification required under Section 3.10, the City agrees to indemnify and hold harmless RCTC, the State of California, their officers, agents, consultants, and employees from any and all claims, demands, costs or liability arising from or connected with all activities governed by this Agreement including all design and construction activities, due to any act of the City or its subcontractors whatsoever, regardless of fault, including negligent acts, errors or omissions or willful misconduct, except that caused by the sole negligence of RCTC. The City will reimburse RCTC for any expenditures, including reasonable attorneys' fees, incurred by RCTC, in defending against claims ultimately determined to

be due to any act of the City or its subcontractors whatsoever, regardless of fault, including negligent acts, errors or omissions or willful misconduct, except that caused by the sole negligence of RCTC.

3.12.2 Effect of Acceptance. The City shall be responsible for the professional quality, technical accuracy and the coordination of any services provided to complete the Work. RCTC's review, acceptance or funding of any services performed by the City or any other person or entity under this agreement shall not be construed to operate as a waiver of any rights RCTC may hold under this Agreement or of any cause of action arising out of this Agreement. Further, the City shall be and remain liable to RCTC, in accordance with applicable law, for all damages to RCTC caused by the City's performance of this Agreement or supervision of any services provided to complete the Work.

3.13 Insurance. The City shall require, at a minimum, all persons or entities hired to perform the Work to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the City and RCTC. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Work, whichever occurs last.

3.13.1 Commercial General Liability Insurance. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than \$2,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Work or be no less than two times the occurrence limit. Such insurance shall:

3.13.1.1 Name RCTC and City, and their respective officials, officers, employees, agents, and consultants as insured with respect to performance of the services on the Work and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;

3.13.1.2 Be primary with respect to any insurance or self insurance programs covering RCTC and City, and/or their respective officials, officers, employees, agents, and consultants; and

3.13.1.3 Contain standard separation of insured provisions.

3.13.2 Business Automobile Liability Insurance. Business automobile liability insurance or equivalent form with a combined single limit of not less than \$1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

3.13.3 Professional Liability Insurance. Errors and omissions liability insurance with a limit of not less than \$1,000,000.00 Professional liability insurance shall only be required of design or engineering professionals.

3.13.4 Workers' Compensation Insurance. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$1,000,000.00 each accident.

3.14 Procedures for Distribution of TIRCP Funds to City.

3.14.1 Initial Payment by the City. The City shall be responsible for initial payment of all the Work costs as they are incurred. Following payment of such Work costs, the City shall submit invoices to RCTC requesting reimbursement of eligible Work costs. Each invoice shall be accompanied by detailed contractor invoices, or other demands for payment addressed to the City, and documents evidencing the City's payment of the invoices or demands for payment. The City shall submit invoices not more often than monthly and not less often than quarterly.

3.14.2 Review and Reimbursement by RCTC. Upon receipt of an invoice from the City, RCTC may request additional documentation or explanation of the Work costs for which reimbursement is sought. Undisputed amounts shall be paid by RCTC to the City within thirty (30) days. In the event that RCTC disputes the eligibility of the City for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the City may appeal RCTC's decision as to the eligibility of one or more invoices to RCTC's Executive Director. The City may appeal the decision of the Executive Director to the full RCTC Board, the decision of which shall be final. Additional details concerning the procedure for the City's submittal of invoices to RCTC and RCTC's consideration and payment of submitted invoices are set forth in Exhibit "C", attached hereto.

3.14.3 Funding Amount/Adjustment. If a post Work audit or review indicates that RCTC has provided reimbursement to the City in an amount in excess of the maximum TIRCP Funds provided for in section 3.2 of this Agreement, or has provided reimbursement of ineligible Work costs including, but not limited to, any costs not in compliance with TIRCP Funding Requirements, the City shall reimburse RCTC for the excess or ineligible payments within 30 days of notification by RCTC.

3.15 Work Amendments. Changes to the characteristics of the Work, including the deadline for Work completion, and any responsibilities of the City or RCTC may be requested in writing by the City and are subject to the approval of RCTC's Representative, which approval will not be unreasonably withheld, provided that extensions of time for completion of the Work shall be approved in the sole discretion of RCTC's Representative. Nothing in this Agreement shall be construed to require or allow completion of the Work without full compliance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*; "CEQA") and the National Environmental Policy Act of 1969 (42 USC 4231 *et seq.*), but the necessity of compliance with CEQA and NEPA shall not justify, excuse, or permit a delay in completion of the Work.

3.16 Conflict of Interest. For the term of this Agreement, no member, officer or employee of the City or RCTC, during the term of his or her service with the City or RCTC, as the case may be, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.17 Limited Scope of Duties. RCTC's and the City's duties and obligations under this Agreement are limited to those described herein. RCTC has no obligation with respect to the safety of any Work performed at a job site. In addition, RCTC shall not be liable for any action of City or

its contractors relating to the condemnation of property undertaken by City or construction related to the Work.

3.18 Books and Records. Each party shall maintain complete, accurate, and clearly identifiable records with respect to costs incurred for the Work under this Agreement. They shall make available for examination by the other party, its authorized agents, officers or employees and the State Auditor any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the other party pursuant to this Agreement. Further, each party shall furnish to the other party, its agents or employees and the State Auditor such other evidence or information as they may require with respect to any such expense or disbursement charged by them. All such information shall be retained by the Parties for at least three (3) years following termination of this Agreement, and they shall have access to such information during the three-year period for the purposes of examination or audit.

3.19 Equal Opportunity Employment. The Parties represent that they are equal opportunity employers, and they shall not discriminate against any employee or applicant of reemployment 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.

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

3.21 Attorneys' Fees. If either party commences an action against the other party 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 costs of suit.

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

3.23 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.

3.24 Notification. All notices hereunder and communications regarding interpretation of the terms of the Agreement or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

**CITY OF CORONA**  
400 S. Vicentia Avenue  
Corona, CA 92882

**RCTC**  
Riverside County Transportation Commission  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Mailing address: P.O. Box 12008  
Riverside, CA 92501

ATTN: Public Works Director

ATTN: Executive Director

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, 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.

3.25 Conflicting Provisions. In the event that provisions of any attached appendices or exhibits conflict in any way with the provisions set forth in this Agreement, the language, terms and conditions contained in this Agreement shall control the actions and obligations of the Parties and the interpretation of the Parties' understanding concerning the performance of the Services. Notwithstanding the foregoing, in the case of any conflict between the Funding Requirements set forth in Exhibit "D" and the terms of this Agreement, the Funding Requirements shall govern.

3.26 Contract Amendment. In the event that the Parties determine that the provisions of this Agreement should be altered, the Parties may execute a contract amendment to add any provision to this Agreement or delete or amend any provision of this Agreement. All such contract amendments must be in the form of a written instrument signed by the original signatories to this Agreement, or their successors or designees.

3.27 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any previous agreements or understandings.

3.28 No Waiver. Failure of RCTC 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.

3.29 Validity of Agreement. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

3.30 Independent Contractors. Any person or entities retained by the City or any contractor shall be retained on an independent contractor basis and shall not be employees of RCTC. Any personnel performing services on the Work shall at all times be under the exclusive direction and control of the City or contractor, whichever is applicable. The City or contractor shall pay all wages, salaries and other amounts due such personnel in connection with their performance of services on the Work and as required by law. The City or consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to, social security taxes, income tax withholding, unemployment insurance and workers' compensation insurance.

3.31 Incorporation of Recitals and Exhibits. The recitals set forth above are true and correct and are incorporated into this Agreement by reference as if fully set forth herein. Exhibits "A" through "D" attached to this Agreement are incorporated herein by reference.



3.32 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.

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

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

3.35 Electronically Transmitted Signatures. A manually signed copy of this Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

**[SIGNATURES ON FOLLOWING PAGE.]**

SIGNATURE PAGE  
TO  
AGREEMENT FOR THE FUNDING OF SB 125  
TRANSIT AND INTERCITY RAIL CAPITAL PROGRAM FUNDING FOR GRADE  
SEPARATION CONSTRUCTION WORK

**RIVERSIDE COUNTY  
TRANSPORTATION COMMISSION**

**CITY OF CORONA**

By: \_\_\_\_\_  
Aaron Hake, Executive Director

By: \_\_\_\_\_  
Savat Khamphou, Public  
Works Director

ATTEST:

By: \_\_\_\_\_  
Sylvia Edwards, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Best, Best & Krieger  
Counsel to the Riverside County  
Transportation Commission

By: \_\_\_\_\_  
Dean Derleth, City Attorney

**EXHIBIT “A”**

**SCOPE OF WORK,  
FUNDING AND TIMETABLE**

**SCOPE OF WORK:**

Construction of a 4-lane overhead grade separation at the BNSF crossing at McKinley Street just south of Sampson Avenue. Project limits extend from Magnolia Avenue to the South to the State Route 91 to the north covering approximately 2300 lineal feet including 0.75 miles of new sidewalk improvements and 0.5 miles of class II bicycle lanes. The new 290 foot plus long tied arch bridge crosses over the railroad tracks and the Arlington Channel and Sampson Avenue, both located within 100 feet north of the tracks. The project will add a new loop road across from the SR-91 westbound ramps to connect McKinley Street to Sampson Avenue. The project also modifies the eastbound off-ramp, eastbound loop on-ramp, and the eastbound slip on-ramp at the SR-91 freeway.

TIRCP Funding will be utilized for RIGHT OF WAY and CONSTRUCTION phases as indicated below.

**FUNDING:**

<b>PHASE</b>	<b>TIRCP Fund</b>	<b>LOCAL</b>	<b>TOTAL</b>
RIGHT OF WAY	\$8,000,000	\$5,002,000	\$13,002,000
CONSTRUCTION	\$2,000,000	\$8,411,000	\$10,411,000
TOTAL	\$10,000,000	\$13,413,000	\$23,413,000

**TIMETABLE:** Provide at a minimum the beginning and ending dates for each phase of work including major milestones within a phase.

<b>PHASE</b>	<b>START DATE</b>	<b>END DATE</b>	<b>COMMENTS</b>
Right of Way	01/2019	09/2021	All possession secured and certified per Caltrans standard by 09/01/2021.
Construction	03/2021	10/2025	Estimated Completion Date

**EXHIBIT "B"**  
**PROJECT LOCATION MAP**

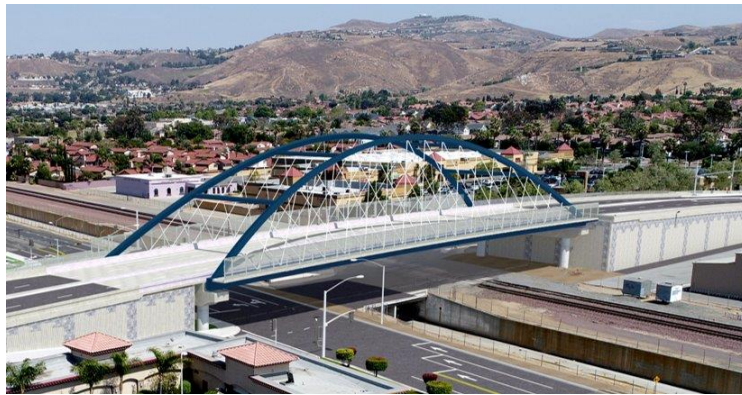
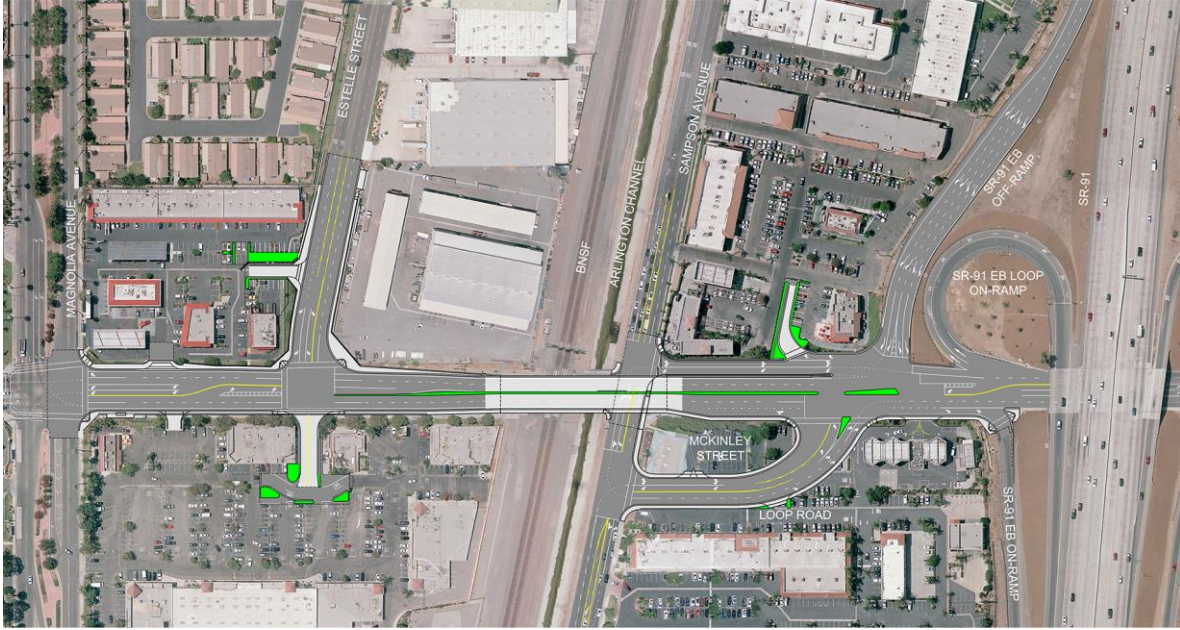


Exhibit B

**EXHIBIT “C”**

**PROCEDURES FOR SUBMITTAL, CONSIDERATION AND  
PAYMENT OF INVOICES**

1. RCTC recommends that the City incorporate Exhibit “C-1” into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the City and ultimately to RCTC for reimbursement of City contractor costs.
2. Each month the City shall submit an invoice for eligible Work costs incurred during the preceding month. The original invoice shall be submitted to RCTC’s Executive Director with a copy to RCTC’s Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit “C-2”.
3. Each invoice shall include documentation from each contractor used by the City for the Work, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or consultant for the month and for the entire Work to date. A sample progress report is attached as Exhibits “C-4”. All documentation from the City’s contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit “C-3”.
4. If the City is seeking reimbursement for direct expenses incurred by City staff for eligible Work costs, the City shall detail the same level of information for its labor and any expenses in the same level of detail as required of contractors pursuant to Exhibit “C” and its attachments.
5. Charges for each task and milestone listed in Exhibit “A” shall be listed separately in the invoice.
6. Each invoice shall include a certification signed by the City Representative or his or her designee which reads as follows:

“I hereby certify that the hours and salary rates submitted for reimbursement in this invoice are the actual hours and rates worked and paid to the consultants or contractors listed.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Invoice No. \_\_\_\_\_

7. RCTC will pay the City within 30 days after receipt by the Commission of an invoice. If RCTC disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.
8. The final payment under this Agreement will be made only after: (i) the City has obtained a Release and Certificate of Final Payment from each contractor or consultant used on the Work; (ii) the City has executed a Release and Certificate of Final Payment; and (iii) the City has provided copies of each such Release to RCTC.

**EXHIBIT “C-1”**

**ELEMENTS OF COMPENSATION**

For the satisfactory performance and completion of the Work under this Agreement, City will pay the Consultant compensation as set forth herein. The total compensation for this service shall not exceed (\_\_\_\_INSERT WRITTEN DOLLAR AMOUNT\_\_\_\_) (\$\_\_INSERT NUMERICAL DOLLAR AMOUNT\_\_) without written approval of City’s City Engineer (“Total Compensation”).

**1. ELEMENTS OF COMPENSATION.**

Compensation for the Work 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 Work 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.**

1.2.1 A Fixed Fee of \_\_\_\_\_ shall be paid to Consultant for Consultant's complete and satisfactory performance of this Agreement and all Services required. The Fixed Fee shall be paid in monthly installments based upon the percentage of the Services completed at the end of each billing period, as determined in the sole discretion of the City. Consultant shall not be entitled to and shall forfeit any portion of the Fixed Fee not earned as provided herein.

1.2.2 A pro-rata share of the Fixed Fee shall be applied to the total Direct Labor Costs expended for services each month, and shall be included on each monthly invoice.

**1.3 ADDITIONAL DIRECT COSTS.**

Additional Direct Costs directly identifiable to the performance of the services of this Agreement shall be reimbursed at the rates below, or at actual invoiced cost.

Rates for identified Additional Direct Costs are as follows:

<u>ITEM</u>	<u>REIMBURSEMENT RATE</u>
	[ <u>insert charges</u> ]
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 City's office must have City'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 City in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

<u>POSITION OR CLASSIFICATION</u>	<u>RANGE OF HOURLY RATES</u>
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[ *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 Work performed during the preceding month. The original invoice shall be submitted to City's City Engineer with two (2) copies to City's Project Coordinator.
- 3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by City's Representative.

- 3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Work, 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 City 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 City shall pay the Consultant within four to six weeks after receipt by City of an original invoice. Should City contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

The final payment for Work under this Agreement will be made only after the Consultant has executed a Release and Certificate of Final Payment.

**EXHIBIT "C-2"**

**SAMPLE COVER LETTER TO RCTC**

Date

Mr. Aaron Hake  
Executive Director  
Riverside County Transportation Commission  
4080 Lemon Street, 3rd Floor  
Riverside, CA 92501  
ATTN: Accounts Payable

Re: Project Title - Invoice #\_\_

Enclosed for your review and payment approval is the City of \_\_\_\_\_'s invoice for professional and technical services that was rendered by our contractors in connection with the \_\_\_\_\_ Agreement No. \_\_\_\_\_ effective (Month/Day/Year). The required support documentation received from each contractor is included as backup to the invoice.

Invoice period covered is from Month/Date/Year to Month/Date/Year.

Total Authorized Agreement Amount:	\$0,000,000.00
Total Invoiced to Date:	\$0,000,000.00
Total Previously Invoiced:	\$0,000,000.00
Balance Remaining:	\$0,000,000.00

**Amount due this Invoice:** **\$0,000,000.00**  
=====

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

By: \_\_\_\_\_  
Name  
Title

cc:

**EXHIBIT "C-3"**

**SAMPLE LETTER FROM CONTRACTOR TO CITY/COUNTY**

Month/Date/Year

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: Accounts Payable

Invoice# \_\_\_\_\_

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For [**type of services**] rendered by [**contractor name**] in connection with [**name of project**] This is per agreement No. XX-XX-XXX effective Month/Date/Year.

Invoice period covered is from Month/Date/Year to Month/Date/Year.

Total Base Contract Amount:	\$000,000.00
Authorized Extra Work (if Applicable)	\$000,000.00
	-----
<b>TOTAL AUTHORIZED CONTRACT AMOUNT:</b>	<b>\$000,000.00</b>
Total Invoice to Date:	\$000,000.00
Total Previously Billed:	\$000,000.00
Balance Remaining:	\$000,000.00
Amount Due this Invoice:	\$000,000.00
	=====

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

By: \_\_\_\_\_

Name  
Title

**EXHIBIT “C-4”**

**SAMPLE PROGRESS REPORT**

REPORTING PERIOD: Month/Date/Year to Month/Date/Year  
PROGRESS REPORT: #1

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

1. Responded to Segment 1 comments from Department of Transportation
2. Completed and submitted Segment 1 final PS&E

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

1. Completing and to submit Traffic Signal and Electrical Design plans
2. Responding to review comments

## TIRCP FUNDING REQUIREMENTS

As used herein, the term “Recipient” shall refer to the City.

### **Section 1. Third Party Contracting**

1. Recipient shall not award a construction contract over \$10,000 or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code Sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this Agreement without the prior written approval of State. Contracts awarded by Recipient, if intended as local match credit, must meet the requirements set forth in this Agreement regarding local match funds.
2. Procurement of architectural and engineering services shall be in accordance with the requirements set forth in the Chapter 10 of the Caltrans Local Assistance Procedures Manual applicable to state funded agreements.
3. Any subcontract entered into by Recipient as a result of this Agreement shall contain the Provisions of Section 2. Audits and Reports and shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the subcontractors
3. In addition to the above, the preaward requirements of third party contractor/consultants with local transit agencies should be consistent with Caltrans Local Program Procedures (LPP-00-05).

### **Section 2. Audits and Reports**

#### *A. Cost Principles*

1. Recipient agrees to comply with Title 2 Code of Federal Regulations 200 (2 CFR 200) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
2. Recipient agrees, and will assure that its contractors and subcontractors will be obligated to agree to follow 2 CFR 200 and it shall be used to determine the allowability of individual Project cost items. Every sub-recipient receiving Project funds as a contractor or sub-contractor under this Agreement shall comply with 2 CFR 200.
3. Any Project costs for which Recipient has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR 200, are subject to repayment by Recipient to Commission.
4. The Commission may terminate this Agreement for any reason at any time if it is determined by the Commission or the State, based on an audit under this section, that there has been a violation of any State or federal law or policy by the Recipient during performance under this Agreement. If

the Agreement is terminated under this section, the Recipient may be required to fully or partially repay funds.

*B. Record Retention*

1. Recipient agrees, and will assure that its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line item for the Project. The accounting system of Recipient, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of Recipient, its contractors and subcontractors connected with Project performance under this Agreement shall be maintained for a minimum of three (3) years from the date of final payment to Recipient under this Agreement and shall be held open to inspection, copying, and audit by representatives of the Commission, State, the California State Auditor, and auditors representing the federal government. Copies thereof will be furnished by Recipient, its contractors, and subcontractors upon receipt of any request made by State or its agents. In conducting an audit of the costs and match credits claimed under this Agreement. The Commission and State will rely to the maximum extent possible on any prior audit of Recipient pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by Recipient's external and internal auditors may be relied upon and used by Commission or State when planning and conducting additional audits.

2. For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of Recipient's contracts with third parties pursuant to Government Code section 8546.7, Recipient, Recipient's contractors and subcontractors and Commission shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such Agreement materials available at their respective offices at all reasonable times during the entire Project period and for three (3) years from the date of final payment to Recipient under this Agreement. The Commission, the State, the California State Auditor, or any duly authorized representative of State or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to the Project for audits, examinations, excerpts, and transactions, and Recipient shall furnish copies thereof if requested.

3. Recipient, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the Commission, the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by State, for the purpose of any investigation to ascertain compliance with this Agreement and the Act.

*C. Reporting Requirements*

1. Subject to the discretion of Commission, Recipient agrees to provide on a quarterly basis, Project Progress Reports that include the following information, as applicable:
  - a. Activities and progress made towards implementation of the project;
  - b. Identification of whether the Project is proceeding on schedule and within budget;
  - c. Identification of changes to the Project funding plan;
  - d. Any actual or anticipated problems which could lead to delays in schedule, increased costs or other difficulties for either the Project or other State funded projects impacted by the Projects scope of work;
  - e. Identify metrics and benefits achieved for disadvantaged communities, low income communities, and/or low income households;
  - f. Reporting requirements per California Air Resource Board Cap and Trade Auction Proceeds Funding Guidelines for Agencies that Administer California Climate Investments which may include, continued reporting following project implementation to identify benefits achieved.
2. Reporting requirements of Recipient will include whether reported implementation activities are within the scope of the Project and in compliance with State laws, regulations, and administrative requirements.
3. Within one year of the Project or reportable Project components becoming operable, the implementing agency must provide a final delivery report including at a minimum:
  - a. Scope of completed Project as compared to programmed Project;
  - b. Performance outcomes derived from the project as compared to outcomes described in the Project application and shall include but not be limited to before and after measurements and estimates for ridership, service levels, greenhouse gas reductions, updated estimated greenhouse gas reductions over the life of the project, benefits to disadvantaged communities, low income communities, and/or low income households, and project co-benefits as well as an explanation of the methodology used to quantify the benefits.

### **Section 3. Special Requirements**

#### *Non-Discrimination Clause*

1. In the performance of work under this Agreement, Recipient, its contractor(s) and all subcontractors, shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, family and medical care leave, pregnancy leave, and disability leave. Recipient, its contractor(s) and all subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Recipient, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of Recipient's contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.



2. Each of the Recipient's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. The Recipient shall include the nondiscrimination and compliance provisions hereof in all contracts and subcontracts to perform work under this Agreement.

3. Recipient shall include the non-discrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. The Recipient shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR 21 (Nondiscrimination in Federally-Assisted Programs of The Department Of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964) and 23 CFR Part 200 (Title VI Program and Related Statutes—Implementation and Review Procedures) are made applicable to this Agreement by this reference. Wherever the term "Contractor" appears therein, it shall mean the Recipient.

5. The Recipient shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by Department to investigate compliance with this Section J.

*M. Disabled Veterans Program Requirements*

1. Should Military and Veterans Code sections 999 et seq. be applicable to Recipient, Recipient will meet, or make good faith efforts to meet, the 3% Disabled Veterans Business Enterprises goals (or Recipient's applicable higher goals) in the award of every contract for Project work to be performed under these this Agreement.

2. Recipient shall have the sole duty and authority under this Agreement to determine whether these referenced code sections are applicable to Recipient and, if so, whether good faith efforts asserted by those contractors of Recipient were sufficient as outlined in Military and Veterans Code sections 999 et seq.