AGENDA
Board of Directors Metro Valley Study Session

August 10, 2023

***Start Time: 9:20 AM***

Location
San Bernardino County Transportation Authority
First Floor Lobby Board Room
1170 W. 3rd Street, San Bernardino, CA 92410

Board of Directors
Valley Representatives

Study Session Chair
Joe Baca, Jr., Supervisor
Fifth District

Study Session Vice-Chair
Eunice Ulloa, Mayor
City of Chino

Ray Marquez, Council Member
City of Chino Hills

Frank Navarro, Mayor
City of Colton

Acquanetta Warren, Mayor
City of Fontana

Sylvia Rodriguez-Robles, Council Member
City of Grand Terrace

Larry McCallon, Mayor
City of Highland

Rhodes “Dusty” Rigsby, Council Member
City of Loma Linda

John Dutrey, Mayor
City of Montclair

Alan Wapner, Council Member
City of Ontario

L. Dennis Michael, Mayor
City of Rancho Cucamonga

Paul Barich, Mayor Pro Tem
City of Redlands

Deborah Robertson, Mayor
City of Rialto

Helen Tran, Mayor
City of San Bernardino

Rudy Zuniga, Council Member
City of Upland

Bobby Duncan, Mayor Pro Tem
City of Yucaipa

Mountain/Desert Representatives

Daniel Ramos, Mayor Pro Tem
City of Adelanto

Art Bishop, Council Member
Town of Apple Valley

Paul Courtney, Mayor
City of Barstow

Rick Herrick, Council Member
City of Big Bear Lake

Rebekah Swanson, Council Member
City of Hesperia

Janet Jernigan, Mayor
City of Needles

Joel Klink, Council Member
City of Twentynine Palms

Debra Jones, Mayor
City of Victorville

Rick Denison, Mayor
Town of Yucca Valley

County Board of Supervisors

Paul Cook, First District

Curt Hagman, Fourth District

Jesse Armendarez, Second District

Dawn Rowe, Third District

Ex-Officio Member – Catalino Pining, Caltrans
Ray Wolfe, Executive Director
Julianna Tillquist, General Counsel
CALL TO ORDER

(Meeting Chaired by Joe Baca Jr.)

i. Pledge of Allegiance
ii. Attendance
iii. Announcements
iv. Agenda Notices/Modifications- Natalie Lopez

Possible Conflict of Interest Issues

Note agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item.

1. Information Relative to Possible Conflict of Interest

   Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

   This item is prepared for review by Board of Directors and Committee Members.
INFORMATIONAL ITEMS

Items listed are receive and file items and are expected to be routine and non-controversial. Unlike the Consent Calendar, items listed as Informational Items do not require a vote.

2. Construction Contract Change Orders to On-Going Construction Contracts  Pg. 14
   Receive and file Change Order Report.
   Presenter: Kristi Harris
   This item is not scheduled for review by any other policy committee or technical advisory committee.

DISCUSSION ITEMS

Discussion - Project Delivery

3. Major Projects Status Report through June 2023  Pg. 21
   Receive the Major Projects Status Report for the period through June 2023.
   Presenter: Kristi Harris
   This item is not scheduled for review by any other policy committee or technical advisory committee.

4. Mount Vernon Avenue Viaduct - Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the City of San Bernardino  Pg. 23
   That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

   Authorize the Executive Director, or his designee, upon approval as to form by SBCTA General Counsel, to finalize and execute Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the City of San Bernardino (City) for the Environmental Clearance, Preliminary Design, Right-of-Way, and Design-Build Phases for the Mount Vernon Avenue Viaduct Project (Project), to increase the Project cost by an estimated amount of $15,934,894, to be funded by the City’s equitable share of Measure I Arterial Sub-program funds, City Developer Impact Fees (DIF), and Highway Bridge Program funds, to address Project extension and escalation costs during the Design-Build phase and financing costs, for a total Project cost of $245,679,885.

   Presenter: Kristi Harris

   This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendment.

5. Interstate 10 Mount Vernon Avenue Interchange Project Preview of the Hearings to Consider Resolutions of Necessity for Property Interests in the City of Colton  Pg. 30
   That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority, at a regularly scheduled Board meeting:

   A. Conduct public hearings to consider condemnation of real property required for the Interstate 10 Mount Vernon Avenue Interchange Project in the City of Colton.
Agenda Item 5 (Cont.)

B. Upon completion of a public hearing, that the Board of Directors adopt Resolution of Necessity No. 24-001 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Tabbaa Mardini Real Estate Investments, LLC (Assessor’s Parcel Number 0162-203-14). The resolution must be approved by at least a two-thirds majority.

C. Upon completion of a public hearing, that the Board of Directors adopt Resolution of Necessity No. 24-002 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Trinh, Lan To (Assessor’s Parcel Numbers 0164-172-30, 0164-172-31, 0164-172-32, 0164-172-33). The resolution must be approved by at least a two-thirds majority.

D. Upon completion of a public hearing, that the Board of Directors adopt Resolution of Necessity No. 24-003 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Song, Sue Chin Living Trust. (Assessor’s Parcel Number 0164-172-53). The resolution must be approved by at least a two-thirds majority.

Presenter: Tracy Escobedo

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft resolutions.

6. Interstate 215 Segment 5 Landscape Project California Department of Transportation Construction Cooperative Agreement

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

Authorize the Executive Director, or his designee, to finalize and execute Cooperative Agreement No. 23-1002969, upon General Counsel’s approval as to form, with the California Department of Transportation to define roles, responsibilities, and funding commitments for the Interstate 215 Segment 5 Landscape Project, and identify SBCTA as the lead agency for the Construction Phase of the project.

Presenter: Juan Lizarde

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

7. Interstate 15 Corridor Freight and Express Lanes Construction and Maintenance Agreement for Vina Vista Overhead Crossing with Union Pacific Railroad and California Department of Transportation

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:
Agenda Item 7 (Cont.)

Authorize the Executive Director, or his designee, to execute Agreement No. 23-1002939 with Union Pacific Railroad, California Department of Transportation, and SBCTA for defining roles, responsibilities, and funding for the construction and maintenance of the Interstate 15 Corridor Freight and Express Lanes Project at the Vina Vista Overhead in the amount of $65,000 subject to approval as to form by SBCTA General Counsel, or her designee.

Presenter: Sal Chavez

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

Discussion - Regional/Subregional Planning

8. Full Funding of the Interstate 10 Corridor Freight and Managed Lane Project

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

Adopt Resolution No. 24-006 committing SBCTA to full funding of the Interstate 10 Corridor Freight and Managed Lane Project from Interstate 15 to Pepper Avenue, upon receipt of a $60 million 2023 Infrastructure for Rebuilding America / Mega grant from the U.S. Department of Transportation.

Presenter: Steve Smith

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft resolution.

Discussion - Toll Operations

9. Interstate 10 Corridor Freight and Express Lanes Project - Contract 1 Traffic Enforcement Services Agreement with the California Highway Patrol

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

A. Approve Agreement No. 23-1002972 with the California Highway Patrol for Interstate 10 Corridor Freight and Express Lanes Project – Contract 1 (Project) Traffic Enforcement Services in an amount not-to-exceed $1,500,000 with a contract term through September 7, 2028; and authorize the Executive Director, or his designee, to execute the final agreement subject to approval as to form by SBCTA General Counsel.

B. Approve a contingency for a not-to-exceed amount of $150,000 for Agreement No. 23-1002972; and authorize the Executive Director, or his designee, to release contingency as necessary for the Project Traffic Enforcement Services.

Presenter: Philip Chu

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.
10. Express Lanes Program Support Services Award Contract No. 23-1002944 to HNTB Corporation

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

A. Award Contract No. 23-1002944 to HNTB Corporation for SBCTA Express Lanes Program Support Services, in an amount not-to-exceed $3,000,000, for an initial term through September 30, 2026, with two one-year extension options.

B. Approve a contingency for a not-to-exceed amount of $300,000 for Contract No. 23-1002944; and authorize the Executive Director, or his designee, to release contingency as necessary for SBCTA Express Lanes Program Support Services.

Presenter: Philip Chu

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft contract.

11. Express Lanes Toll Services Amendment No. 1 to Cooperative Agreement No. 18-1001854 with Transportation Corridor Agencies

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

A. Approve Amendment No. 1 to Cooperative Agreement No. 18-1001854 with the Transportation Corridor Agencies for the provision of toll transaction and violation processing, customer service and other toll operations related services for Express Lanes within San Bernardino County; and authorize the Executive Director, or his designee, to execute the amendment upon approval as to form by SBCTA General Counsel. The estimated contract amount for Fiscal Year (FY) 2023/2024 is $2,100,000.

B. Authorize the Executive Director, or his designee, to adjust the contract amount based on the number of Express Lanes transactions, violations and other toll operations related service needs for FY 2023/2024 as defined in Exhibit A of Cooperative Agreement No. 18-1001854.

Presenter: Timothy Byrne

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

Discussion - Transportation Programming and Fund Administration

12. Amendment No. 1 to the Capital Project Needs Analysis Project List for Valley Major Street Program/Arterial Sub-Program for Fiscal Year 2023/2024

That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority, at a regularly scheduled Board meeting:

Approve the Amended Project List for the Measure I Valley Major Street Program/Arterial Sub-Program for Fiscal Year 2023/2024, as referenced in Attachment A.

Presenter: Marc Lucius

This item is not scheduled for review by any other policy committee or technical advisory committee.
Public Comment
Brief Comments from the General Public

Note: Public Comment will only be allowed on items listed on this agenda during this committee meeting. No public comment will be allowed on committee items placed on the Consent Agenda at the Board of Directors meeting. If an item has substantially changed after consideration during the committee meeting, the item will be placed on Discussion for Board and public comment will be allowed.

Comments from Board Members
Brief Comments from Board Members

ADJOURNMENT

Additional Information
Attendance Pg. 277
Acronym List Pg. 279
Mission Statement Pg. 281

The next Board of Directors Metro Valley Study Session is scheduled for September 14, 2023.
Meeting Procedures and Rules of Conduct

Meeting Procedures - The Ralph M. Brown Act is the state law which guarantees the public’s right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code §54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

Accessibility - The meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk can be reached by phone at (909) 884-8276 or via email at clerkoftheboard@gosbcta.com and office is located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Agendas – All agendas are posted at www.gosbcta.com/board/meetings-agendas/ at least 72 hours in advance of the meeting. Staff reports related to agenda items may be reviewed online at that web address. Agendas are also posted at 1170 W. 3rd Street, 1st Floor, San Bernardino at least 72 hours in advance of the meeting.

Agenda Actions – Items listed on both the “Consent Calendar” and “Discussion” contain recommended actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken as provided in the Ralph M. Brown Act Government Code Sec. 54954.2(b).

Closed Session Agenda Items – Consideration of closed session items excludes members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the President of the Board or Committee Chair (“President”) will announce the subject matter of the closed session. If reportable action is taken in closed session, the President shall report the action to the public at the conclusion of the closed session.

Public Testimony on an Item – Members of the public are afforded an opportunity to speak on any listed item, except Board agenda items that were previously considered at a Policy Committee meeting where there was an opportunity for public comment. Individuals in attendance at SBCTA who desire to speak on an item may complete and turn in a "Request to Speak" form, specifying each item an individual wishes to speak on. Individuals may also indicate their desire to speak on an agenda item when the President asks for public comment. When recognized by the President, speakers should be prepared to step forward and announce their name for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The President or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations. Any individual who wishes to share written information with the Board may provide copies to the Clerk of the Board for distribution.. Information provided as public testimony is not read into the record by the Clerk.

Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda. Any consent item that is pulled for discussion shall be treated as a discussion item, allowing further public comment on those items.
**Agenda Times** – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

**Public Comment** – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board’s jurisdiction. Matters raised under “Public Comment” will not be acted upon at that meeting. See, “Public Testimony on an Item,” above.

**Disruptive or Prohibited Conduct** – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the President may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive or prohibited conduct includes without limitation addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, bringing into the meeting any type of object that could be used as a weapon, including without limitation sticks affixed to signs, or otherwise preventing the Board from conducting its meeting in an orderly manner.

Your cooperation is appreciated!
General Practices for Conducting Meetings
of
Board of Directors and Policy Committees

Attendance.

- The President of the Board or Chair of a Policy Committee (Chair) has the option of taking attendance by Roll Call. If attendance is taken by Roll Call, the Clerk of the Board will call out by jurisdiction or supervisory district. The Member or Alternate will respond by stating his/her name.
- A Member/Alternate who arrives after attendance is taken shall announce his/her name prior to voting on any item.
- A Member/Alternate who wishes to leave the meeting after attendance is taken but before remaining items are voted on shall announce his/her name and that he/she is leaving the meeting.

Basic Agenda Item Discussion.

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on “Request to Speak” forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee. Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.
- The “aye” votes in favor of the motion shall be made collectively. Any Member who wishes to oppose or abstain from voting on the motion shall individually and orally state the Member’s “nay” vote or abstention. Members present who do not individually and orally state their “nay” vote or abstention shall be deemed, and reported to the public, to have voted “aye” on the motion.
- Votes at teleconferenced meetings shall be by roll call, pursuant to the Brown Act, or, at any meeting, upon the demand of five official representatives present or at the discretion of the presiding officer.

The Vote as specified in the SBCTA Administrative Code and SANBAG Bylaws.

- Each Member of the Board of Directors shall have one vote. In the absence of the official representative, the Alternate shall be entitled to vote. (Note that Alternates may vote only at meetings of the Board of Directors, Metro Valley Study Session and Mountain/Desert Policy Committee.)
Amendment or Substitute Motion.

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the Chair shall ask the maker of the original motion if he or she would like to amend the motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is voted upon first, and if it fails, then the original motion is considered.
- Occasionally, a motion dies for lack of a second.

Call for the Question.

- At times, a Member of the Board/Committee may “Call for the Question.”
- Upon a “Call for the Question,” the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively, and at the Chair’s discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

The Chair.

- At all times, meetings are conducted in accordance with the Chair’s direction.
- These general practices provide guidelines for orderly conduct.
- From time to time, circumstances may require deviation from general practice (but not from the Brown Act or agency policy).
- Deviation from general practice is at the discretion of the Chair.

Courtesy and Decorum.

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

Adopted By SANBAG Board of Directors January 2008
Revised March 2014
Revised May 4, 2016
Revised June 7, 2023
**Minute Action**

AGENDA ITEM: 1

**Date:** August 10, 2023

**Subject:**
Information Relative to Possible Conflict of Interest

**Recommendation:**
Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

**Background:**
In accordance with California Government Code 84308, members of the SBCTA Board may not participate in any action concerning a contract where they have received a campaign contribution of more than $250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

**Consent/Discussion Calendar Items**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Contract No.</th>
<th>Principals &amp; Agents</th>
<th>Subcontractors</th>
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<td>4</td>
<td>16-1001477-03</td>
<td>City of San Bernardino</td>
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**Item No. 5 – Interstate 10 Mount Vernon Avenue Interchange Resolution of Necessity**

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<td>0164-172-53</td>
<td>Song, Sue Chin Living Trust</td>
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<td>23-1002939</td>
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<td>23-1002939</td>
<td>Kenneth Tom</td>
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<td>23-1002972</td>
<td>California Highway Patrol</td>
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<td>23-1002944</td>
<td>HNTB Corporation</td>
<td>Fehr &amp; Peers</td>
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<td>Kevin Haboian</td>
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<td>11</td>
<td>18-1001854-01</td>
<td>Transportation Corridor Agencies</td>
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**Financial Impact:**
This item has no direct impact on the budget.

*Entity: San Bernardino Council of Governments, San Bernardino County Transportation Authority*
Reviewed By:
This item is prepared for review by Board of Directors and Committee Members.

Responsible Staff:
Kristi Harris, Director of Project Delivery
Minute Action

AGENDA ITEM: 2

Date: August 10, 2023

Subject:
Construction Contract Change Orders to On-Going Construction Contracts

Recommendation:
Receive and file Change Order Report.

Background:
San Bernardino County Transportation Authority (SBCTA) department of Project Delivery has 14 on-going construction contracts, of which nine have had Construction Change Orders (CCO) approved since the last reporting to the Board of Directors Metro Valley Study Session on June 15, 2023. The CCOs are listed below:

A. Contract No. 19-1002181 with Granite Construction Company, for Archibald Avenue Improvements Project: There are no newly executed CCOs since last report

B. Contract No. 19-1002078 with Guy F. Atkinson Construction, LLC, for the State Route (SR) 210 Lane Addition, Base Line Interchange and Pavement Rehabilitation Project:
   1) CCO 93: Abandonment of irrigation system at retaining wall 874. ($34,789)
   2) CCO 97: Additional cold mill and overlay of existing median shoulder. ($50,000)
   3) CCO 98: Preparing and treating access road bridge, left and right bridge decks. ($24,164.22)

C. Contract No. 19-1002196 with Security Paving Company, Inc., for Central Avenue Improvements Project at SR 60:
   1) CCO 32: Delay to the construction of the soil nail wall No. 29, the controlling work in accordance with standard specifications. ($180,000)

D. Contract No. 17-1001678 with Griffith Company, for Interstate 215 (I-215) Segment 1 & 3 Landscape Replacement Project: There are no newly executed CCOs since last report.

E. Contract No. 17-1001614 with Diversified Landscape Company, for I-215 Segment 2 Landscape Replacement Project: There are no newly executed CCOs since last report.

F. Contract No. 19-1002026 with Diversified Landscape Company, for the I-215 Segments 1, 2 and 3 Establish Existing Planting (EEP) Project:
   1) CCO 2: Repair damage by traveling public. ($20,000)

G. Contract No. 17-1001599 with Lane-Security Paving Joint Venture, for Interstate 10 (I-10) Corridor Contract 1 Design Build Contract:
   1) CCO 98: Resolve impact due to Grated Metal Pipe (GMP) inlets within the roadway. ($762,871)

Entity: San Bernardino County Transportation Authority
2) CCO 99: Amended directive to stop work and remove all remaining work for change notice 2003 utility relocation. ($210,419)

3) CCO 100: Resolve impacts due to excessive project coordination with MCI Inc., at Monte Vista Avenue. ($32,525)

4) CCO 101: Resolve impacts due to the additional re-location for the Southern California Edison utility transformer. ($14,432.35)

5) CCO 102: Property improvements per directive. ($288,510)

6) CCO 103: Resolve impacts due to unidentified existing 24-inch clay sewer main. ($16,511)

7) CCO 104: Resolve impacts due to emergency fence repair near I-10/Haven westbound exit ramp. (2,882.25)

8) CCO 105: Resolve impacts due to additional driveway reconstruction. ($11,663)

9) CCO 106: Resolve impacts due to additional property wall reconstruction. ($43,559)

H. Contract 18-1001967 with C.A. Rasmussen, Inc., for US 395 Phase I Widening Project: There are no newly executed CCOs since last report.

I. Contract 16-1001461 with Pulice Construction, Inc., for Monte Vista Avenue Grade Separation Project: There are no newly executed CCOs since last report.

J. Contract No. 18-1001966 with Traylor-Granite Joint Venture, for Mount Vernon Avenue Viaduct Project Design Build:

1) CCO 25: Design of street, drainage and intersection improvements on Cabrera Avenue and 4th Street. ($70,006)

2) CCO 27: Provide 10-year hydrology and hydraulic analysis at the north abutment prior to giving Traylor-Granite Joint Venture direction to stop this work. ($7,736.30)

3) CCO 28: Modifications/additional aesthetic treatment on the south approach of the wall and bridge abutment seats. ($186,268.49)

K. Contract No. 20-1002290 with SEMA Construction, Inc., for I-10 University Street Interchange Improvements Project:

1) CCO 6.3: Deferred time settlement. (no increase)

2) CCO 7.1: Deferred time settlement. (no increase)

3) CCO 15.1: Crude oil price index fluctuation. ($3,858.51)

4) CCO 16.1: Deferred time settlement. (no increase)

5) CCO 39: Time related overhead settlement. ($80,558.73)
L. Contract No. 21-1002620 with Ortiz Enterprises, Inc., for I-10 Alabama Street Improvement Project:

1) CCO 13: Increase of roadway excavation quantity. ($176,550)

2) CCO 14: Additional construction required to obtain relief of maintenance from California Department of Transportation (Caltrans), including chain link fencing and concrete work at drainage system. ($119,809.26)

M. Contract No. 22-1002784 with Security Paving Company, Inc., for I-10 Cedar Avenue Improvement Project:

1) CCO 6: Relocation of video detection camera after stage 1A, allow for temporary traffic signal poles. ($87,166.28)

2) CCO 8: Crude oil price index fluctuation. ($30,300)

N. Contract No. 22-1002780 with Skanska USA Civil West California District Inc., for North 1st Avenue Bridge Over BNSF Project:

1) CCO 9: Delay mitigation costs. ($20,000)

2) CCO 10: Modify pile foundation. (no increase)

Financial Impact:
This item imposes no financial impact, as all CCOs are within previously approved contingency amounts under: Task No. 0830 Interchange Projects and Task No. 0820 Freeway Projects, Sub-Task No. 0887 State Route 210 Lane Addition, Sub-Task No. 0827 Mount Vernon Avenue Viaduct, Sub-Task No. 0895 I-10 Alabama Street Improvement Project, Sub-Task No. 0823 I-10 Corridor Contract 1, Sub-Task No. 0811 North 1st Avenue Bridge Over BNSF Project, Sub-Task No. 0838 I-215 Segments 1, 2 & 3 Establish Existing Planting (EEP), Sub-Task No. 0893 Central Avenue Improvements Project at SR 60, Sub-Task No. 0897 I-10 Cedar Avenue Improvement Project and Sub-Task 0899 I-10 University Street Improvement Project.

Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:
Kristi Harris, Director of Project Delivery
# Project Delivery Contracts
## Executed Change Orders

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Archibald Avenue Improvements Project at SR 60 (19-1002181)</strong></td>
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<td>CCO Total</td>
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<td><strong>SR 210 Lane Addition, Base Line Interchange and Pavement Rehabilitation (19-1002078)</strong></td>
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<tr>
<td>93</td>
<td>Abandonment of irrigation system at retaining wall 874.</td>
<td>$34,789.00</td>
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<tr>
<td>97</td>
<td>Additional cold mill and overlay of existing median shoulder.</td>
<td>$50,000.00</td>
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<td>98</td>
<td>Preparing and treating access road bridge, left and right bridge decks.</td>
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<td><strong>Central Avenue Improvements Project at SR 60 (19-1002196)</strong></td>
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<td>32</td>
<td>Delay to the construction of the soil nail wall No. 29, the controlling work in accordance with standard specifications.</td>
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<td>CCO Total</td>
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<td><strong>I-215 Segments 1 &amp; 3 Landscape Replacement Project (17-1001678)</strong></td>
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<td><strong>I-215 Segment 2 Landscape Replacement Project (17-1001614)</strong></td>
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<td><strong>I-215 Segments 1, 2 &amp; 3 Establish Existing Planting (19-1002026)</strong></td>
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<td>2</td>
<td>Repair damage by traveling public.</td>
<td>$20,000.00</td>
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<td>$1,451,300.00</td>
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<td>Remaining Contingency</td>
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<tr>
<td>98</td>
<td>Resolve impact due to Grated Metal Pipe (GMP) inlets within the roadway.</td>
<td>$762,871.00</td>
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<td>99</td>
<td>Amended directive to stop work and remove all remaining work for change notice 2003 utility relocation.</td>
<td>$210,419.00</td>
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<td>100</td>
<td>Resolve impacts due to excessive project coordination with MCI Inc. at Monte Vista Ave.</td>
<td>$32,525.00</td>
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<td>101</td>
<td>Resolve impacts due to the additional relocation for the Southern California Edison utility transformer.</td>
<td>$14,432.35</td>
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<td>102</td>
<td>Property improvements per directive.</td>
<td>$288,510.00</td>
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<td>103</td>
<td>Resolve impacts due to unidentified existing 24-inch clay sewer main.</td>
<td>$16,511.00</td>
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<td>104</td>
<td>Resolve impacts due to emergency fence repair near Interstate 10 and Haven westbound exit ramp.</td>
<td>$2,882.25</td>
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<td>105</td>
<td>Resolve impacts due to additional driveway reconstruction.</td>
<td>$11,663.00</td>
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<tr>
<td>106</td>
<td>Resolve impacts due to additional property wall reconstruction.</td>
<td>$43,559.00</td>
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**CCO Total** $17,160,188.48

**Approved Contingency** $51,369,000.00

**Remaining Contingency** $34,208,811.52
## Project Delivery Contracts
### Executed Change Orders

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<tr>
<td></td>
<td><strong>US 395 Phase 1 Widening Project (18-1001967)</strong></td>
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<td><strong>Monte Vista Grade Separation (16-1001461)</strong></td>
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<td><strong>Mount Vernon Avenue Viaduct (18-1001966)</strong></td>
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<tr>
<td>25</td>
<td>Design of street, drainage and intersection improvements on Cabrera Avenue and 4th Street.</td>
<td>$70,006.00</td>
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<td>27</td>
<td>Provide 10-year hydrology and hydraulic analysis at the north abutment prior to giving Traylor-Granite Joint Venture direction to stop this work.</td>
<td>$7,736.30</td>
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<td>28</td>
<td>Modifications/additional aesthetic treatment on the south approach of the wall and bridge abutment seats.</td>
<td>$186,268.49</td>
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<td><strong>I-10 University Street Improvement Project (20-1002290)</strong></td>
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<tr>
<td>6.3</td>
<td>Deferred time settlement.</td>
<td>$0.00</td>
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<td>7.1</td>
<td>Deferred time settlement.</td>
<td>$0.00</td>
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<tr>
<td>15.1</td>
<td>Crude oil price index fluctuation.</td>
<td>$3,858.51</td>
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<tr>
<td>16.1</td>
<td>Deferred time settlement.</td>
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<td>39</td>
<td>Time related overhead settlement.</td>
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<td>$293,159.77</td>
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### Project Delivery Contracts
#### Executed Change Orders

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<td>I-10 Alabama Street Improvement Project (21-1002620)</td>
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<td>13</td>
<td>Increase of roadway excavation quantity.</td>
<td>$176,550.00</td>
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<td>14</td>
<td>Additional construction required to obtain relief of maintenance from Caltrans, including chain link fencing and concrete work at drainage system.</td>
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<td>I-10 Cedar Avenue Improvement Project (22-1002784)</td>
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<td>6</td>
<td>Relocation of video detection camera after stage 1A, allow for temporary traffic signal poles.</td>
<td>$87,166.28</td>
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<td>8</td>
<td>Crude oil price index fluctuation.</td>
<td>$30,300.00</td>
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<td>North 1st Avenue Bridge Over BNSF Project (22-1002780)</td>
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<td>9</td>
<td>Delay mitigation costs.</td>
<td>$20,000.00</td>
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<td>10</td>
<td>Modify pile foundation.</td>
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<td>$3,389,293.38</td>
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Minute Action

AGENDA ITEM: 3

Date: August 10, 2023

Subject:
Major Projects Status Report through June 2023

Recommendation:
Receive the Major Projects Status Report for the period through June 2023.

Background:
The Major Projects Status Report for the period through June 2023, is a high-level summary of relevant project information. This information is presented to provide schedules, cost, funding, and work descriptions for current active projects being managed by the Project Delivery group. San Bernardino County Transportation Authority (SBCTA) staff would also like to highlight the following activities for this period:

1. Interstate 215 (I-215) University Parkway Interchange Project:
The I-215 University Parkway Interchange Project will address traffic congestion and improve freeway access for the City of San Bernardino and the region by reconstructing the existing tight diamond interchange into a Diverging Diamond Interchange (DDI) configuration. The DDI is a new innovative concept that will improve traffic operations by reducing vehicular conflict points and traffic signal phases by diverting vehicles to the left side of the road between both ramp intersections. The 95% Plans, Specifications and Estimates (PS&E) milestone was completed, and in May 2023, the 100% PS&E milestone was submitted to California Department of Transportation (Caltrans) for oversight review. The Construction Management Services firm has been selected and a Contract Task Order was issued in July 2022. Acquisition of the remaining needed right-of-way (ROW) is ongoing through the eminent domain process while staff is concurrently negotiating with the last property owner. Construction is anticipated to begin in early 2024 and is anticipated to take approximately one year to complete. A Public Outreach program is in place and will be maintained during the ROW and construction phases. This $23.1 million project is funded by a combination of Federal, City Developer Impact Fees, and Measure I funds.

2. Interstate 10 (I-10) Eastbound Truck Climbing Lane Project:
The I-10 Eastbound Truck Climbing Lane Project will improve traffic operations along a three-mile stretch of the I-10 between the Sixth Street overcrossing in the City of Yucaipa through County Line Road in the City of Calimesa by adding an eastbound truck climbing lane for slow moving vehicles. This segment of freeway is on a steep grade while carrying a large volume of trucks since I-10 is a critical goods movement corridor for the region and the rest of the country. The project will include widening of Oak Glen Creek Bridge, paving the median portion of the freeway, and constructing a concrete median barrier. This project will be funded with Senate Bill (SB) 1 Transportation Corridor Enhancement Program (TCEP) funds. In April 2022, the project received ROW Certification and Design conditional approval pending receipt of the environmental regulatory permits from the California Department of Fish and Wildlife and the Regional Water Quality Control Board. The Construction Management firm was selected and the contract was approved by the Board in July 2022. In December 2022, the California Transportation Commission (CTC) approved the allocation request of TCEP funds.

Entity: San Bernardino County Transportation Authority
and an invitation for bids is targeted to be released in August 2023. Construction is anticipated to begin in the late fall of 2023 and is anticipated to take approximately one and one-half years to complete. A Public Outreach program is in place and will be maintained during the construction phases. This $35.7 million project is funded by a combination of Federal, State, and Measure I funds.

3. I-10 Corridor Freight and Express Lanes Project - Contract 2:

The I-10 Corridor Freight and Express Lanes Project – Contract 2 (Project) will add auxiliary lanes to improve freight corridor movement and add a single express lane from Interstate 15 (I-15), in the City of Ontario, to Pepper Avenue, in the City of Colton. The Environmental Document for the Project was approved in May 2017. At the June 2023 CTC meeting, the project was awarded $85 million in TCEP funds and staff is currently in the process of preparing the baseline agreement with the CTC. Design services are now underway and in order to expedite project delivery, the Project will be delivered in two segments: Segment 2A: I-15 to Sierra Avenue and Segment 2B: Sierra Avenue to Pepper Avenue. Final Geometric Approval Drawings for both segments were submitted to Caltrans on May 31, 2023. The 65% PS&E package for both segments are targeted for August 2023. A Contract Task Order to perform ROW services was issued in March 2023. Currently, nine partial fee acquisitions and 65 temporary construction easements are required for the construction of the project. A ROW Acquisition Incentive Payment Program was approved by the Board in July 2023 to expedite the acquisition of the necessary ROW for the project. It is anticipated that the final design package will be advertised for construction in early 2024 for Segment 2A and late 2024 for Segment 2B. A Public Outreach program will be developed and will be maintained during the ROW and construction phases. This $796 million project is funded by a combination of Federal, State, and Measure I funds.

Financial Impact:
This item is consistent with the Fiscal Year 2023/2024 Budget.

Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:
Kristi Harris, Director of Project Delivery
Minut	Action

AGENDA ITEM: 4

Date: August 10, 2023

Subject:
Mount Vernon Avenue Viaduct - Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the City of San Bernardino

Recommendation:
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

Authorize the Executive Director, or his designee, upon approval as to form by SBCTA General Counsel, to finalize and execute Amendment No. 3 to Cooperative Agreement No. 16-1001477 with the City of San Bernardino (City) for the Environmental Clearance, Preliminary Design, Right-of-Way, and Design-Build Phases for the Mount Vernon Avenue Viaduct Project (Project), to increase the Project cost by an estimated amount of $15,934,894, to be funded by the City’s equitable share of Measure I Arterial Sub-program funds, City Developer Impact Fees (DIF), and Highway Bridge Program funds, to address Project extension and escalation costs during the Design-Build phase and financing costs, for a total Project cost of $245,679,885.

Background:
San Bernardino County Transportation Authority (SBCTA) took over management of the Mount Vernon Avenue Viaduct Project (Project) in 2016. This Project demolished the existing bridge over the BNSF Railway mainline and intermodal yard and will replace it with a new bridge meeting current design and safety standards. Cooperative Agreement No. 16-1001477 with the City of San Bernardino (City), which addresses the Environmental Clearance, Preliminary Design and Right-of-Way (ROW) phases, provided for SBCTA to become the lead agency on the project and for project funding through Federal Highway Bridge Program (HBP) funds, Public Share funding through Measure I Arterial Sub-program funds, and the City’s local share to be funded through Developer Impact Fees (DIF).

On October 26, 2018, SBCTA executed Amendment No. 1 to add the Design-Build construction phase and to clarify roles and responsibilities for the ROW and design-build phases. Amendment No. 1 also increased the project cost and funding to include the construction phase, increasing the Public and City share costs after project buydowns to approximately $15.8 million, including a $29.5 million contribution from BNSF.

On June 30, 2020, SBCTA executed Amendment No. 2 to address Project cost increases due to the lowest responsible, responsive proposer’s costs significantly exceeding the engineer’s estimate, increasing the Public Share to an amount not-to-exceed $16.1 million and the City’s share to an amount not-to-exceed $9.7 million.

The Project proceeded as planned with completion of the demolition of the existing bridge in June 2021. Per the approved schedule, the design-build contractor should have been able to mobilize for bridge construction in December 2022; however, the Project has experienced delays since demolition. The aggregate effect of third-party utility delays, ROW issues, and railroad intermodal yard facility relocation issues has delayed the Project by approximately 13 months. The cost associated with these delays is significantly higher than contingency available,
creating a funding shortfall. Staff has been working with the City to obtain additional Project funding and options to address this shortfall estimated at $14,200,000 through an increase in the Public and Local Share contributions. Additionally, the Project required short-term financing for delays in reimbursement of HBP funds in the amount of $1,734,894, which is fully reimbursable by HBP funds.

The Public Share is funded by the City’s equitable share of Measure I Valley Arterial Sub-program funds and the City share is funded through DIF funds. Amendment No. 3 revises the funding table in Attachment A to the Cooperative Agreement to reflect the increased Project costs and the increased funding contributions from the various parties. This plan requires advancement of the City’s equitable share of Measure I Valley Arterial Sub-program funds.

These funding commitments are necessary to fully fund the Project and allow execution of the design-build contract to proceed. Constructing the new bridge to current standards is urgently needed and approval of Amendment No. 3, pending receipt of budget details from the City and subsequent funding table update, will allow the Project to move forward.

**Financial Impact:**
This item is consistent with the Fiscal Year 2023/2024 Budget under Task No. 0860 (Arterial Projects), Sub-Task No. 0827 (Mount Vernon Viaduct).

**Reviewed By:**
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft amendment.

**Responsible Staff:**
Kristi Harris, Director of Project Delivery
## General Contract Information

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<th>Contract No:</th>
<th>16-1001477</th>
<th>Amendment No.:</th>
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<td>Department:</td>
<td>Project Delivery</td>
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<tr>
<td>Customer ID:</td>
<td>SB CI</td>
<td>Customer Name:</td>
<td>City of San Bernardino</td>
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<td>Description:</td>
<td>Mt. Vernon Viaduct Cooperative Agreement for Design, ROW and Design-Build</td>
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### Dollar Amount

| Original Contract | $ 905,891.00 | Original Contingency | $ - |
| Prior Amendments | $ 8,842,088.00 | Prior Contingency Released | $ - |
| Prior Contingency Released | $ - | Prior Contingency Released (-) | $ - |
| Current Amendment | $ 4,938,800.00 | Current Amendment | $ - |
| **Total/Revised Contract Value** | **$ 14,686,779.00** | **Total Contingency Value** | $ - |
| **Total Dollar Authority (Contract Value and Contingency)** | $ 14,686,779.00 |

### Account Receivable

- **Total Contract Funding:** $ 14,686,779.00
- **Funding Agreement No:** 16-1001477
- **Beginning POP Date:** 07/08/2016
- **Ending POP Date:** 12/31/2025
- **Final Billing Date:** 12/31/2026
- **Expiration Date:** 12/31/2025
- **Fund Admin:** Yes
- **Parent Contract:** 16-1001477
- **PM Description:** Mt. Vernon Viaduct over BNSF RR Coop with San Bernardino

### Z-Related Contracts

- **Z-Contract No. 16-1001562**

### Contract Authorization

- **Board of Directors**
- **Committee**
- **Date:** 09/06/2023
- **Item #**

### Project Manager (Print Name)

- John Meier

### Task Manager (Print Name)

- Kristi Harris

### Additional Notes:

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Form 200 11/2019

Packet Pg. 25
AMENDMENT NO. 3 TO COOPERATIVE AGREEMENT NO. 16-1001477

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF SAN BERNARDINO

FOR

ENVIRONMENTAL CLEARANCE, PRELIMINARY DESIGN, RIGHT-OF-WAY (ROW), AND DESIGN-BUILD PHASES FOR THE MOUNT VERNON AVENUE VIADUCT OVER BNSF RAILWAY INTERMODAL YARD IN THE CITY OF SAN BERNARDINO

This Amendment No. 3 ("Amendment") to COOPERATIVE AGREEMENT 16-1001477 ("Agreement") is made and entered into by and between the San Bernardino County Transportation Authority ("SBCTA") and the City of SAN BERNARDINO ("CITY"). SBCTA and CITY may be referred to individually as a "Party" and collectively as "Parties".

WHEREAS, the Parties consider the PROJECT to be a high priority and are willing to participate in funding the PROJECT pursuant to the provisions of Measure I 2010-2040 Expenditure Plan and the SBCTA Nexus Study ("Nexus Study") prepared by the SBCTA and approved by the SBCTA Board of Directors on November 6, 2013, and

WHEREAS, the Parties entered into the Agreement in 2016 to delineate roles, responsibilities, and funding commitments relative to the Environmental Clearance, Design and Right-of-Way (ROW) phases of the PROJECT before delivery of the PROJECT through design-build method was contemplated or authorized, and

WHEREAS, the Parties amended the Agreement on October 26, 2018, to add the design-build phase of work, clarify right of way activities, and revise the funding table in Attachment A, and

WHEREAS, the Parties amended the Agreement on June 30, 2020, to address the lowest responsible design-build proposer costs that exceeded the engineer’s estimate and to revise the funding table in Attachment A, and

WHEREAS, the PROJECT delay caused extension costs when concurrent activities became sequential, and

WHEREAS, the PROJECT extension and escalation costs significantly exceed the planned funding specified in Attachment A, and
WHEREAS, the Parties agree to provide additional funding of $14,200,000 to fully fund the PROJECT and reflect these added funding contributions in a revised funding table as part of an amendment to this Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises herein, the Parties agree to amend Agreement as follows:

1. Section I.G shall be deleted and replaced in its entirety with the following:

G. To contribute towards the cost of Environmental Clearance, Preliminary Design, ROW, and Design-Build phases of PROJECT and any financing costs associated with the delivery of these phases of PROJECT in an amount not to exceed $25,426,735 (the Public Share amount) as shown in Attachment A. The actual cost of a specific phase may ultimately vary from the estimates provided in Attachment A, however, under no circumstance is the total combined SBCTA contribution to exceed $25,426,735 without an amendment to this Agreement.

2. Section II.A, is deleted and replaced in its entirety with the following:

A. To reimburse SBCTA for its share of the actual costs incurred estimated at $14,686,779 towards the Environmental Clearance, Preliminary Design, ROW and Design-Build phases of the PROJECT and any financing costs associated with the delivery of these phases of the PROJECT, which includes $2,500,000 towards Project Management, as shown in Attachment A. If payment is not made within sixty (60) days of the invoice date, SBCTA will withhold CITY's Measure I Local Street Program pass through funds in the invoice amount. As CITY makes payments toward the current amount due, the withheld pass through funds will be released to CITY. The actual cost of a specific phase may ultimately vary from the estimates provided in Attachment A, however, under no circumstance is the total combined CITY contribution to exceed $14,686,779 (the Development Share amount) without an amendment to this Agreement.

3. All other conditions of the Agreement and its Amendments remain in full force and effect except as amended above.

(Signature page to follow)
SIGNATURE PAGE TO
AMENDMENT NO. 3 TO COOPERATIVE AGREEMENT NO. 16-1001477
BETWEEN
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
AND
CITY OF SAN BERNARDINO

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: ________________________
Raymond W. Wolfe
Executive Director

Date: ________________________

APPROVED AS TO FORM:

By: ________________________
Julianna K. Tillquist
General Counsel

CITY OF SAN BERNARDINO

By: ________________________
Charles E. McNeely
Interim City Manager

Date: ________________________

ATTEST

By: ________________________
Genoveva Rocha
City Clerk

APPROVED AS TO FORM:

By: ________________________
Sonia R. Carvalho
City Attorney
Attachment A

PROJECT DESCRIPTION
The CITY of San Bernardino and SBCTA propose to remove and replace the existing Mount Vernon Avenue Viaduct Bridge over the BNSF Railway Intermodal Yard. It is intended that SBCTA serves as the lead for the Environmental Clearance, Preliminary Design, ROW and Design-Build phases of the work.

PROJECT FUNDING TABLE

Public Share: 67.6%
Nexus Development Impact Fee Share ("DIF", “Development Share” or “Local Share”): 32.4%

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*Numbers may not add exactly due to rounding

Notes
1 Federal Highway Bridge Program (HBP) funds are capped at $147,620,156 for Project Costs and $4,101,614 for Financing Costs.
2 State Proposition 1B Bond funds in the amount of $3,452,670 and BNSF in-kind match in the amount of $29,500,000 will provide a portion of the required HBP and HIP match funds in the Right of Way and Construction Phases.
3 Public Share is from the CITY share of Measure I Major Street Program – Arterial Subprogram funds.
4 A deposit of $905,891 from the CITY Development Share has been received to date under Agreement 16-1001477.
Minute Action

AGENDA ITEM: 5

Date: August 10, 2023

Subject:
Interstate 10 Mount Vernon Avenue Interchange Project Preview of the Hearings to Consider Resolutions of Necessity for Property Interests in the City of Colton

Recommendation:
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority, at a regularly scheduled Board meeting:

A. Conduct public hearings to consider condemnation of real property required for the Interstate 10 Mount Vernon Avenue Interchange Project in the City of Colton.

B. Upon completion of a public hearing, that the Board of Directors adopt Resolution of Necessity No. 24-001 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Tabbaa Mardini Real Estate Investments, LLC (Assessor’s Parcel Number 0162-203-14). The resolution must be approved by at least a two-thirds majority.

C. Upon completion of a public hearing, that the Board of Directors adopt Resolution of Necessity No. 24-002 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Trinh, Lan To (Assessor’s Parcel Numbers 0164-172-30, 0164-172-31, 0164-172-32, 0164-172-33). The resolution must be approved by at least a two-thirds majority.

D. Upon completion of a public hearing, that the Board of Directors adopt Resolution of Necessity No. 24-003 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Song, Sue Chin Living Trust. (Assessor’s Parcel Number 0164-172-53). The resolution must be approved by at least a two-thirds majority.

Background:
San Bernardino County Transportation Authority (SBCTA) is proceeding with the delivery of the Interstate 10 (I-10) Mount Vernon Avenue Interchange Project (Project). The acquisition of temporary construction easements (TCE) and partial areas from three commercial properties are required to construct and operate the Project.

In July 2018, Cooperative Agreement No. 18-1001904 with the City of Colton was approved, authorizing expenditures for Right-of-Way (ROW) and defining SBCTA’s role as the lead agency for acquisition of ROW. Costs to acquire necessary ROW on this Project will be funded with Measure I Funds and City Developer Impact Fees.

In an effort to maintain the Project schedule, it is necessary to comply with the statutorily-prescribed process for eminent domain and conduct hearings for a Resolution of Necessity for each property while negotiations continue. Therefore, the purpose of this agenda item is to present information regarding the public interest and necessity for the Project and the property rights required for project implementation. Although the adoption of Resolutions of
Necessity is recommended for the subject properties in order to maintain the Project schedule and avoid delay costs, SBCTA’s acquisition agents will continue to negotiate with the property owners in an effort to acquire the property interests through a voluntary purchase and avoid litigation.

The owners of the subject properties are:

- Tabbaa Mardini Real Estate Investments, LLC
- Trinh, Lan To
- Song, Sue Chin Living Trust

**Support for the Resolutions of Necessity**

SBCTA is authorized to acquire property by eminent domain pursuant to the California Public Utilities Code Sections 130220.5 and 130809(b)(4). Eminent domain will allow SBCTA to obtain legal rights to the properties needed for the Project if a negotiated sale cannot be reached. A Resolution of Necessity is the first step in the eminent domain process. Since the process takes several months, it is necessary to start this process now to ensure that possession of the property is obtained in time to meet the scheduled delivery and to avoid costly ROW delays.

In order to adopt the Resolutions of Necessity, SBCTA must make the four findings discussed below for each of the properties. The issue of the amount of just compensation for these properties is not addressed by these Resolutions of Necessity and is not to be considered at the hearings. The four necessary findings are:

1. **The public interest and necessity require the Project.**

   The Project is located in the City of Colton. The Project limits extend along Mount Vernon Avenue approximately 540-feet north and 640-feet south from the freeway centerline, along I-10; the westerly limit is at the 9th Street interchange to just east of the Mount Vernon Avenue westbound off-ramp. The Project will replace the existing overcrossing with a new bridge. The purpose of the Project is to improve traffic operations and improve pedestrian and bicycle access across Mount Vernon Avenue through the interchange.

   The existing bridge does not meet current vertical clearance standards and will need to be lengthened to satisfy existing standards and accommodate the future freeway widening.

2. **The Project is planned and located in a manner that will be most compatible with the greatest public good and least private injury.**

   During the environmental phase of the Project, the proposed design was considered to minimize the property required for the Project. However, the optimal design still requires partial acquisitions and TCEs along Mount Vernon Avenue and East Valley Boulevard. SBCTA has had numerous communications with the property owners about their needs in order to design the Project in a manner that causes the least private injury while accomplishing the greatest public good through construction of the Project.

   In addition, the vertical profile of the bridge has been designed to minimize ROW impacts on the north and south ends of the approaches. This will be accomplished through maximizing the profile so that even though the new bridge will be wider and longer, the bridge will tie into the existing street as closely as possible in the post-construction condition.

San Bernardino County Transportation Authority
3. **Each property sought to be acquired is necessary for the Project.**

While portions of the Project are being constructed within existing ROW, the Project requires acquisition of the property interests listed below:

- **Tabbaa Mardini Real Estate Investments, LLC.:** A partial acquisition and a TCE is needed for construction of the Project improvements.
- **Trinh, Lan To:** A partial acquisition and four TCEs are needed for the construction of the Project improvements.
- **Song, Sue Chin:** A partial acquisition and a TCE are needed for the construction of the Project improvements.

4. **Offers required by Section 7267.2 of the Government Code have been made to the property owners.**

The properties listed below were appraised and offers for the full amount of the appraisals were made to the owner or owners of record in accordance with Section 7267.2 of the Government Code.

- The offer for the Tabbaa Property was presented on May 9, 2023.
- The offer for the Trinh Property was presented on May 11, 2023.
- The offer for the Song Property was presented on May 11, 2023.

**Financial Impact:**
This item is consistent with the Fiscal Year 2023/2024 Budget.

**Reviewed By:**
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft resolutions.

**Responsible Staff:**
Tracy Escobedo, Management Analyst II
I-10 MOUNT VERNON AVENUE INTERCHANGE PROJECT

RESOLUTION OF NECESSITY
FOR PROJECT RIGHT-OF-WAY

Presenter: Tracy Escobedo
SBCTA Right-of-Way Coordinator

Board of Directors Metro Valley Study Session
August 10, 2023

SBCTA IS REQUESTED TO MAKE THE FOLLOWING FINDINGS:

1. The public interest and necessity require the proposed project

2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury

3. The real property to be acquired is necessary for the project

4. The offer of just compensation has been made to the property owners
- Replace Mt. Vernon Bridge over Interstate 10 (I-10)
- Improve local traffic operations
- Address pedestrian and bicycle modes of travel by
  - Adding access across the bridge
  - Upgrading bike lanes to Class II
- New bridge will comply with new standards and accommodate future I-10 widening
Parcel Location

Parcel Location
## Communication Summary

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* Property visit, phone call and/or email with no response

Communications as of August 2023

## Offer of Just Compensation

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<td>D.</td>
<td>Song, Sue Chin Living Trust</td>
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SBCTA ADOPT A RESOLUTION OF NECESSITY
BASED ON THE FOLLOWING FINDINGS:

1. The public interest and necessity require the proposed project
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
3. The real property to be acquired is necessary for the project
4. The offer of just compensation has been made to the property owner
Minute Action

AGENDA ITEM: 6

Date: August 10, 2023

Subject: Interstate 215 Segment 5 Landscape Project California Department of Transportation Construction Cooperative Agreement

Recommendation: That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

Authorize the Executive Director, or his designee, to finalize and execute Cooperative Agreement No. 23-1002969, upon General Counsel’s approval as to form, with the California Department of Transportation to define roles, responsibilities, and funding commitments for the Interstate 215 Segment 5 Landscape Project, and identify SBCTA as the lead agency for the Construction Phase of the project.

Background: In February 2012, the San Bernardino County Transportation Authority (SBCTA) approved Cooperative Agreement No. 00-1000602, with the California Department of Transportation (Caltrans) to define roles, responsibilities, and funding commitments for the Interstate 215 (I-215) Landscape Projects with Caltrans as the lead agency for the design phase of the projects. Cooperative Agreement No. 00-1000602 included four separate landscape projects; Segments 1, 2, 3 & 5. Caltrans completed design for Segments 1, 2, & 3 in 2017 and construction for those segments was completed in 2020. The funding provided in the Cooperative Agreement was not sufficient to complete the design for the I-215 Segment 5 Landscape Project (Segment 5).

In April 2022, the SBCTA Board of Directors (Board) approved Amendment No. 2 to Contract No. 19-1002005 with EXP U.S. Services, Inc. for the design services of Segment 5. The design for Segment 5 is scheduled to be completed in fall 2023, with construction completion planned by summer 2024.

In January 2023, the Board approved Cooperative Agreement No. 23-1002873, with Caltrans, to define the roles and responsibilities for the I-215 Segment 5 Landscape Project and to identify SBCTA as the lead agency for the Plans, Specifications and Estimates (PS&E) for the project. Cooperative Agreement No. 23-1002969, with Caltrans, defines the roles, responsibilities, and funding commitments for the I-215 Segment 5 Landscape Project and identifies SBCTA as the lead agency for the Construction Phase of the project.

Financial Impact: This item is consistent with the Fiscal Year 2023/2024 Budget under Task No. 0820 Freeway Projects, Sub-Task No. 0838 I-215 Segment-5 Landscape Project.

Reviewed By: This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

Entity: San Bernardino County Transportation Authority
Responsible Staff:
Juan Lizarde, Project Manager
## General Contract Information

- **Contract No.:** 23-1002969
- **Amendment No.:**
- **Contract Class:** Payable
- **Department:** Project Delivery
- **Vendor No.:** 00450
- **Vendor Name:** California Department of Transportation
- **Description:** I-215 Segment 5 Landscape Construction Cooperative Agreement

## Contract Authorization

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## Contract Management (Internal Purposes Only)

- **Zero Dollar Contracts:** Yes
- **MOU/COOP/JPA (zero dollar contract):** N/A
- **Sole Source?:** N/A
- **No Budget Adjustment:** Yes

## Accounts Payable

- **Estimated Start Date:** 09/06/2023
- **Expiration Date:** 12/31/2039
- **Revised Expiration Date:**

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- **NHS:** Yes
- **QMP/QAP:** Yes
- **Prevailing Wage:** N/A

---

**Total Dollar Authority (Contract Value and Contingency):** $-

---

**Juan Lizarde**

Project Manager (Print Name)

**Tim Byrne**

Task Manager (Print Name)

---

Additional Notes:
COOPERATIVE AGREEMENT COVER SHEET

Work Description

ON I-215 FROM 0.1 MILES SOUTH OF MASSACHUSETTS AVENUE TO 0.05 MILES SOUTH OF I-215/SR-210 JUNCTION, PROVIDE HIGHWAY REPLACEMENT PLANTING CONSISTING OF IRRIGATION, WOOD MULCH, MAINTENANCE ACCESS ROADS, ROCK BLANKET, TREES, AND OTHER VEGETATION SUPPORTED BY THE PALMS TO PINES CONCEPT

Contact Information

CALTRANS

Ahmad Nabulsi, Project Manager
464 West 4th Street
San Bernardino, CA 92401
Office Phone: (562) 666-5862
Email: ahmad.nabulsi@dot.ca.gov

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

Juan Lizarde, Project Manager
1170 West Third Street, 2nd Floor
San Bernardino, CA 92410
Office Phone: (909) 884-8276
Email: jlizard@gosbcta.com
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<td>RESPONSIBILITIES</td>
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<td>Implementing Agency</td>
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This AGREEMENT, executed on and effective from ______________________________, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

San Bernardino County Transportation Authority, a public entity, referred to hereinafter as SBCTA.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

RECATALS

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System per the California Streets and Highways Code, Sections 114 and 130.

2. For the purpose of this AGREEMENT, on I-215 from 0.1 miles south of Massachusetts Avenue to 0.05 miles south of I-215/SR-210 junction, provide highway replacement planting consisting of irrigation, wood mulch, maintenance access roads, rock blanket, trees and other vegetation supported by the Palms to Pines concept, will be referred to hereinafter as PROJECT. The PROJECT scope of work is defined in the project initiation and approval documents (e.g. Project Study Report, Design Engineering Evaluation Report, or Project Report).

3. All obligations and responsibilities assigned in this AGREEMENT to complete the following PROJECT COMPONENT will be referred to hereinafter as WORK:

   • CONSTRUCTION

Each PROJECT COMPONENT is defined in the CALTRANS Workplan Standards Guide as a distinct group of activities/products in the project planning and development process.
4. The term AGREEMENT, as used herein, includes this document and any attachments, exhibits, and amendments.

This AGREEMENT is separate from and does not modify or replace any other cooperative agreement or memorandum of understanding between the PARTIES regarding the PROJECT.

PARTIES intend this AGREEMENT to be their final expression that supersedes any oral understanding or writings pertaining to the WORK. The requirements of this AGREEMENT will preside over any conflicting requirements in any documents that are made an express part of this AGREEMENT.

If any provisions in this AGREEMENT are found by a court of competent jurisdiction to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other AGREEMENT provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this AGREEMENT.

Except as otherwise provided in the AGREEMENT, PARTIES will execute a written amendment if there are any changes to the terms of this AGREEMENT.

PARTIES agree to sign a CLOSURE STATEMENT to terminate this AGREEMENT. However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement or expire by the statute of limitations.

5. The following work associated with this PROJECT has been completed or is in progress:

- Caltrans approved the Categorical Exemption on December 21, 2012.
- Caltrans approved the Categorical Exclusion on December 21, 2012.
- SBCTA completed the R/W Certification on January 26, 2023 (Cooperative Agreement No. 08-1760).
- SBCTA to complete the Plans, Specifications and Estimate by October 2023 (Cooperative Agreement No. 08-1760).

6. In this AGREEMENT capitalized words represent defined terms, initialisms, or acronyms.

7. PARTIES hereby set forth the terms, covenants, and conditions of this AGREEMENT.
RESPONSIBILITIES

Sponsorship

8. A SPONSOR is responsible for establishing the scope of the PROJECT and securing the financial resources to fund the WORK. A SPONSOR is responsible for securing additional funds when necessary or implementing PROJECT changes to ensure the WORK can be completed with the funds committed in this AGREEMENT.

PROJECT changes, as described in the CALTRANS Project Development Procedures Manual, will be approved by CALTRANS as the owner/operator of the State Highway System.

9. SBCTA is the SPONSOR for the WORK in this AGREEMENT.

Implementing Agency

10. The IMPLEMENTING AGENCY is the PARTY responsible for managing the scope, cost, schedule, and quality of the work activities and products of a PROJECT COMPONENT.

- SBCTA is the CONSTRUCTION IMPLEMENTING AGENCY.

CONSTRUCTION includes construction contract administration, surveying/staking, inspection, quality assurance, and assuring regulatory compliance. The CONSTRUCTION component budget identifies the capital costs of the construction contract/furnished materials (CONSTRUCTION CAPITAL) and the cost of the staff work in support of the construction contract administration (CONSTRUCTION SUPPORT).

11. SBCTA will provide a Quality Management Plan (QMP) for the WORK in every PROJECT COMPONENT that they are the IMPLEMENTING AGENCY of. The QMP describes the IMPLEMENTING AGENCY’s quality policy and how it will be used. The QMP will include a process for resolving disputes between the PARTIES at the team level. The QMP is subject to CALTRANS review and approval.

12. Any PARTY responsible for completing WORK will make its personnel and consultants that prepare WORK available to help resolve WORK-related problems and changes for the entire duration of the PROJECT including PROJECT work that may occur under separate agreements.
Funding

13. The WORK does not use funds administered by CALTRANS. PARTIES will amend this AGREEMENT should this condition change.

14. Each PARTY is responsible for the costs they incur in performing the WORK.

CALTRANS’ Quality Management

15. CALTRANS, as the owner/operator of the State Highway System (SHS), will perform quality management work including Quality Management Assessment (QMA) and owner/operator approvals for the portions of WORK within the existing and proposed SHS right-of-way.

16. CALTRANS’ Quality Management Assessment (QMA) efforts are to ensure that SBCTA's quality assurance results in WORK that is in accordance with the applicable standards and the PROJECT’s quality management plan (QMP). QMA does not include any efforts necessary to develop or deliver WORK or any validation by verifying or rechecking WORK.

When CALTRANS performs QMA, it does so for its own benefit. No one can assign liability to CALTRANS due to its QMA.

17. CALTRANS, as the owner/operator of the State Highway System, will approve WORK products in accordance with CALTRANS policies and guidance and as indicated in this AGREEMENT.

18. SBCTA will provide WORK-related products and supporting documentation upon CALTRANS’ request for the purpose of CALTRANS’ quality management work.

19. The cost of CALTRANS’ quality management work is to be borne by CALTRANS.

CEQA/NEPA Lead Agency

20. CALTRANS is the CEQA Lead Agency for the PROJECT.

21. CALTRANS is the NEPA Lead Agency for the PROJECT.

Environmental Permits, Approvals and Agreements

22. SBCTA will comply with the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to SBCTA’s responsibilities in this AGREEMENT.
23. Unless otherwise assigned in this AGREEMENT, the IMPLEMENTING AGENCY for a PROJECT COMPONENT is responsible for all PROJECT COMPONENT WORK associated with coordinating, obtaining, implementing, renewing, and amending the PROJECT permits, agreements, and approvals whether they are identified in the planned project scope of work or become necessary in the course of completing the PROJECT.

24. The PROJECT requires the following environmental permits/approvals:

<table>
<thead>
<tr>
<th>ENVIRONMENTAL PERMITS/REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>401, Regional Water Quality Control Board</td>
</tr>
<tr>
<td>National Pollutant Discharge Elimination System (NPDES), State Water Resources Control Board</td>
</tr>
</tbody>
</table>

**CONSTRUCTION**

25. As the CONSTRUCTION IMPLEMENTING AGENCY, SBCTA is responsible for all CONSTRUCTION WORK except those activities and responsibilities that are assigned to another PARTY and those activities that are excluded under this AGREEMENT.

26. CALTRANS will be responsible for completing the following CONSTRUCTION SUPPORT activities:

<table>
<thead>
<tr>
<th>CALTRANS Work Breakdown Structure Identifier (If Applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.20.10.xx Quality Management</td>
</tr>
</tbody>
</table>

27. Physical and legal possession of the right-of-way must be completed prior to advertising the construction contract, unless PARTIES mutually agree to other arrangements in writing.

28. Right-of-way conveyances must be completed prior to WORK completion, unless PARTIES mutually agree to other arrangements in writing.
29. CALTRANS will not issue an encroachment permit to SBCTA for construction work until the following conditions are met:
   - CALTRANS accepts the final plans, specifications, and estimate
   - CALTRANS accepts the Right-of-Way Certification
   - Any new or amended maintenance agreements required for the WORK are executed.
   - Any new or amended Freeway Agreement required for the WORK are executed.

30. SBCTA will require the construction contractor to furnish payment and performance bonds naming SBCTA as obligee, and CALTRANS as additional obligee, and to carry liability insurance in accordance with CALTRANS Standard Specifications.

31. SBCTA will advertise, open bids, award, and approve the construction contract in accordance with the California Public Contract Code and the California Labor Code. By accepting responsibility to advertise and award the construction contract, SBCTA also accepts responsibility to administer the construction contract.

32. CALTRANS will not issue an encroachment permit to SBCTA's construction contractor until CALTRANS accepts:
   - The payment and performance bonds
   - The CONSTRUCTION Quality Management Plan

33. The CONSTRUCTION Quality Management Plan (QMP) will describe how construction material verification and workmanship inspections will be performed at manufacturing sources and the PROJECT job-site. The construction material and Source Inspection QMP (SIQMP) are subject to review and approval by the State Materials Engineer.

34. The CONSTRUCTION Quality Management Plan will address the radiation safety requirements of the California Code of Regulations 17 CCR § 30346 when the work requires Gamma-Gamma Logging acceptance testing for Cast in Drilled Hole (CIDH) pile or whenever else it is applicable. In accordance with these regulations SBCTA, as the "well operator", will have a written agreement with any consultant or external entity performing these tests.

35. SBCTA will provide a Resident Engineer and CONSTRUCTION SUPPORT staff that are independent of the construction contractor. The Resident Engineer will be a Civil Engineer, licensed in the State of California, who is responsible for construction contract administration activities.
36. CALTRANS will review and concur with:

- Change Orders affecting public safety, public convenience, protected environmental resources, the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS Construction Manual. These Change Orders must receive written concurrence by CALTRANS prior to implementation.

- The Stormwater Pollution Prevention Plan (SWPPP) or the Water Pollution Control Plan (WPCP).

37. SBCTA will administer and process all construction contract claims pursuant to the requirements set forth under Public Contract Code, Section 9204. In addition, all public works claims of $375,000 or less shall be resolved in accordance with Public Contract Code Section 20104, et seq. and other applicable laws.

38. SBCTA is designated as the Legally Responsible Person pursuant to the Construction General Permit, State Water Resources Control Board (SWRCB) Order Number 2009-0009-DWQ, as defined in Appendix 5, Glossary, and assumes all roles and responsibilities assigned to the Legally Responsible Person as mandated by the Construction General Permit. SBCTA is required to comply with the CALTRANS MS4 National Pollutant Discharge Elimination System (NPDES) permit for all work within the State Highway System.
39. As the CONSTRUCTION IMPLEMENTING AGENCY, SBCTA is responsible for maintenance of the State Highway System (SHS) within the PROJECT limits as part of the construction contract until the following conditions are met:

- Any required maintenance agreements are executed for the portions of SHS for which relief of maintenance is to be granted.
- CALTRANS approves a request from SBCTA for relief from maintenance of the PROJECT or a portion thereof.

40. Upon completion of the construction contract and one (1) year plant establishment period under this Agreement, SBCTA shall assume maintenance and the expense thereof for PROJECT, at its own expense, for a four (4) year landscape maintenance period to establish existing planting (EEP), after which, CALTRANS assumes full responsibility for maintenance. SBCTA’s maintenance responsibilities include, but are not limited to, inspection, providing emergency repair, weed abatement, litter removal, replacement and maintenance of landscaping within PROJECT limits. As part of SBCTA’s maintenance responsibilities, during construction of PROJECT and for the one (1) year plant establishment period and for the first two (2) years of the plant maintenance period following construction, SBCTA shall make all necessary arrangements with the local utility company for payment and billing of water supplied for PROJECT, after which time CALTRANS will make arrangements with the utility company to transfer billing and be responsible for payment of water supplied for PROJECT.

41. Upon WORK completion, ownership or title to all materials and equipment constructed or installed for the operations and/or maintenance of the State Highway System (SHS) within SHS right-of-way as part of WORK become the property of CALTRANS. CALTRANS will not accept ownership or title to any materials or equipment constructed or installed outside SHS right-of-way.
42. Within one hundred eighty (180) calendar days following the completion and acceptance of the PROJECT construction contract, SBCTA will furnish CALTRANS with a complete set of “As-Built” plans and Change Orders, including any changes authorized by CALTRANS, using an approved transfer mechanism, such as a CD ROM, flash drive, Filr. The submitted digital files must be completed in accordance with Caltrans specifications, policies, and manuals, including requirements in Sections 2 and 3, of Chapter 17 in the Project Development Procedures Manual, then current CADD User’s Manual (Section 4.3), Plans Preparation Manual, and CALTRANS practice. The plans will have the Resident Engineer’s name, contract number, and construction contract acceptance date printed on each plan sheet, and with the Resident Engineer’s signature only on the title sheet. The As-Built plans will be in Microstation DGN format, version 8.0. When applicable, the digital submittal must also include high accuracy locating and underground facilities data. In addition, SBCTA will provide one set of As-Built plans and addenda in TIFF format.

The submittal must also include all CALTRANS requested contract records, and land survey documents. The land survey documents include monument preservation documents and records of surveys prepared to satisfy the requirements of the California Professional Land Surveyors Act (Business and Professions Code, Sections 8700 – 8805). Copies of survey documents and Records of Surveys filed in accordance with Business & Professions Code, Sections 8762 and 8771, will contain the filing information provided by the county in which filed.

**Schedule**

43. PARTIES will manage the WORK schedule to ensure the timely use of committed funds and to ensure compliance with any environmental permits, right-of-way agreements, construction contracts, and any other commitments. PARTIES will communicate schedule risks or changes as soon as they are identified and will actively manage and mitigate schedule risks.
Additional Provisions

Standards

44. PARTIES will perform all WORK in accordance with federal and California laws, regulations, and standards; Federal Highway Administration (FHWA) standards; and CALTRANS standards. CALTRANS standards include, but are not limited to, the guidance provided in the:

- CADD Users Manual
- CALTRANS policies and directives
- Plans Preparation Manual
- Project Development Procedures Manual (PDPM)
- Workplan Standards Guide
- Construction Manual
- Construction Manual Supplement for Local Agency Resident Engineers
- Local Agency Structure Representative Guidelines
- Encroachment Permit Manual

Qualifications

45. Each PARTY will ensure that personnel participating in WORK are appropriately qualified or licensed to perform the tasks assigned to them.

Consultant Selection

46. SBCTA will invite CALTRANS to participate in the selection of any consultants that participate in the WORK.
Encroachment Permits

47. CALTRANS will issue, upon proper application, the encroachment permits required for WORK within State Highway System (SHS) right-of-way. SBCTA, their contractors, consultants, agents, and utility owners will not work within the SHS right-of-way without an encroachment permit which specifically allows them to do so. CALTRANS will provide encroachment permits to SBCTA at no cost. CALTRANS will provide encroachment permits to utility owners at no cost. If the encroachment permit and this AGREEMENT conflict, the requirements of this AGREEMENT will prevail.

48. The IMPLEMENTING AGENCY for a PROJECT COMPONENT will coordinate, prepare, obtain, implement, renew, and amend any encroachment permits needed to complete the WORK.

Protected Resources

49. If any PARTY discovers unanticipated cultural, archaeological, paleontological, or other protected resources during WORK, all WORK in that area will stop and that PARTY will notify all PARTIES within 24 hours of discovery. WORK may only resume after a qualified professional has evaluated the nature and significance of the discovery and CALTRANS approves a plan for its removal or protection.

Disclosures

50. PARTIES will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the WORK in confidence to the extent permitted by law and where applicable, the provisions of California Government Code, Section 7921.505(c)(5) will protect the confidentiality of such documents in the event that said documents are shared between PARTIES.

PARTIES will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the WORK without the written consent of the PARTY authorized to release them, unless required or authorized to do so by law.

51. If a PARTY receives a public records request pertaining to the WORK, that PARTY will notify PARTIES within five (5) working days of receipt and make PARTIES aware of any disclosed public records.
Hazardous Materials

52. HM-1 is hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law, irrespective of whether it is disturbed by the PROJECT or not.

HM-2 is hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by the PROJECT.

The management activities related to HM-1 and HM-2, including and without limitation, any necessary manifest requirements and disposal facility designations are referred to herein as HM-1 MANAGEMENT and HM-2 MANAGEMENT respectively.

53. If HM-1 or HM-2 is found the discovering PARTY will immediately notify all other PARTIES.

54. CALTRANS, independent of the PROJECT, is responsible for any HM-1 found within the existing State Highway System right-of-way. CALTRANS will undertake, or cause to be undertaken, HM-1 MANAGEMENT with minimum impact to the PROJECT schedule.

CALTRANS, independent of the PROJECT will pay, or cause to be paid, the cost of HM-1 MANAGEMENT related to HM-1 found within the existing State Highway System right-of-way.

55. If HM-1 is found within the PROJECT limits and outside the existing State Highway System right-of-way, responsibility for such HM-1 rests with the owner(s) of the parcel(s) on which the HM-1 is found. SBCTA, in concert with the local agency having land use jurisdiction, will ensure that HM-1 MANAGEMENT is undertaken with minimum impact to PROJECT schedule.

The cost of HM-1 MANAGEMENT for HM-1 found within the PROJECT limits and outside the existing State Highway System right-of-way will be the responsibility of the owner(s) of the parcel(s) where the HM-1 is located.

56. The CONSTRUCTION IMPLEMENTING AGENCY is responsible for HM-2 MANAGEMENT within the PROJECT limits.
SBCTA and CALTRANS will comply with the Soil Management Agreement for Aerially Deposited Lead Contaminated Soils (Soil Management Agreement) executed between CALTRANS and the California Department of Toxic Substances Control (DTSC). Under Section 3.2 of the Soil Management Agreement, CALTRANS and SBCTA each retain joint and severable liability for noncompliance with the provisions of the Soil Management Agreement. SBCTA will assume all responsibilities assigned to CALTRANS in the Soil Management Agreement during PROJECT COMPONENTS for which they are the IMPLEMENTING AGENCY except for final placement and burial of soil within the State right-of-way, per Section 4.5 of the Soil Management Agreement, which is subject to CALTRANS concurrence and reporting to DTSC which will be performed by CALTRANS.

57. CALTRANS’ acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS’ policy on such acquisition.

Claims

58. SBCTA may accept, reject, compromise, settle, or litigate claims of any consultants or contractors hired to complete WORK without concurrence from the other PARTY.

59. PARTIES will confer on any claim that may affect the WORK or PARTIES’ liability or responsibility under this AGREEMENT in order to retain resolution possibilities for potential future claims. No PARTY will prejudice the rights of another PARTY until after PARTIES confer on the claim.

60. If the WORK expends state or federal funds, each PARTY will comply with the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of 2 CFR, Part 200. PARTIES will ensure that any for-profit consultant hired to participate in the WORK will comply with the requirements in 48 CFR, Chapter 1, Part 31. When state or federal funds are expended on the WORK these principles and requirements apply to all funding types included in this AGREEMENT.

61. If the WORK expends state or federal funds, each PARTY will undergo an annual audit in accordance with the Single Audit Act in the Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as defined in 2 CFR, Part 200.

62. When a PARTY reimburses a consultant for WORK with state or federal funds, the procurement of the consultant and the consultant overhead costs will be in accordance with the Local Assistance Procedures Manual, Chapter 10.
**Interruption of Work**

63. If WORK stops for any reason, each PARTY will continue with environmental commitments included in the environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, and will keep the PROJECT in environmental compliance until WORK resumes.

**Penalties, Judgements and Settlements**

64. The cost of awards, judgements, fines, interest, penalties, attorney’s fees, and/or settlements generated by the WORK are considered WORK costs.

65. The cost of legal challenges to the environmental process or documentation are considered WORK costs.

66. Any PARTY whose action or lack of action causes the levy of fines, interest, or penalties will indemnify and hold all other PARTIES harmless per the terms of this AGREEMENT.

**Environmental Compliance**

67. If during performance of WORK additional activities or environmental documentation is necessary to keep the PROJECT in environmental compliance, PARTIES will amend this AGREEMENT to include completion of those additional tasks.

**GENERAL CONDITIONS**

68. All portions of this AGREEMENT, including the Recitals Section, are enforceable.

**Venue**

69. PARTIES understand that this AGREEMENT is in accordance with and governed by the Constitution and laws of the State of California. This AGREEMENT will be enforceable in the State of California. Any PARTY initiating legal action arising from this AGREEMENT will file and maintain that legal action in the Superior Court of the county in which the CALTRANS district office that is signatory to this AGREEMENT resides, or in the Superior Court of the county in which the PROJECT is physically located.

**Exemptions**

70. All CALTRANS’ obligations and commitments under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming and allocation of funds by the California Transportation Commission (CTC).
Indemnification

71. Neither CALTRANS nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SBCTA, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SBCTA under this AGREEMENT. It is understood and agreed that SBCTA, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by SBCTA, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

72. Neither SBCTA nor any of its officers and employees, are responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless SBCTA and all of their officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories and assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors, and/or its agents under this AGREEMENT.

Non-parties

73. PARTIES do not intend this AGREEMENT to create a third party beneficiary or define duties, obligations, or rights for entities not signatory to this AGREEMENT. PARTIES do not intend this AGREEMENT to affect their legal liability by imposing any standard of care for fulfilling the WORK different from the standards imposed by law.

74. PARTIES will not assign or attempt to assign obligations to entities not signatory to this AGREEMENT without an amendment to this AGREEMENT.

Ambiguity and Performance

75. Neither PARTY will interpret any ambiguity contained in this AGREEMENT against the other PARTY. PARTIES waive the provisions of California Civil Code, Section 1654.

A waiver of a PARTY’s performance under this AGREEMENT will not constitute a continuous waiver of any other provision.
76. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

Defaults

77. If any PARTY defaults in its performance of the WORK, a non-defaulting PARTY will request in writing that the default be remedied within thirty (30) calendar days. If the defaulting PARTY fails to do so, the non-defaulting PARTY may initiate dispute resolution.

Dispute Resolution

78. PARTIES will first attempt to resolve AGREEMENT disputes at the PROJECT team level as described in the Quality Management Plan. If they cannot resolve the dispute themselves, the CALTRANS District Director and the Executive Officer of SBCTA will attempt to negotiate a resolution. If PARTIES do not reach a resolution, PARTIES’ legal counsel will initiate mediation. PARTIES agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTIES from full and timely performance of the WORK in accordance with the terms of this AGREEMENT. However, if any PARTY stops fulfilling its obligations, any other PARTY may seek equitable relief to ensure that the WORK continues.

Except for equitable relief, no PARTY may file a civil complaint until after mediation, or forty-five (45) calendar days after filing the written mediation request, whichever occurs first.

PARTIES will file any civil complaints in the Superior Court of the county in which the CALTRANS District Office signatory to this AGREEMENT resides or in the Superior Court of the county in which the PROJECT is physically located.

79. PARTIES maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
Prevailing Wage

80. When WORK falls within the Labor Code § 1720(a)(1) definition of "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code § 1771, PARTIES will conform to the provisions of Labor Code §§ 1720-1815, and all applicable provisions of California Code of Regulations, Title 8, Division 1, Chapter 8, Subchapter 3, Articles 1-7. PARTIES will include prevailing wage requirements in contracts for public work and require contractors to include the same prevailing wage requirements in all subcontracts.

Work performed by a PARTY’s own employees is exempt from the Labor Code's Prevailing Wage requirements.

If WORK is paid for, in whole or part, with federal funds and is of the type of work subject to federal prevailing wage requirements, PARTIES will conform to the provisions of the Davis-Bacon and Related Acts, 40 U.S.C. §§ 3141-3148.

When applicable, PARTIES will include federal prevailing wage requirements in contracts for public works. WORK performed by a PARTY’s employees is exempt from federal prevailing wage requirements.
SIGNATURES

PARTIES are authorized to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and hereby covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT. By signing below, the PARTIES each expressly agree to execute this AGREEMENT electronically.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

Catalino A. Pining III
District Director

Verification of funds and authority:

Corina Harriman
District Budget Manager

Certified as to financial terms and policies:

Darwin Salmos
HQ Accounting Supervisor

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

(Not for signature at this time)

Raymond Wolfe
Executive Director

Approved as to form:

Juanda Daniel
Assistant General Counsel
Minute Action

AGENDA ITEM: 7

Date: August 10, 2023

Subject:
Interstate 15 Corridor Freight and Express Lanes Construction and Maintenance Agreement for Vina Vista Overhead Crossing with Union Pacific Railroad and California Department of Transportation

Recommendation:
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

Authorize the Executive Director, or his designee, to execute Agreement No. 23-1002939 with Union Pacific Railroad, California Department of Transportation, and SBCTA for defining roles, responsibilities, and funding for the construction and maintenance of the Interstate 15 Corridor Freight and Express Lanes Project at the Vina Vista Overhead in the amount of $65,000 subject to approval as to form by SBCTA General Counsel, or her designee.

Background:
The Interstate 15 (I-15) Corridor Freight and Express Lanes Project (Project) will add auxiliary lanes to improve freight corridor movement and will add one to two express lanes in each direction on the I-15 from 0.3 miles south of Cantu-Galleano Ranch Road to Duncan Canyon Road. The Environmental Document for the Project was approved in December 2018. The Project will be delivered in multiple construction packages. The first construction package, known as the I-15 Corridor Freight and Express Lanes Project – Contract 1 (Contract 1), will also add auxiliary lanes at select locations in order to improve freight movement and reduce traffic congestion. Construction packages for portions north of Foothill Boulevard to Duncan Canyon Road will be developed in the future based on funding considerations. Final design work for Contract 1 is ongoing with current activities consisting of structure design and developing Plans, Specifications, and Estimates.

This item covers one of the three railroad construction and maintenance (C&M) agreements where the I-15 traverses three railroad crossings with infrastructure used by either the Southern California Regional Rail Authority (SCARRA) or the Union Pacific Railroad (UPRR). Two of these C&M agreements include California Department of Transportation (Caltrans) as a party since Caltrans operates and maintains the I-15.

C&M Agreement No. 23-1002939 is a three-party agreement with UPRR, Caltrans, and SBCTA for defining roles, responsibilities, and funding for the C&M of the Vina Vista Overhead crossing located in the City of Ontario. In this agreement, SBCTA performs all project and/or structure work at the UPRR rail line, Caltrans maintains said roadway and bridge improvement, and SBCTA pays for actual costs for UPRR construction support and other UPRR expenses defined within the agreement at an estimated cost of $65,000.

Currently, the C&M agreement is in final review by all agencies. With the execution of this agreement and the two others currently under development in September 2023, the Right-of-Way Certification can be approved by Caltrans so the project can meet the planned schedule milestone of Ready-to-List (RTL).

Entity: San Bernardino County Transportation Authority
Staff is recommending that the Board authorize the Executive Director, or his designee, to execute C&M Agreement No. 23-1002939, subject to approval as to form by SBCTA General Counsel, in order to preserve the project schedule.

**Financial Impact:**
This item is consistent with the Fiscal Year 2023/2024 Budget for Task 0820, Freeway Projects, Sub-Task 0831.

**Reviewed By:**
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

**Responsible Staff:**
Sal Chavez, Project Delivery Manager
## General Contract Information

**Contract No:** 23-1002939  
**Amendment No.:** _____  
**Contract Class:** Payable  
**Department:** Project Delivery  
**Vendor No.:** 02269  
**Vendor Name:** Union Pacific Railroad  
**Description:** I-15 Corridor Freight & Express Lanes C&M Agreement for the Vina Vista OH

### Dollar Amount

<table>
<thead>
<tr>
<th>Description</th>
<th>Dollar Amount</th>
<th>Original Contingency</th>
<th>Total Contingency Value</th>
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<tbody>
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<td>Original Contract</td>
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<td>Prior Amendments</td>
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<td>Prior Contingency Released</td>
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<td><strong>Total Dollar Authority</strong></td>
<td><strong>$65,000.00</strong></td>
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### Contract Authorization

**Board of Directors**  
**Date:** 09/06/2023  
**Committee**  
**Item #:**

### Contract Management (Internal Purposes Only)

<table>
<thead>
<tr>
<th>Capital Project Contracts</th>
<th>Sole Source?</th>
<th>N/A</th>
<th>No Budget Adjustment</th>
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<tr>
<td>Local</td>
<td>Construction and Maintenance Agreement</td>
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</table>

### Accounts Payable

**Estimated Start Date:** 09/06/2023  
**Expiration Date:** 12/31/2039  
**Revised Expiration Date:**  
**NHS:** Yes  
**QMP/QAP:** Yes  
**Prevailing Wage:** N/A  
**Total Contract Funding:** $65,000.00  
**Total Contingency:** $

### Additional Notes:

**Project Manager (Print Name):** Sal Chavez  
**Task Manager (Print Name):** Tim Byrne

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Form 200 11/2019  
Packet Pg. 63  
Attachment: CSS 23-1002939 UPRR [Revision 1] (9618 : I-15 Express Lanes C&M Agreement with Union Pacific)
CONSTRUCTION AND MAINTENANCE AGREEMENT
INTERSTATE-15 CORRIDOR FREIGHT AND EXPRESS LANES
AT THE VINA VISTA OVERHEAD (I-15 OH) PROJECT

THIS AGREEMENT, ("Agreement") made and entered into as of the ___ day of ________, 2023, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation to be addressed at 1400 Douglas Street, MS1690, Omaha, Nebraska 68179-1690 ("UPRR" or "Railroad"), the STATE OF CALIFORNIA, acting by and through its Department of Transportation to be addressed at 1120 N Street, MS 37, Sacramento, California 95814 ("State"), and SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY ("SBCTA"), a California public agency. Collectively referred to herein as the "PARTIES".

RECITALS:

A. On May 22, 1973, the Southern Pacific Transportation Company and the Department of Public Works entered into an agreement covering the construction and maintenance of five overpasses known as Vina Vista Overheads in San Bernardino County, California. Today, the present parties of the 1973 Agreement are the Union Pacific Railroad Company (UPRR), formerly known as the Southern Pacific Transportation Company and the State of California, by and through its Department of Transportation, formerly known as the Department of Public Works.

B. On March 27, 2008, State and UPRR entered into an agreement to reconstruct and rehabilitate the existing Interstate 15, to add lanes in the center of the existing Interstate 15 freeway. The 1973 and 2008 agreements are hereinafter referenced, in this Agreement as the "Original Agreement".

C. SBCTA and State now propose to construct Express Lanes, including tolled facilities, in both directions of Interstate 15 (I-15) (the "Project") including the I-15 Vina Vista Overhead, herein referred to as the "Structure". SBCTA will execute and oversee the construction of the Project.
D. The individual responsibilities of SBCTA are set forth in Sections 7 and 13 of this agreement. The individual responsibilities of the State are set forth in Section 11 of this agreement.

E. The general location of the Structure is shown on the Survey Print marked Exhibit A. The type, size and location prints of the Structure are marked Exhibit A-1, with each exhibit attached hereto and hereby made a part hereof.

F. The proposed Structure work referred to as the “New Crossing Area” in the Exhibit A Survey Print is within existing rights granted by Railroad in the Original Agreement, referred to as the “Original Agreement Area” in the Exhibit A Survey Print and no additional aerial easement rights from the Railroad are required. The New Crossing Area and Existing Crossing Area, together, are referred to as the “Crossing Area”.

G. The parties now desire to set forth herein their understanding and agreement relating to the construction, reconstruction, replacement, use, maintenance and repair of Structure and State’s payment for and use of the Project Parcels.
AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. LIST OF EXHIBITS

The exhibits below are attached hereto and hereby made a part hereof:

- Exhibit A Survey Print
- Exhibit A-1 Structure’s General Type, Size and Profile
- Exhibit B General Terms and Conditions
- Exhibit C UPRR Cost Estimate
- Exhibit D Railroad Coordination Requirements
- Exhibit E Contractor’s Right of Entry Agreement
- Exhibit F UPRR Guidelines for Temporary Shoring

Section 2. EXHIBITS B AND D

The general terms and conditions marked Exhibit B, and the Railroad’s Coordination Requirements marked Exhibit D, are attached hereto and hereby made a part hereof.

Section 3. RAILROAD GRANTS RIGHT

For and in consideration of the sum of SIXTY-FIVE THOUSAND DOLLARS ($65,000.00), to be paid by the SBCTA to the Railroad upon the execution and delivery of this Agreement and in further consideration of the State’s and SBCTA’s agreement to perform and comply with the terms of this Agreement, the Railroad hereby grants to the State and SBCTA the right to construct, maintain and repair the Structure over and across the Crossing Area shown on Exhibit A.

Section 4. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by SBCTA to perform any Project work on any portion of UPRR’s property and shall also include the Contractor’s subcontractors and the Contractor’s and subcontractor’s respective employees, officers and agents, and others acting under its or their authority.
Section 5. CONTRACTOR’S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area involving the Project, and any subsequent maintenance or repair work, the State shall require the Contractor to:

- execute the Railroad’s then current Contractor’s Right of Entry Agreement (Ex. E);
- obtain the then current insurance required in the Contractor’s Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

Railroad’s current Contractor’s Right of Entry Agreement is marked Exhibit E and is incorporated by reference as though fully set forth herein. SBCTA confirms that the Contractor will be required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad’s property without first executing the Railroad’s Contractor’s Right of Entry Agreement and obtaining the insurance set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Manager - Contracts
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179-1690
UP Project No. 0463380

C. SBCTA is self-insured and will maintain self-insured status during the performance of the work associated with the Project. If SBCTA’s own employees will be performing any of the Project work, SBCTA shall self-insure all or a portion of the insurance coverage as allowed pursuant to SBCTA’s Insurance Rules and agrees to indemnify Railroad against any and all claims arising out of the work performed on the Project by SBCTA Employees. SBCTA shall not indemnify Railroad for claims by SBCTA Employees that arise out of negligent acts or willful misconduct by Railroad, its officials, directors, officers, employees, and agents.
Section 6. FEDERAL AID POLICY GUIDE

If SBCTA will be receiving any federal funding for the Project the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference.

Section 7. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO SBCTA; SBCTA’S PAYMENT OF BILLS

A. Railroad Work and Operation oversight to be performed during the Project by Railroad, at the sole cost and expense to the SBCTA, is described in Railroad’s Cost Estimates dated March 27, 2023, marked Exhibit C, and is incorporated by reference as though fully set forth herein. (the "Estimate"). As set forth in the Estimate, the Railroad’s estimated cost for the Railroad’s work associated with the Project is Sixty Five Thousand dollars ($65,000.00).

B. Railroad, if it so elects, may recalculate and update the Estimate submitted to SBCTA in the event the SBCTA does not commence construction on the portion of the Project located on the Railroad’s property within 12 months from the date of the execution of this Agreement.

C. SBCTA cannot reimburse Railroad for any costs incurred outside the scope of work described herein or occurring prior to the effective date of this Agreement.

D. The Railroad shall send progressive billing to SBCTA during the Project, and final billing to SBCTA within one hundred eighty (180) days after receiving written notice from SBCTA that all Project work affecting the Railroad’s property has been completed.

E. SBCTA shall reimburse Railroad for all undisputed invoices within 45 business days of receiving Railroad’s invoiced charges.

Section 8. WORK PERFORMED BY SBCTA

A. SBCTA, as a Project expense and at no cost to UPRR, shall perform all Project and/or Structure work including, without limitation, other applicable work, all of which shall be performed in compliance with the Plans and Minimum Requirements and described and defined in Section 10, and in a good and workmanlike manner and prosecuted diligently to conclusion. The use of UPRR’s property by SBCTA and/or its Contractor (as defined herein) shall be limited to the identified existing area designated on Exhibit A defined and shall be subject to UPRR’s notification requirements and the terms and conditions of this Agreement and exhibits hereto.
B. SBCTA or the Contractor will be responsible for securing the required flagging services from one of the Railroad’s approved vendors in accordance with Railroad’s policy and procedures for flagging found on Railroad’s website at **UP: Real Estate and Utility Specifications**.

C. SBCTA, as a project expense and at no cost to UPRR, shall complete or cause to complete all Project-related construction activities within four (4) years of the Effective Date of this Agreement.

**Section 9. NO PROJECT EXPENSES TO BE BORNE BY UPRR**

SBCTA agrees that no Project costs and expenses are to be borne by UPRR. In addition, UPRR is not required to contribute any funding for the Project.

**Section 10. PLANS**

A. SBCTA, at its expense, shall prepare, or cause to be prepared by others, the detailed plans and specifications and submit such plans and specifications to UPRR, for prior review and approval. The plans and specifications shall include all Roadway layout specifications, cross sections and elevations, associated drainage, and other appurtenances.

B. The final one hundred percent (100%) completed plans that are approved in writing by the UPRR’s Assistant Vice President Engineering–Design, or his authorized representative, are hereinafter referred to as the “Plans”. The Plans are hereby made a part of this Agreement by reference.

C. No changes in the Plans shall be made unless UPRR has consented to such changes in writing.

D. UPRR’s review and approval of the Plans will in no way relieve the SBCTA or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with the understanding that UPRR makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the SBCTA or Contractor on the Plans is at the risk of the SBCTA and Contractor.

**Section 11. MAINTENANCE AND REPAIR OF STRUCTURE AND OF ROADWAY LOCATED ON THE STRUCTURE**

Upon acceptance of the project, State, at its expense, shall maintain, repair, reconstruct, and/or replace or cause to be maintained, repaired, reconstructed and/or replaced the entire Structure including without limitation, all fire damage and homeless removal, graffiti removal, or painting involving the Structure in a safe, clean, sturdy and sound condition. If any inspection,
maintenance, repairs, reconstruction or replacement of the Structure requires State or its contractor (as defined in Section 5) to enter upon and use any portion of UPRR property, or if such work could jeopardize the safety of railroad personnel and equipment beneath the Structure, such as, but not limited to falling concrete or other debris, State shall require Contractor to execute UPRR's then-current form of Contractor’s Right of Entry Agreement to provide UPRR the insurance policies, binders, certificates, and endorsements that are required in the Contractor’s Right of Entry Agreement prior to commencing such work. State shall also pay UPRR for its use of any Railroad property for which it does not at such time already hold easement or other access rights and all project-related railroad support costs.

Section 12. NON-RAILROAD IMPROVEMENTS

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-Railroad owned facilities (the "Non-Railroad Facilities") affected by the Project including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required under Section 10. The Non-Railroad Facilities plans and specifications shall comply with UPRR's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. UPRR has no obligation to supply additional land for any Non-Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non-Railroad Facilities plans and specifications comply with UPRR's standard specifications and requirements. UPRR has no obligation to permit any Non-Railroad Facilities to be abandoned in place or relocated on UPRR's property.

B. Upon UPRR's approval of submitted Non-Railroad Facilities plans and specifications, UPRR will attempt to incorporate them into new agreements or supplements of existing agreements with Non-Railroad Facilities owners or operators. UPRR may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non-Railroad Facilities. Non-Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by UPRR and the Non-Railroad Facilities owner or operator, or before UPRR, SBCTA and STATE mutually agree in writing to (i) deem the approved Non-Railroad Facilities plans and specifications to be Plans pursuant to Section 12B, (ii) deem the Non-Railroad Facilities part of the Structure, and (iii) supplement this Agreement with terms and conditions covering the Non-Railroad Facilities.
Section 13. **NO CLAIMS BY SBCTA**

Notwithstanding any other provisions of this Agreement, SBCTA shall not make any claim against UPRR for any damages related to any and all work delays which arise in whole or in part from accommodating or performing train operations including, without limitation, train schedule changes and/or increased train operations by UPRR.

Section 14. **EFFECTIVE DATE; TERM; TERMINATION**

A. This Agreement shall become effective as of the date first herein written, or the date work commences on the Project, whichever is earlier, and shall continue in full force and effect for as long as the Structure remains on UPRR’s property.

B. UPRR, if it so elects, may terminate this Agreement effective upon delivery of written notice to SBCTA in the event SBCTA does not commence construction on the portion of the Project located on the UPRR’s property within twenty-four (24) months from the date of this Agreement, or from the date that UPRR has executed this Agreement and returned it to SBCTA and STATE for its execution, whichever is applicable.

C. If the Agreement is terminated as provided above, or for any other reason, SBCTA shall pay to UPRR all actual costs incurred by UPRR in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by UPRR in connection with reviewing any preliminary or final Project Plans.

Section 15. **CONDITIONS TO BE MET BEFORE SBCTA CAN COMMENCE WORK**

A. Neither SBCTA nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

   (i) The Railroad, SBCTA and State have executed this Agreement.

   (ii) The Railroad has provided to SBCTA the Railroad’s written approval of the Plans.

   (iii) SBCTA and State have obtained all necessary governmental permits, zoning clearances and approvals including without limitation, those from the California Public Utilities Commission.

   (iv) Each Contractor has executed Railroad’s Contractor’s Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or
endorsements required under the Contractor’s Right of Entry Agreement.

(v) Each Contractor has given the advance notice(s) required under the Contractor’s Right of Entry Agreement to the Railroad Representative named in the Contractor’s Right of Entry Agreement.

B. The insurance coverage set forth in the Right of Entry Agreement shall remain in full force and effect by each Contractor during the performance of said work upon and adjacent to Railroad’s property and thereafter until the Contractor removes all tools, equipment and materials from Railroad property and cleans up the premises to a presentable condition satisfactory to Railroad.

C. SBCTA and each Contractor shall give the advance notice described in the Right of Entry Agreement to Railroad’s authorized representative before commencing any Project work on railroad’s property and shall observe Railroad’s rules and regulations with respect thereto. All work on Railroad’s property shall be done at such times and in such manner so as not to interfere with or endanger the operations of the Railroad.

Section 16. FUTURE PROJECTS

Future projects involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Roadway shall not commence until UPRR and STATE agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 17. ASSIGNMENT; SUCCESSORS AND ASSIGNS

A. This Agreement shall not be assigned without the prior written consent of the Parties.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of UPRR, SBCTA and State.

Section 18. TERMINATION OF ORIGINAL AGREEMENT

Upon the completion of the Roadway, the Original Agreement, if any, shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the Roadway and Crossing Area.
Section 19. **SPECIAL PROVISIONS PERTAINING TO AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (“BUY AMERICA”)**

UPRR acknowledges that if this Agreement is for a federal-aid project, all portions of these projects whether performed by SBCTA or UPRR shall be performed in compliance with 23 CFR 635.410 and 23 USC 313 as amended by Section 1518 of P.L. 112-141 Buy America Requirements. UPRR shall maintain documentation/certification of all products of iron, steel, or a coating of steel that are incorporated into the Project for a period of three (3) years after completion of all obligations under this Agreement. Within a reasonable time after SBCTA or State’s request, UPRR shall make such records available for SBCTA and/or State’s audit during UPRR’s regular business hours in its home office.

Section 20. **INDEMNITY**

A. As permitted under the law, SBCTA agrees to indemnify and hold harmless UPRR and agrees to repair or pay for any damage proximately caused by reason of the uses authorized by this Agreement and associated easements, licenses, rights of way or right of entry agreements.

B. The provisions of this Section 20 shall survive the completion of any work performed by SBCTA or the termination or expiration of this Agreement. In no event shall this Section or any other provision of this Agreement be deemed to limit any liability SBCTA may have to UPRR by statute or under common law.

Section 21. **TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

Section 22. **EXECUTION**

This Agreement may be executed in two counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

-------------------------Signatures on following page-------------------------
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in triplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID #94-6001323)

By: ___________________________
Printed Name: __________________
Title: __________________________

SBCTA’s signatures on following page
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY (SBCTA)

By: ______________________________________
Printed Name: Raymond W. Wolfe
Title: Executive Director

APPROVED AS TO FORM:

By: ______________________________________
Printed Name: Juanda L. Daniel
Title: SBCTA Assistant General Counsel

The State of California's signatures on following page
STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: ___________________________ TIAIRA T. MOERING
Chief, Office of Railroad and Utility
Relocations
Division of Right of Way and Land Surveys

APPROVED AS TO FORM AND PROCEDURES:

By: ___________________________
Attorney

Recommended for Approval:

By: ___________________________
GINA PIPPENGER
HQ Railroad Liaison
Division of Right of Way and
Land Surveys
EXISTING CROSSING AREA = 35,863 SF ±
NEW CROSSING AREA/STRUCTURE = 5,940 SF ±
ORIGINAL AGREEMENT AREA = 127,395 SF ±

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.
EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY
ONTARIO, SAN BERNARDINO COUNTY, CA
M.P. 526.2 - ALHAMBRA SUB.
MAP 34 CA V-35 / 11C
SCALE: 1" = 100
OFFICE OF REAL ESTATE
OMAHA, NEBRASKA DATE: 5/3/2023
RRM FILE: 04633-80

LEGEND:
EXISTING CROSSING AREA
NEW CROSSING AREA/STRUCTURE
ORIGINAL AGREEMENT AREA
UPRR CO. R/W OUTLINED

CADD FILENAME: 0463380.DCN
SCAN FILENAME: 0463380_CA3311C.PNG
EXHIBIT A-1

Structure's General Type, Size and Profile

REDACTED - SSI
SECTION 1 - CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad’s property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body’s use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad’s property without the Railroad’s written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad’s property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property and the right to cross the Crossing Area with all kinds of equipment. The Railroad further reserves the right to attach signal, communication or power lines to the Structure, provided that such attachments shall comply with Political Body’s specifications and will not interfere with the Political Body’s use of the Crossing Area.

E. So far as it lawfully may do so, the Political Body will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or
special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Structure and its appurtenances, or for the performance of any work in connection with the Project, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2 - CONSTRUCTION OF STRUCTURE

A. The Political Body, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

B. Except as may be otherwise specifically provided herein, the Political Body, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Structure and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the Structure and the railroad tracks. Upon completion of the Project, the Political Body shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

C. All construction work of the Political Body upon the Railroad's property (including, but not limited to, construction of the Structure and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering-Design of the Railroad or his authorized representative and in compliance with the Plans, the Railroad's Coordination Requirements set forth in Exhibit D and other guidelines furnished by the Railroad.

D. All construction work of the Political Body shall be performed diligently and completed within a reasonable time. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Political Body. The Political Body hereby assumes the risk of any such delays and agrees that no claims for damages on account of any delay shall be made against the Railroad by the Political Body and/or the Contractor.
SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4 - RAILROAD MAY USE CONTRACTORS TO PERFORM WORK

The Railroad may contract for the performance of any of its work by other than railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5 - MAINTENANCE AND REPAIRS

A. The Political Body, at its expense, shall maintain, repair and renew, or cause to be maintained, repaired and renewed, the entire Structure, including, but not limited to, the superstructure, substructure, piers, abutments, walls, approaches and all backfill, grading and drainage required by reason of the Structure, as well as all graffiti removal or overpainting involving the Structure.

B. The Railroad, at its expense, will maintain, repair and renew, or cause to be maintained, repaired and renewed, the rails, ties, ballast and communication and signal facilities owned by the Railroad beneath the Structure.

SECTION 6 - SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. Definitions. All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to
work of the Political Body shall include work both within and outside of the Railroad’s property.

B. **Entry on to Railroad’s Property by Political Body.** If the Political Body’s employees need to enter Railroad’s property in order to perform an inspection of the Structure, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad’s property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body’s employees, or damage to any property or equipment (collectively the “Loss”) that arises from the presence or activities of Political Body’s employees on Railroad’s property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad’s track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation,
supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(i) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws**. The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse and, to the extent it may lawfully do
so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Political Body will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice
President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering-Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Structure and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice.** Before commencing any work, the Political Body shall provide the advance notice that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried.
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anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 7 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the construction or reconstruction of the Structure has been completed.

SECTION 8 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 9 - BOOKS AND RECORDS

The books, papers, records and accounts of Railroad, so far as they relate to the items of expense for the materials to be provided by Railroad under this Project, or are associated with the work to be performed by Railroad under this Project, shall be open to inspection and audit at Railroad's offices in Omaha, Nebraska, during normal business hours by the agents and authorized representatives of Political Body for a period of three (3) years following the date of Railroad's last billing sent to Political Body.

SECTION 10 - REMEDIES FOR BREACH OR NONUSE

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Structure and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.
C. The Political Body will surrender peaceable possession of the Crossing Area and Structure upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 11 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.
EXHIBIT C

ESTIMATE OF FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD COMPANY

DESCRIPTION OF WORK: Engineering and other related services for work to be performed within railroad right of way. This includes project and construction management during construction activities in railroad right of way. All necessary railroad services will be billed at actual cost.

DATE: 3/27/2023

LOCATION: SUBDIVISION STATE:
Ontario Alhambra CA
DOT: 903147V

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TOTAL ESTIMATED COST: $65,000

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED, THE RAILROAD WILL BILL FOR ACTUAL COSTS AT THE CURRENT RATES EFFECTIVE THEREOF.

Flagging may be performed by a third-party contractor. Any flagging performed by a third-party contractor will be billed at said third-party contractor rate not included in the above estimate. Alternatively, the Agency may enter into a separate agreement with third-party contractor and will be responsible for all actual costs incurred.
EXHIBIT D
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT

RAILROAD COORDINATION REQUIREMENTS

1.01 DEFINITIONS

Agreement: Agreement that has been signed, or will be signed, between Railroad and Agency covering the construction and maintenance of the Project.
Agency: State of California Department of Transportation
AREMA: American Railway Engineering and Maintenance-of-way Association
Contractor: The contractor or contractors hired by the Agency to perform any project work on any portion of Railroad’s property and shall also include the Contractor’s subcontractors and the Contractor’s and subcontractor’s respective employees, officers and agents, and others acting under its or their authority.
MUTCD: Manual on Uniform Traffic Control Devices
Project: Agency’s Project Number ______________ covering the widening of an existing highway overpass
Railroad: Union Pacific Railroad Company
Railroad Project Representative: Railroad’s Manager of Industry and Public Projects for this Project (see Section 1.03)
Railroad MTM Representative: Railroad’s Manager of Track Maintenance for this Project (see Section 1.03)
Requirements: The Railroad Coordination Requirements set forth in this Exhibit.

1.02 DESCRIPTION

This Project includes construction work within Railroad’s right-of-way. These Requirements describe coordination with the Railroad when work by the Contractor will be performed upon, over or under the Railroad right-of-way or may impact current or future Railroad operations. The Contractor will coordinate with the Railroad while performing the work outlined in this Agreement and shall afford the same cooperation with the Railroad as it does with the Agency. All submittals and work shall be completed in compliance with these Requirements, Railroad guidelines and requirements, AREMA recommendations and/or as directed by the Railroad Local Representative and/or the Railroad MTM Representative.

1.03 UPRR CONTACTS

The Railroad Project Representative for this project is:

Nick Vineyard
909-222-5659
nvineyard@benesch.com

For Railroad flagging services and track work, contact the following Railroad MTM Representative:

Silvio Molina
402-618-3923
smolina@up.com

1.04 PLANS / SPECIFICATIONS

The plans and specifications for this Project, affecting the Railroad, are subject to the written approval by the Railroad. Changes in the plans made after the execution of the Agreement and/or the awarding of the
Project to the Contractor are subject to the prior review and written approval of the Agency and the Railroad. No construction work shall commence until final stamped plans and/or changes to final stamped plans have been reviewed and approved by the Railroad in writing. The Railroad's review and approval of the Agency's and/or Contractor's plans in no way relieves the Agency and Contractor from their responsibilities, obligations and/or liabilities under this Agreement, Agency's agreement with the Contractor for the Project and/or in the separate Contractor's Right of Entry Agreement referenced in Section 1.08. Railroad's approval will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of Agency's and/or Contractor's plans and that any reliance by the Agency or the Contractor with respect to such plans is at the risk of the Agency and the Contractor.

1.05 UTILITIES AND FIBER OPTICS

A. All installations shall be constructed in accordance with current AREMA recommendations and Railroad specifications and requirements. Railroad general guidelines and the required application forms for utility installations can be found on the Railroad website at http://www.uprr.com/reus/pipeline/install.shtml.

B. It shall be the responsibility of the Contractor, at its expense, to make arrangements directly with utility companies involving the protection, encasement, reinforcement, relocation, replacement, removing or abandonment in place of non-railroad facilities affected by the Project. Railroad has no obligation to supply additional Railroad property for non-railroad facilities affected by this Project, nor does the Railroad have any obligation to permit non-railroad facilities to be abandoned in place or relocated on Railroad’s property. Any facility and/or utility that crosses Railroad right of way must be covered under an agreement with the Railroad including, without limitation, any relocations of an existing facility and/or utility.

C. Any longitudinal fiber optic lines on Railroad right of way shall be treated as Railroad facilities. Project design may need to be altered to accommodate such facilities.

D. Any fiber optic relocations or protections that are required due to this Project will be at the Agency’s expense.

1.06 GENERAL

A. It is essential that the proposed construction shall be performed without interference to Railroad operations and in compliance with all applicable Railroad and Federal Railroad Administration rules and regulations. The Railroad shall be reimbursed by the Contractor or Agency for train delay costs and lost revenue claims due to any delays or interruption of train operations resulting from the Contractor’s construction or other activities.

B. Track protection is required for all work equipment (including rubber tired equipment) operating within 25 feet from nearest rail. All work shall be designed and executed outside the temporary construction clearance envelope defined in Section 1.12.

C. The Contractor is also advised that new facilities within the Project may be scheduled to be built by the Railroad and that certain Contractor’s activities cannot proceed until that work is complete. The Contractor shall be aware of the limits of responsibilities, allow sufficient time in the schedule for that work to be accomplished and shall coordinate its efforts with the Railroad.

1.07 RAILROAD OPERATIONS

A. The Contractor shall be advised that trains and/or equipment should be expected on any track, at any time, and in either direction. The Contractor shall communicate with the Railroad MTM Representative to improve the Contractor’s understanding of Railroad traffic volume and operation at the Project site. The Contractor’s bid shall be structured assuming intermittent track windows as defined in Section 1.07 C.
B. All Railroad tracks within and adjacent to the Project site are to be assumed as active and rail traffic over these facilities shall be maintained throughout the Project. Activities may include both through moves and switching moves to local customers. Railroad traffic and operations can occur continuously throughout the day and night on these tracks and shall be maintained at all times as defined herein. The Contractor shall coordinate and schedule the work so that construction activities do not interfere with Railroad’s operations.

C. Work windows for this Project shall be coordinated with the Agency or Contractor and the Railroad Project Representative and the Railroad MTM Representative. Types of work windows include Conditional Work Windows and Absolute Work Windows, as defined below:

1. **Conditional Work Window:** A period of time in which Railroad’s operations have priority over construction activities. When construction activities may occur on and adjacent to the railroad tracks within 25 feet of the nearest track, a Railroad flag person will be required. At the direction of the flag person, upon approach of a train and when trains are present on the tracks, the tracks must be cleared (i.e., no construction equipment, materials or personnel within 25 feet from the nearest active track or as directed by the Railroad MTM Representative). Conditional Work Windows are available for the project subject to Railroad’s local operating unit review and approval.

2. **Absolute Work Window:** A period of time in which construction activities are given priority over Railroad’s operations. During this time the designated Railroad track(s) will be inactive for train movements and may be fouled by the Contractor. Before the end of an Absolute Work Window, all Railroad tracks and signals must be completely operational for normal train operations. Also, all Railroad, Public Utilities Commission and Federal Railroad Administration requirements, codes and regulations for operational tracks must be complied with. Should the operating tracks and/or signals be affected, the Railroad will perform inspections of the work prior to placing the affected track back into service. Railroad flag persons will be required for construction activities requiring an Absolute Work Window. **Absolute Work Windows will generally not be granted.** Any request will require a detailed written explanation for Railroad review and approval.

### 1.08 RIGHT OF ENTRY, ADVANCE NOTICE AND WORK STOPPAGES

A. Prior to beginning any work within the Railroad right-of-way, the Contractor shall enter into an agreement with the Railroad in the form of the Contractor’s Right of Entry Agreement, attached as Exhibit E, or latest version thereof provided by the Railroad. There is a fee for processing of the agreement which shall be borne by the Contractor. The right of entry agreement shall specify working time frames, flagging, inspection and insurance requirements and any other items specified by the Railroad.

B. The Contractor shall give advance notice to the Railroad as required in the Contractor’s Right of Entry Agreement before commencing work in connection with construction upon or over Railroad’s right-of-way and shall observe the Railroad rules and regulations with respect thereto.

C. All work upon the Railroad right-of-way shall be done at such times and in such a manner as not to interfere with or endanger the operations of the Railroad. Whenever work may affect the operations or safety of trains, the method of doing such work shall first be submitted to the Railroad MTM Representative for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor, which requires flagging service or inspection service, shall be deferred until the flagging protection required by the Railroad is available at the job site. See Section 1.21 for railroad flagging requirements.

D. The Contractor shall make requests in writing to both the Railroad Project Representative and the Railroad MTM Representative for both Absolute and Conditional Work Windows, at least two weeks in advance of any work. The written request must include:

1. Description of work to be done.
2. The days and hours that work will be performed.
3. The exact location of the work and proximity to the tracks.
4. The type of window and amount of time requested.
5. The designated contact person for the Contractor.

The Contractor shall provide a written confirmation notice to the Railroad MTM Representative at least fifteen (15) days prior to commencing work in connection with the approved work windows when work will be performed within **25 feet of any track center line**. All work shall be performed in accordance with previously approved work plans.

E. Should a condition arise from, or in connection with, the work which requires immediate and unusual actions to be made to protect operations and property of the Railroad, the Contractor shall undertake such actions. If, in the judgment of the Railroad MTM Representative, such actions are insufficient, the Railroad MTM Representative may require or provide such actions as deemed necessary. In any event, such actions shall be at the Contractor’s expense and without cost to the Railroad. The Railroad or Agency have the right to order the Contractor to temporarily cease operations in the event of an emergency or if, in the opinion of the Railroad MTM Representative, the Contractor's operations may inhibit the Railroad's operations. In the event such an order is given, the Contractor shall immediately notify the Agency of the order.

### 1.09 INSURANCE

The Contractor shall not begin work within the Railroad's right-of-way until the Railroad has been furnished the insurance policies, binders, certificates and endorsements required by the Contractor’s Right-of-Entry Agreement, and the Railroad Project Representative has advised the Agency that such insurance is in accordance with such Agreement. The required insurance shall be kept in full force and effect during the performance of work and thereafter until the Contractor removes all tools, equipment, and material from Railroad property and cleans the premises in a manner reasonably satisfactory to the Railroad.

### 1.10 RAILROAD SAFETY ORIENTATION

All personnel employed by the Agency, Contractor and all subcontractors must complete the Railroad’s course “Property Access Training” and be registered prior to working on Railroad property. This training is available at [https://www.up.com/aboutup/community/safety/erailsafe/up-pat/index.htm](https://www.up.com/aboutup/community/safety/erailsafe/up-pat/index.htm). This training is required to be completed annually. The preceding training does not apply for longitudinal fiber optic installations.

### 1.11 COOPERATION

The Railroad shall cooperate with the Contractor in the scheduling of Project work with the understanding that Railroad’s train operations at the job site shall have priority over the Contractor’s activities.

### 1.12 CONSTRUCTION CLEARANCES

The Contractor shall abide by the twenty-one ft six inches (21.5) foot temporary vertical construction clearance defined in section 4.4.1.1 and fifteen (15) foot temporary horizontal construction clearance defined in section 4.4.1.2 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects. It shall be the Contractor's responsibility to obtain such guidelines from the Agency or Railroad.

Reduced temporary construction clearances, which are less than construction clearances defined above, will require special review and approval by the Railroad.

Any proposed variance on the specified minimum clearances due to the Contractor’s operations shall be submitted to the Railroad Project Representative through the Agency at least thirty (30) days in advance of the work. No work shall be undertaken until the variance is approved in writing by the Railroad Project Representative.
1.13 SUBMITTALS

A. Construction submittals and Requests for Information (RFI) shall be submitted per Section 3 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects.

B. The minimum review times, as indicated in tables 3-1 and 3-2 of Section 3.10 of the BNSF and UPRR Guidelines for Railroad Grade Separation Projects, should be anticipated for review of all submittals. Guidelines for Railroad Grade Separation Projects, should be anticipated for review of all submittals. The details of the construction affecting the Railroad tracks and property, not already included in the contract plans, shall be submitted by the Agency to the Railroad Project Representative for the Railroad’s review and written approval before such construction is undertaken. The Railroad shall not be liable to Agency, Contractor, and or any other person or entity if the Railroad’s review exceeds a four-week review time.

C. As Built Submittals shall be submitted per Section 3 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects.

1.14 MAINTENANCE OF PROPER DRAINAGE AND DAMAGE TO RAILROAD FACILITIES

A. The Contractor, at its expense, shall be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from the Contractor's operations and to repair and restore any Railroad property, tracks and facilities of Railroad and/or its tenants.

B. The Contractor must submit a proposed method of erosion control and have the method reviewed and approved by the Railroad prior to beginning any grading on the project site. Erosion control methods must comply with all applicable local, state and federal regulations.

1.15 SITE INSPECTIONS BY RAILROAD PROJECT REPRESENTATIVE, RAILROAD MTM REPRESENTATIVE OR RAILROAD'S CONTRACTOR

A. In addition to the office reviews of construction submittals, site observations will be performed by the Railroad Project Representative, Railroad MTM Representative or Railroad's Contractor at significant points during construction per Section 4.11 of BNSF and UPRR Guidelines for Railroad Grade Separation Projects.

B. Site inspections are not limited to the milestone events listed in the guidelines. Site visits to check the progress of work may be performed at any time throughout the construction process as deemed necessary by the Railroad.

C. A detailed construction schedule, including the proposed temporary horizontal and vertical clearances and construction sequence for all work to be performed, shall be provided by the Contractor to the Agency for submittal to the Railroad’s Project Representative for review and approval prior to commencement of work. This schedule shall also include the anticipated dates on which the above listed events will occur. This schedule shall be updated for all critical listed events as necessary but at least monthly so that site visits may be scheduled.

1.16 RAILROAD REPRESENTATIVES

A. Railroad representatives, conductors, flag persons or watch persons will be provided by the Railroad at the expense of the Agency or Contractor (as stated elsewhere in these bid documents) to protect Railroad facilities, property and movements of its trains and engines. In general, the Railroad will furnish such personnel or other protective services as follows:

1. When any part of any equipment or object, such as erection or construction activities, is standing or being operated within 25 feet, measured horizontally from centerline, of any track on which trains
may operate.

2. For any excavation below the elevation of track subgrade when, in the opinion of the Railroad MTM Representative, the track or other Railroad facilities may be subject to settlement or movement.

3. During any clearing, grubbing, excavation or grading in proximity to Railroad facilities which, in the opinion of the Railroad MTM Representative, may affect Railroad facilities or inhibit operations.

4. During any Contractor’s operations when, in the opinion of the Railroad MTM Representative, the Railroad facilities, including, but not limited to, tracks, buildings, signals, wire lines or pipe lines, may be endangered.

B. The Contractor shall arrange with the Railroad Local Representative to provide the adequate number of flag persons to accomplish the work.

1.17 WALKWAYS REQUIRED

Parallel to the outer side of each exterior track of multiple operated track and on each side of single operated track, an unobstructed continuous space suitable for trainman’s use in walking along trains, extending in width not less than fifteen feet (15’) perpendicular from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during working hours must be covered, guarded and/or protected as soon as practical. Walkways with railings shall be constructed by the Contractor over open excavation areas when in close proximity of track, and railings shall not be closer than 9’ perpendicular from the center line of tangent track or 9’ – 6” horizontal from curved track.

1.18 COMMUNICATIONS AND SIGNAL LINES

If required, the Railroad, at Agency's expense, will rearrange its communications and signal lines, grade crossing warning devices, train signals, tracks and facilities that are in use and maintained by Railroad forces in connection with its operation. This work by the Railroad will be done by its own forces or by contractors under a continuing contract and may or may not be a part of the work under this contract.

1.19 TRAFFIC CONTROL

The Contractor’s operations which control traffic across or around Railroad facilities shall be coordinated with and approved by the Railroad MTM Representative and shall be in compliance with the MUTCD.

1.20 CONSTRUCTION EXCAVATIONS; CALL BEFORE YOU DIG NUMBER

A. The Contractor shall be required to take special precautions and care in connection with excavating and shoring. Excavations for construction of footings, piers, columns, walls or other facilities that require shoring shall comply with requirements of OSHA, AREMA and Railroad “Guidelines for Temporary Shoring”.

B. In addition to calling the “811” number and/or the local “one call center”, the Contractor shall call the Railroad’s “Call Before Your Dig” number at least 48 hours prior to commencing work at 1-800-336-9193 during normal business hours (6:30 a.m. to 8:00 p.m. Central Standard Time, Monday through Friday, except holidays - also a 24 hour, 7 day a week number for emergency calls) to determine location of fiber optics. If a telecommunications system is buried anywhere on or near Railroad property, the Contractor will co-ordinate with the Railroad and the Telecommunication Company(ies) to arrange for relocation or other protection of the system prior to beginning any work on or near Railroad property. The determination of whether fiber optics will be affected by the Project shall be made during the initial design phase of the Project.

C. The Railroad does not allow temporary at grade crossings unless absolutely necessary and there is no
alternative route available to contractor to access the project site. Alternative plans should be considered to avoid crossing Railroad tracks at grade.

1.21 RAILROAD FLAGGING

Performance of any work by the Contractor in which person(s) or equipment will be within twenty-five (25) feet of any track, or that any object or equipment extension (such as, but not limited to, a crane boom) will reach within twenty-five (25) feet of any track, require railroad flagging services or other protective measures. The Contractor shall give an advance notice to the Railroad as required in the Contractor’s Right of Entry Agreement before commencing any such work, allowing the Railroad to determine the need for flagging or other protective measures which ensure the safety of Railroad’s operations, employees and equipment. Contractor shall comply with all other requirements regarding flagging services covered by the Contractor’s Right of Entry Agreement. Any costs associated with failure to abide by these requirements will be borne by the Contractor.

The estimated pay rate for each flag person is $1,400 per day for an 8-hour work day with time and one-half for overtime, Saturdays, Sundays; double time and one-half for holidays. Flagging rates are set by the Railroad and are subject to change due to, but not limited to, travel time, setup plus, per diem and rest time (if work is required at night).

1.22 CLEANING OF RIGHT-OF-WAY

The Contractor shall, upon completion of the work to be performed within the right-of-way and/or properties of the Railroad and adjacent to its tracks, wire lines and other facilities, promptly remove from the Railroad right-of-way all Contractor’s tools, implements and other materials whether brought upon the right-of-way by the Contractor or any subcontractors employee or agent of Contractor or of any subcontractor, and leave the right-of-way in a clean and presentable condition to the satisfaction of the Railroad.

1.23 CONTRACTOR’S RESPONSIBILITY OF SUPERVISION

The Contractor, at its expense, shall adequately supervise all work to be performed by the Contractor. Such responsibility shall not be lessened or otherwise affected by Railroad’s approval of plans and specifications, or by the presence at the work site of the Railroad Project Representative, Railroad MTM Representative or any other Railroad representative or Railroad contractor providing inspection services, or by the compliance by the Contractor with any requests or recommendations made by such representatives. The Contractor will give due consideration to suggestions and recommendations made by such representatives for the safety and protection of the Railroad’s property and operations.

1.24 USE OF EXPLOSIVES AT PROJECT SITE PROHIBITED

The Contractor’s use of explosives at the Project site is expressly prohibited unless authorized in advance in writing by the Railroad Project Representative.
EXHIBIT E

CONTRACTORS RIGHT-OF-ENTRY AGREEMENT
EXHIBIT E
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT
CONTRACTOR’S
RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the day of __________, 20________, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Railroad"); and ___________________________, a __________________________ corporation ("Contractor").

RECITALS:

Contractor has been hired by ____________________________ to perform work relating to ____________________________ (the “Work”) with all or a portion of such Work to be performed on property of Railroad in the vicinity of Railroad's Milepost __________ on Railroad's __________ [Subdivision or Branch] [at or near DOT No. __________] located at or near __________, in __________ County, State of __________, as such location is in the general location shown on the print marked Exhibit A, attached hereto and hereby made a part hereof, which Work is the subject of a contract dated __________ between Railroad and ____________________________.

Railroad is willing to permit Contractor to perform the Work described above at the location described above subject to the terms and conditions contained in this agreement.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority. For purposes of clarity, Contractor agrees that any CIC (defined below) hired by Contractor is a subcontractor of Contractor and therefore included in the defined term Contractor pursuant to the foregoing sentence.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the Work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND C.

The terms and conditions contained in Exhibit B and Exhibit C, attached hereto, are hereby made a part of this agreement.
ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any Work performed by Contractor (including without limitation any CIC), or any costs or expenses incurred by Railroad relating to this agreement.

B. Contractor shall coordinate all of its Work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):  

C. Contractor, at its own expense, shall adequately police and supervise all Work to be performed by Contractor and shall ensure that such Work is performed in a safe manner as set forth in Section 7 of Exhibit B. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's Work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the Work, or by Railroad's collaboration in performance of any Work, or by the presence at the Work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of Work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this agreement and continue until this agreement is terminated as provided in this agreement or until the Contractor has completed all Work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this agreement, and continue until _______________, unless sooner terminated as herein provided, or at such time as Contractor has completed its Work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its Work on Railroad's property.

B. This agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any Work and throughout the entire term of this Agreement, Contractor, at its expense, shall procure and maintain in full force and effect the types and minimum limits of insurance specified in Exhibit C of this agreement and require each of its subcontractors to include the insurance endorsements as required under Section 12 of Exhibit B of this agreement.

B. Not more frequently than once every two (2) years, Railroad may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

C. Upon request of Railroad, Contractor shall provide to Railroad a certificate issued by its insurance
carrier evidencing the insurance coverage required under Exhibit B.

D. Contractor understands and accepts that the terms of this Article are wholly separate from and independent of the terms of any indemnity provisions contained in this Agreement.

E. Upon request of Railroad, insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: Project No. 0463380

ARTICLE 8 - PRECONSTRUCTION MEETING.

If the Work to be performed by the Contractor will involve the Railroad providing any flagging protection (or if a CIC is approved to provide flagging protection pursuant to the terms set forth herein) and/or there is separate work to be performed by the Railroad, the Contractor confirms that no work shall commence until the Railroad and Contractor participate in a preconstruction meeting involving flagging procedures and coordination of work activities of the Contractor and the Railroad (and any CIC, as applicable.)

ARTICLE 9. DISMISSAL OF CONTRACTOR’S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad’s property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the Work on Railroad’s property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad’s property.

ARTICLE 10. ADMINISTRATIVE FEE.

Upon the execution and delivery of this agreement, Contractor shall pay to Railroad One Thousand Twenty Five Dollars ($1,025.00) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this agreement.

ARTICLE 11. CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad’s trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor’s modifications, negligence, or any other reason arising from the Contractor’s presence on the Railroad’s property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.
ARTICLE 12.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: ________________________________  
Title: ________________________________

(Name of Contractor)

By: ________________________________  
Name: ________________________________
Title: ________________________________
Phone: ________________________________
E-Mail: ________________________________
EXHIBIT A
TO
CONTRACTOR’S RIGHT OF ENTRY AGREEMENT

Exhibit A will be a print showing the general location of the work site.
EXISTING CROSSING AREA = 35,863 SF ±
NEW CROSSING AREA/STRUCTURE = 5,940 SF ±
ORIGINAL AGREEMENT AREA = 127,395 SF ±
EXHIBIT B
TO
CONTRACTOR’S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - RAILROAD FLAGGING - PRIVATE FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its Work and at least thirty (30) working days in advance of proposed performance of any Work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track.

B. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad’s track(s) at any time, for any reason, unless and until a Railroad approved flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures.

C. Contractor shall be permitted to hire a private contractor to perform flagging or other special protective or safety measures (such private contractor being commonly known in the railroad industry as a contractor-in-charge (“CIC”)) in lieu of Railroad providing such services or in concert with Railroad providing such services, subject to prior written approval by Railroad, which approval shall be in Railroad’s sole and absolute discretion. If Railroad agrees to permit Contractor to utilize a CIC pursuant to the preceding sentence, Contractor shall obtain Railroad’s prior approval in writing for each of the following items, as determined in all respects in Railroad’s sole and absolute discretion: (i) the identity of the third-party performing the role of CIC; (ii) the scope of the services to be performed for the project by the approved CIC; and (iii) any other terms and conditions governing such services to be provided by the CIC. If flagging or other special protective or safety measures are performed by an approved CIC, Contractor shall be solely responsible for (and shall timely pay such CIC for) its services. Railroad reserves the right to rescind any approval pursuant to this Section 1, Subsection C., in whole or in part, at any time, as determined in Railroad’s sole and absolute discretion.

D. If any flagging or other special protective or safety measures are performed by employees of Railroad and/or any contractor of Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor’s receipt of billing.

E. If any flagging or other special protective or safety measures are performed by Railroad or a CIC, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this agreement.

F. The provisions set forth in this subsection are only applicable for Flagging Services performed by employees of Railroad: the rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with labor agreements and schedules in effect at the time the Work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the Work is performed. One and one-half times the current hourly rate is
paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges. If flagging is performed by Railroad, reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five-day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least twenty-five (25) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the Work to be performed by Contractor caused by such railroad operations and Work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any Work to be performed by Contractor.
Section 4. **LIENS.**

Contractor shall pay in full all persons who perform labor or provide materials for the Work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such Work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such Work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. **PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall visit www.up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any Work until all such protection or relocation (if applicable) has been accomplished.

B. **IN ADDITION TO OTHER INDEMNITY PROVISIONS IN THIS AGREEMENT, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD RAILROAD HARMLESS FROM AND AGAINST ALL COSTS, LIABILITY AND EXPENSE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS’ FEES, COURT COSTS AND EXPENSES) ARISING OUT OF ANY ACT OR OMISSION OF CONTRACTOR, ITS AGENTS AND/OR EMPLOYEES, THAT CAUSES OR CONTRIBUTES TO (1) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATIONS SYSTEM ON RAILROAD'S PROPERTY, AND/OR (2) ANY INJURY TO OR DEATH OF ANY PERSON EMPLOYED BY OR ON BEHALF OF AN TELECOMMUNICATIONS COMPANY, AND/OR ITS CONTRACTOR, AGENTS AND/OR EMPLOYEES, ON RAILROAD'S PROPERTY. CONTRACTOR SHALL NOT HAVE OR SEEK RECOUSE AGAINST RAILROAD FOR ANY CLAIM OR CAUSE OF ACTION FOR ALLEGED LOSS OF PROFITS OR REVENUE OR LOSS OF SERVICE OR OTHER CONSEQUENTIAL DAMAGE TO A TELECOMMUNICATION COMPANY USING RAILROAD'S PROPERTY OR A CUSTOMER OR USER OF SERVICES OF THE FIBER OPTIC CABLE OR RAILROAD'S PROPERTY.**

Section 6. **PERMITS - COMPLIANCE WITH LAWS.**

In the prosecution of the Work covered by this agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the Work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. **SAFETY.**

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any Work on Railroad property performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the Work. Contractor shall, at a minimum, comply with Railroad's then current safety standards located at the below web address (“Railroad’s Safety Standards”) to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor
determines that any of Railroad's Safety Standards are contrary to good safety practices. Contractor shall furnish copies of Railroad's Safety Standards to each of its employees before they enter Railroad property.

http://www.up.com/cs/groups/public/@uprr/@suppliers/documents/up_pdf_nativedocs/pdf_up_supplier_safety_req.pdf

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any Work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the Work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

Section 8. INDEMNITY.

A. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS RAILROAD, ITS AFFILIATES, AND ITS AND THEIR OFFICERS, AGENTS AND EMPLOYEES (INDIVIDUALLY AN “INDEMNIFIED PARTY” OR COLLECTIVELY "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, INJURY, LIABILITY, CLAIM, DEMAND, COST OR EXPENSE (INCLUDING, WITHOUT LIMITATION, ATTORNEY’S, CONSULTANT’S AND EXPERT’S FEES, AND COURT COSTS), FINE OR PENALTY (COLLECTIVELY, "LOSS") INCURRED BY ANY PERSON (INCLUDING, WITHOUT LIMITATION, ANY INDEMNIFIED PARTY, CONTRACTOR, OR ANY EMPLOYEE OF CONTRACTOR OR OF ANY INDEMNIFIED PARTY) ARISING OUT OF OR IN ANY MANNER CONNECTED WITH (I) ANY WORK PERFORMED BY CONTRACTOR, OR (II) ANY ACT OR OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS OR EMPLOYEES, OR (III) ANY BREACH OF THIS AGREEMENT BY CONTRACTOR.

B. THE RIGHT TO INDEMNITY UNDER THIS SECTION 8 SHALL ACCRUE UPON OCCURRENCE OF THE EVENT GIVING RISE TO THE LOSS, AND SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY, EXCEPT WHERE THE LOSS IS CAUSED BY THE SOLE ACTIVE NEGLIGENCE OF AN INDEMNIFIED PARTY AS ESTABLISHED BY THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION. THE SOLE ACTIVE NEGLIGENCE OF ANY INDEMNIFIED PARTY SHALL NOT BAR THE RECOVERY OF ANY OTHER INDEMNIFIED PARTY.

C. CONTRACTOR EXPRESSLY AND SPECIFICALLY ASSUMES POTENTIAL LIABILITY UNDER THIS SECTION 8 FOR CLAIMS OR ACTIONS BROUGHT BY CONTRACTOR'S OWN EMPLOYEES. CONTRACTOR WAIVES ANY IMMUNITY IT MAY HAVE UNDER WORKER'S COMPENSATION OR INDUSTRIAL INSURANCE ACTS TO INDEMNIFY THE INDEMNIFIED PARTIES UNDER THIS SECTION 8. CONTRACTOR ACKNOWLEDGES THAT THIS WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES HERETO.

D. NO COURT OR JURY FINDINGS IN ANY EMPLOYEE’S SUIT PURSUANT TO ANY
E. THE PROVISIONS OF THIS SECTION 8 SHALL SURVIVE THE COMPLETION OF ANY WORK PERFORMED BY CONTRACTOR OR THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. IN NO EVENT SHALL THIS SECTION 8 OR ANY OTHER PROVISION OF THIS AGREEMENT BE DEEMED TO LIMIT ANY LIABILITY CONTRACTOR MAY HAVE TO ANY INDEMNIFIED PARTY BY STATUTE OR UNDER COMMON LAW.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the Work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the Work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this agreement shall be effective unless made in writing and signed by Contractor and Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the Work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any Work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" on the subcontractor's Commercial General Liability policy and Umbrella or Excess policies (if applicable) with respect to all liabilities arising out of the subcontractor's performance of Work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 10, and CG 20 37 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.
EXHIBIT C
TO
CONTRACTOR’S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Requirements For
Contractor’s Right of Entry Agreement

During the entire term of this Agreement and course of the Project, and until all Project Work on Railroad’s property has been completed and all equipment and materials have been removed from Railroad’s property and Railroad’s property has been clean and restored to Railroad’s satisfaction, Contractor shall, at its sole cost and expense, procure and maintain the following insurance coverage:

A. **Commercial General Liability** insurance. Commercial general liability (CGL) with a limit of not less than $5,000,000 each occurrence and an aggregate limit of not less than $10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing “Union Pacific Railroad Company Property” as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

B. **Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less $5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing “Union Pacific Property” as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

C. **Workers’ Compensation and Employers’ Liability** insurance. Coverage must include but not be limited to:

- Contractor’s statutory liability under the workers’ compensation laws of the state where the Work is being performed.
- Employers’ Liability (Part B) with limits of at least $500,000 each accident, $500,000 disease policy limit $500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen’s and Harbor Workers’ Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Railroad Protective Liability** insurance. Contractor must maintain “Railroad Protective Liability” (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than $2,000,000 per occurrence
and an aggregate of $6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

E. **Umbrella or Excess** insurance. If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.

F. **Pollution Liability** insurance. Pollution liability coverage must be included when the scope of the Work as defined in the agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least $5,000,000 per occurrence and an aggregate limit of $10,000,000.

If the scope of Work as defined in this agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of $1,000,000 per loss, and an annual aggregate of $2,000,000.

**Other Requirements**

G. All policy(ies) required above (except business automobile, worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 10, and CG 20 37 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall not be limited by Contractor's liability under the indemnity provisions of this agreement. BOTH CONTRACTOR AND RAILROAD EXPECT THAT UNION PACIFIC RAILROAD COMPANY WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORMS CG 20 10 AND CG 20 37.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed.

I. Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees for damages covered by the workers compensation and employers liability or commercial umbrella or excess liability obtained by Contractor required in this agreement where prohibited by law. This waiver must be stated on the certificate of insurance.

J. Prior to commencing the Work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this agreement.
K. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the Work is being performed.

L. The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.
GUIDELINES FOR TEMPORARY SHORING

EMAIL BEFORE YOU DIG
UP.COM/CBUD

EMERGENCIES
1-888-877-7267

CALL BEFORE YOU DIG
1-800-533-2891

EMERGENCIES
1-800-832-5452
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1. INTRODUCTION

1.1 PURPOSE

a. The purpose of these guidelines is to inform public agencies, design engineers, contractors and inspectors of current Railroad standards and requirements concerning design and construction of temporary shoring.

1.2 SCOPE

a. This guideline governs on the Railroad Right-of-Way. This includes the limits of property owned, controlled and/or operated upon by the Railroad.

b. All requirements addressed within this document shall constitute minimum requirements for all projects or works on the Railroad Right-of-Way. The applicability of each requirement for any given project will be subjected to the Railroad’s discretion.

c. Where laws or orders of authority prescribe a higher degree of protection or restriction than specified herein, the higher degree so prescribed shall control.

d. These guidelines supplement the current American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railway Engineering. For items covered within these guidelines and AREMA, the more restrictive shall control.

i. It is the requirement for the Contractor and designer developing Railroad shoring systems to have a copy of the AREMA Manual. Visit www.arema.org to obtain the Manual for Railway Engineering.

e. These guidelines supersede all previous Railroad guidelines for temporary shoring and are subject to revision without notice.

f. In addition to this guideline, all excavations shall also be governed by each individual Railroad requirements, Federal, State and Local laws, rules and regulations concerning construction safety.

g. These guidelines are provided as a reference and cannot be taken as authority to construct without prior review and written approval of the Railroad. See Section 2.9 for review process.

2. GENERAL CRITERIA

2.1 SAFETY & RAILROAD OPERATIONS

a. Projects shall be designed such that construction activities and phasing will not compromise safety nor impact Railroad operations.

b. Emergency Railroad phone numbers are to be obtained from a Railroad representative prior to the start of any work and shall be posted at the job site.

2.2 SHORING REMOVAL

a. The Contractor is responsible for planning and executing all procedures necessary to construct, maintain and remove the temporary shoring system in a safe and controlled manner.

2.3 RAILROAD FLAGGING

a. A flagman is required when any work is performed within 25 feet of track centerline. If the Railroad provides flagging or other services, the Contractor shall not be relieved of any responsibilities or liabilities as set forth in any document authorizing the work. No work is allowed within 50 feet of track centerline when a train passes the work site, and all personnel must clear the area within 25 feet of track centerline and secure all equipment when trains are present.
2.4 CALL BEFORE YOU DIG & EXISTING UTILITIES

a. Call Before You Dig: Appropriate measures for the installation and protection of fiber optic, or other cables, shall be addressed in the plans and contract documents. For specific Railroad requirements and additional information refer to:
   
   BNSF: [www.bnsf.com](http://www.bnsf.com) or call 1-800-533-2891.
   
   UPRR: [www.up.com/cbud](http://www.up.com/cbud)

b. Relocation of utilities or communication lines not owned by the Railroad shall be coordinated with the respective utility owners. Utility relocation plans must then be submitted to the Railroad utility representative(s) for review and prior approval must be secured before work can proceed. The Railroad will not be responsible for costs associated with any utility, signal, or communication line relocation or adjustments.

c. Abandonment of utilities must follow the UPRR Guidelines For Abandonment of Subsurface Utility Structures or the BNSF Utility Accommodation Policy.

2.5 APPLICANT & CONTRACTOR RESPONSIBILITIES

a. The Applicant and Contractor must verify with the Railroad’s Local Representative their receipt of the latest version of these guidelines prior to developing Construction Documents.

b. Construction shall NOT impact Railroad operations, functions and facilities:
   
i. The Applicant and Contractor shall develop design plans, including, without limitation, all procedures necessary to construct and maintain the proposed shoring project, which cause no interruption to Railroad operations during and after construction.
   
ii. Work shall also not impede drainage or other functions of the Railroad.
   
iii. Any rail traffic outages or curfews thought to be required for the installation or removal of any portions of a shoring system must be requested by submittal to the Railroad for prior consideration long in advance of mobilization and construction. Such requests may not be granted.
   
iv. Unapproved and unscheduled interruptions to Railroad operations may result in your removal from Railroad Right-of-Way, and your authorization to re-enter revoked.

c. Railroad approved design and construction plans:
   
i. The Contractor shall install the temporary shoring system per the plans approved by the Railroad.
   
ii. Any deviation from the Railroad approved plans requires resubmittal and prior approval by the Railroad prior to proceeding with said deviation. Approval from the Railroad may not be granted.

d. The Contractor must monitor the track, ground and shoring for movement. See Section 2.6 for monitoring.

e. The Applicant and Contractor shall be jointly responsible for the design, construction and performance of the temporary structure.

f. The Contractor must review the temporary shoring plans to ensure that the proposed method of construction is compatible with the existing site and soil conditions. Removal of the shoring system must also be addressed.

g. The Contractor must obtain a valid right of entry permit from the Railroad and comply with all Railroad requirements when working on Railroad property.

h. The Contractor is responsible to protect the Railroad ballast and subballast from contamination.

i. The Contractor shall comply with all State and Federal Laws, county or municipal ordinances and regulations which in any manner affect the work.

j. All removed soils will become the responsibility of the Contractor and shall be disposed of outside the Railroad Right-of-Way according to the applicable Federal, State and Local regulations.
k. The project engineer and the Contractor shall evaluate the quality of materials furnished and work performed.

l. The Applicant, at its expense, shall be solely responsible for all costs, design, construction, future replacement, maintenance, and serviceability of the proposed shoring project, except as noted otherwise in the Construction & Maintenance (C & M) Agreement with the Railroad.

m. The Applicant shall be responsible for obtaining all Federal, State, Local and other permits for construction of the shoring project.

i. The Engineer-of-Record shall be registered in the state of the project location. The Engineer-of-Record may be Applicant’s in-house staff or a consultant retained by the Applicant. The Contractor shall not employ the Engineer-of-Record as the Contractor’s Engineer-of-Record or as a specialty engineer, with the exception of design build projects.

n. The Applicant and/or the Engineer-of-Record have the ultimate responsibility and liability for the Construction Documents and liability for damages to Railroad property during and after construction of the shoring.

o. The Contractor is responsible to comply with the construction documents prepared by the Applicant. The Contractor shall comply with Railroad requirements stated in the C & M Agreement prior to the commencement of any construction. The Contractor shall develop work plans that ensure the track(s) remain open to train traffic per Railroad requirements as stated in the C & M Agreement and meet the requirements of the Railroad Right-of-Entry Agreement (if applicable).

p. The Applicant and Contractor is responsible for the security and safety of all people including the general public and trespassers, and the protection of Railroad infrastructure within the limits of the proposed shoring project. Any damage to Railroad property such as track, signal equipment or structure could result in a train derailment. All damages must be reported immediately to the Railroad Local Representative and to the local Railroad Track Maintenance Representative.

q. The Applicant and Contractor are required to meet all safety standards as defined by the Railroad, Federal Railroad Administration (FRA), Division of Occupational Safety and Health Administration (OSHA), Local, State and Federal Governments and the State Railroad Regulatory Body.

2.6 TRACK, GROUND & SHORING MONITORING:

The Contractor must monitor the track, ground and shoring for movement to ensure proper performance of the shoring system and the safe operation of trains. Record top of rail elevations and track alignment for the duration of the project. After the project is complete additional track and ground monitoring may be required as deemed necessary by the Railroad.

a. Track & Ground Monitoring requirements: In addition to Table 2:

   • For UPRR, see the Union Pacific Railroad Guidelines for Track & Ground Monitoring.
   • For BNSF, subject to direction of the BNSF project engineer for the project

ii. Deflection Limits (Table 2), Section 3.8k, for both track and shoring deflection limits.

   • Displacements exceeding the limits defined in Table 2 must be immediately reported to the Railroad. All work on the project must stop and the Railroad may take any action necessary to ensure safe passage of trains. The Contractor must immediately submit a corrective action plan to the Railroad for review and approval. The Railroad must review and approve the proposed repair procedure. The repair must be inspected by the Railroad before any work on the project can proceed.

b. Any damage to Railroad property such as track, signal equipment or structure could result in a train derailment. All damage must be reported immediately to the Railroad representative in charge of the project and to the Railroad Track Maintenance Representative.
2.7 RAILROAD RIGHT-OF-WAY

a. The Railroad Right-of-Way accommodates existing tracks, drainage systems, multiple utilities, access roads, Railroad support facilities and space for future track(s).

b. The proposed project shall not limit existing or future Railroad operating capacity and utility accommodations within the Railroad Right-of-Way.

c. Limits of Railroad Right-of-Way are to be located by the Applicant and identified on the plans.

2.8 CONSTRUCTION AND MAINTENANCE AGREEMENT

a. Prior to construction on Railroad Right-of-Way, Applicants must have an executed C & M Agreement with the Railroad.

b. The C & M agreement shall, at a minimum, include a funding source, cost estimate, insurance and indemnification requirements, method of payment, responsibility for design, construction, ownership, maintenance and future replacement.

c. The Applicant shall own, maintain and replace the proposed project at no cost to the Railroad and with no interruption to Railroad operations during construction, maintenance and future replacement of the structure.

d. The Railroad shall, at its own expense, be responsible for ownership and maintenance of ballast and track components only.

e. The Applicant shall provide, at no cost to the Railroad, traffic control and/or detours to allow occupation of the roadway by the Railroad or its contractor(s) to perform periodic inspections as required.

f. The Applicant is responsible for performing the work in accordance with the terms specified in the C & M Agreement.

2.9 RAILROAD REVIEW PROCESS

a. How to Communicate with the Railroad

i. All design and construction submittals shall be sent to the Railroad Representative who will pass them along for Railroad review.

b. Railroad Compensation Agreement:

i. Prior to any review, the Railroad Local Representative shall receive written notice from the Applicant agreeing to pay all costs associated with the Railroad’s (or its consultant’s) review of the design plans, construction documents and construction monitoring phase. This is often referred to as the Preliminary Engineering Agreement (PE Agreement).

ii. The estimated costs of such PE Agreement shall not be the upper limit of the costs but will provide a guideline for budgeting purposes. Regardless, all actual costs incurred by the Railroad (or its consultants) during the review of design plans, construction documents, and construction monitoring submittals shall be fully recoverable from the Applicant.

c. Railroad Review Duration

i. Review of design submittals and resubmittals by the Railroad (or its consultants) will require a minimum of 4 weeks each individual submission to the Railroad.

ii. To expedite the review process of the temporary shoring plans, drawings submitted to the Railroad shall be in accordance with these Guidelines. Otherwise, longer review times shall be expected.

iii. To avoid impacting the construction schedule, the Contractor should schedule submittals at least 4 to 6 months in advance.

iv. Partial, incomplete or inadequate designs will be rejected, thus delaying the approval.

v. Revised submittals will follow the same procedure as the initial submittal until all issues are resolved.
d. Applicant and Engineer of Record Review
   i. Before providing submittals for the Railroad to review, the applicant and or Engineer of Record must first review and approve the submittal for compliance with the project specifications, AREMA Manual, these Guidelines and structural capacity. Exceptions or proposed alternatives, if any, must be clearly communicated and identified for all submittals involved.
   ii. Drawings and calculations must be signed and stamped by a licensed professional engineer familiar with railway loadings and is licensed in the state where the shoring system is intended for use.

e. Construction May Commence Only When:
   i. The Contractor must not begin construction of any component of the shoring system affecting the Railroad Right-of-Way until written Railroad approval has been received.

2.10 APPROVAL EXPIRATION

a. Written approval of Final Plans will be valid for two years from the date of approval by the Railroad unless otherwise provided in the C&M Agreement. If construction of the approved structure has not begun within this period, the Railroad shall have the right to perform a design review, at the cost of the Applicant, to confirm compliance with the Railroad’s then-current Guidelines before a Railroad Right-of–Entry Agreement is issued to begin construction.

3. DESIGN

3.1 GENERAL DESIGN REQUIREMENTS

a. Shoring Zones (see Figure 1 below):
   i. All dimensions are measured perpendicular to the centerline of track.
   ii. For ALL excavations within Zone A, shoring plans shall be accompanied by design calculations.
   iii. All shoring within the limits of Zone A must be placed prior to the start of excavation.

![Figure 1](https://example.com/figure1.png)
b. **Excavation Limits:** No excavation shall be permitted closer than 15'-0” measured at a right angle from the centerline of track to the trackside of shoring system.

c. **Evaluate slope and stability conditions** to ensure the Railroad embankment will not be adversely affected. Local and global stability conditions must also be evaluated.

d. **Lateral clearances** must provide sufficient space for construction of the required Railroad ditches parallel to the standard Railroad roadbed section. The size of ditches will vary depending upon the flow and terrain and should be designed accordingly.

e. **Protect Open Excavations:**
   i. Any excavation, holes or trenches on the Railroad property shall be covered, guarded and/or protected. Handrails, fence, or other barrier methods must meet OSHA and FRA requirements. Temporary lighting may also be required by the Railroad to identify tripping hazards to train crewmen and other Railroad personnel.

f. **The most stringent project specifications shall be used** of the Public Utilities Commission Orders, Department of Industrial Safety, OSHA, FRA, AREMA, BNSF, UPRR or other governmental agencies.

g. **Secondhand material** is not acceptable unless the Engineer of Record submits a full inspection report which verifies the material properties and condition of the secondhand material. The report must be signed and sealed by the Engineer of Record.

h. **Shoring Removal:**
   i. All components of the shoring system are to be removed when the shoring is no longer needed to the extent that there is no impact to Railroad operations. All voids must be filled and compacted properly, and drainage facilities restored. See compaction requirements in **Section 3.5c**.
   ii. If the shoring cannot be completely removed, it shall be removed at least 3.0 feet below the final finished grade or at least 3.0 feet below the base of rail, whichever is lower, unless otherwise specified by the Railroad and only if approved by the Railroad.
   iii. No traffic during unsupported excavations resulting from shoring removal.

i. **Soldier piles** may be installed in predrilled holes if the requirements of AREMA, Vol. 2, Ch. 8, Article 28.5.4.3 and the following are met:
   i. Slurry and drilling fluid type materials are not acceptable as backfill for soldier piles in drilled holes.
   ii. Concrete and flowable backfill may be used but might prevent removal of the embedded piles. If width of the drilled hole will be relied on for passive resistance, the concrete backfill shall have a minimum compressive strength of 3,000 psi, and a minimum coverage of at least 3.0 inches between the edge of the pile and drilled hole.
   iii. Compacted pea gravel material is allowed as backfill if the groundwater level is below the bottom of the drilled hole, the diameter of the hole is at least 12 inches greater than the diagonal width of the pile, and the pea gravel is placed in successive lifts of 8 inches or less in thickness and either consolidated by vibrating the pile or being dry rodded between each lift. The design passive resistance shall be based on the lesser of that derived from either the surrounding subsurface soils or the pea gravel. The pea gravel shall be assumed to have a friction angle no greater than 34 degrees.
   iv. Temporary or permanent casing is used to support the sides of the drilled hole for holes drilled within 25 feet from centerline of track, or 2 times the hole diameter plus 15 feet from centerline of track, whichever is greater. The thickness and strength of the steel casing shall be sufficient to support the loads described in **Section 3.7**, and shall be specified on the plans.

j. **Tieback & Soil Nail Anchor Rods**
   i. Soil Nails are defined as drilled-in ground anchors that require ground and wall movement to occur before fully utilized, and Tiebacks are defined as tie rods and drilled-in ground anchors that are prestressed after installation.
ii. Tiebacks & Soil Nails are not approved to permanently retain Railroad embankment supporting tracks.

iii. Tiebacks & Soil Nails installed below active tracks shall be cased during anchor installation.

iv. Tiebacks & Soil Nails shall be installed a minimum of 6 feet below base of rail, unless comprised of fiberglass or fully removed after the shoring is no longer needed. Additionally, the upper surface of the grouted tieback or soil nail shall be no less than 3.5 feet below base of rail.

v. Tiebacks & Soil Nails shall be designed for gravity placement of grout unless pressure grouting can be proven to not cause an unacceptable risk of track heave.

vi. For shoring that will extend above existing grade, which will result in the shoring being backfilled with compacted fill, settlement of the backfill, and associated impacts to shoring and adjacent structures, shall be evaluated. If tieback tie rods will be installed within the compacted backfill, the tie rods shall be placed in the bottom of pipe sleeves that have sufficient diameter to prevent vertical loading on the tie rods from backfill settlement. The pipe sleeves shall also have sufficient strength to support overburden backfill and surcharge loads.

vii. The contractor is responsible for providing an approved test method to verify the capacity of anchored or tieback systems. The manufacturers recommendations for testing must be satisfied. Systems which support the Railroad embankment will be considered high risk in determining the percentage of elements to be proof tested.

viii. Cement-grouted anchors tiebacks shall be installed, tested and stressed in accordance with the project specifications, AREMA requirements, FHWA-IF-99-015, Geotechnical Engineering Circular 4, Ground Anchors and Anchored Systems.

k. The proximity of existing structures shall be evaluated when determining shoring installation methods. Installation of shoring by vibratory or impact hammers has the potential to cause dynamically induced subsidence of existing structures and track. The Railroad may dictate shoring installation methods as required on a case by case basis.

3.2 INFORMATION REQUIRED

a. Plans and calculations shall be submitted, signed and stamped by a Licensed Professional Engineer familiar with Railroad loadings and who is licensed in the state where the shoring system is intended for use. See Section 3.9 for requirements on plan submittals. In addition to plans and calculations, the following information is also required.

b. Field Survey
   i. The field survey shall be referenced to the centerline of track(s) and top of rail elevations. Existing grades and alignment of tracks and roads shall be surveyed. The location of existing utilities shall also be determined.

c. Drainage
   i. The drainage pattern of the site before and after construction should be analyzed and adequate drainage provisions should be incorporated into the plans and specifications. Consideration should be given to groundwater seepage as well as surface drainage.

   ii. Drainage provisions for backfill should be compatible with the assumed water conditions in design.


f. Structural Design Calculations – See Section 3.8, Structural Design Calculations.
3.3 DESIGN PROCEDURE

a. Shoring design should generally adhere to the following procedure:

   Step 1) Determine proposed excavation location and depth.
   Step 2) Establish subsurface and surface conditions at proposed shoring location. See Section 3.5 for requirements.
   Step 3) Select shoring type (see Section 3.6)
   Step 4) Determine Applied Loads
      - Lateral Driving Pressures on back side of shoring, which would consist of the following:
        o Earth pressure (Active, At-Rest, Apparent) (see Sections 3.7c.i, 3.7c.ii, and 3.7c.iii)
        o Surcharge pressures (see Section 3.7c.iv)
        o Hydrostatic pressure (see Section 3.7c.v)
      - Lateral Resisting Pressures on the front side of shoring, which would consist of the following:
        o Passive earth pressure (see Section 3.7d.i).
        o Passive earth pressure reductions (e.g., seepage uplift) (see Section 3.7d.ii)
        o Resisting loads from braces and tiebacks.
   Step 5) Perform Structural Design Calculations
      - Perform stability analysis to establish the minimum embedment depth of shoring and anchor/brace loads (see Section 3.8j).
        o For complex shoring designs, perform global and basal heave stability analyses (see Section 3.8j).
      - Verify deflection is within that allowable (see Section 3.8k).
      - Verify strength of structural elements are not exceeded (see Section 3.8i)

3.4 (Step 1) EXCAVATION LOCATION

a. See Figure 1, Section 3.1b for excavation limits.
   b. Shoring systems should be located as far from the Railroad track and structures as possible.

3.5 (Step 2) SUBSURFACE CHARACTERIZATION

a. Subsurface exploration.

   i. Sufficient borings shall be made along the length of the structure to determine, with a reasonable degree of certainty, the subsurface conditions. Irregularities found during the initial soil boring program may dictate that additional borings be performed.
   ii. In general, borings should be performed within 50 feet of the planned location of shoring, or closer as necessary. If the planned shoring is longer than 250 feet in length, additional borings shall be performed along the length of the shoring on an average spacing of 250 feet.
   iii. Borings shall be performed to a depth sufficient to fully characterize the soils adjacent to and below the proposed shoring.
   iv. Unless otherwise stated in these guidelines, subsurface investigation shall also be made in accordance with the provisions of AREMA, Vol. 2, Ch. 8, Part 22, Geotechnical Subsurface Investigation.

b. Type of backfill and backfill properties.

   i. Backfill is defined as material behind the wall, whether undisturbed ground or compacted fill, that contributes to the pressure against the wall.
ii. The compacted fill may be classified with reference to the soil types described in *AREMA Vol. 2, Ch. 8, Articles 5.2.5 and 5.3.2*. However, the unit weight used in design shall be representative of the actual unit weight of the material as measured by laboratory testing.

c. Backfill placement and compaction.

i. The compacted fill shall meet the latest version requirements of *Section 31.23.26 of the UPRR General Conditions and Specifications (UPRR)* or *BNSF Standard Construction Specifications (BNSF)*.

ii. No dumping of backfill material shall be permitted in such a way that the successive layers slope downward toward the wall. The layers shall be horizontal or shall slope downward away from the wall.

iii. If the wall is not free to rotate (i.e., is anchored or braced) and achieve an active condition during compaction of the backfill, the induced earth pressure due to compaction shall be evaluated. The assumed earth pressure shall be no less than the at-rest earth pressure (see *Section 3.7c.ii*).

d. Stress states and corresponding soil strength properties.

i. Saturated cohesive soils (clays and some silts) can reside in two different stress states while shoring is in service:
   - Undrained / Total Stress: A short-term condition where the undrained shear strength ($S_u$) of the soil should be used for analysis.
   - Drained / Effective Stress: A long-term condition where drained effective friction angle ($\phi'$) and effective cohesion ($c'$) of the soil should be used for analysis.

ii. It is impossible to accurately predict how long saturated cohesive soils will remain in an undrained / total stress state before pore pressures dissipate and the soil achieves a drained / effective stress state. For this reason, the Undrained Cohesive soil state shall only control for design when it results in a higher factor of safety for the shoring design than that estimated for the Drained Cohesive soil state. This will generally only be the case when the cohesive soils are relatively soft.

iii. It is noted that cohesive soils can also reside in an “unsaturated” state, where the soil can be characterized by an unsaturated shear strength. The unsaturated shear strength of a cohesive soil can vary drastically as its moisture content increases or decreases. Given the impossibility of predicting moisture content changes for soils exposed to weather and groundwater fluctuations, the unsaturated shear strength of the soil shall not be used for design.

iv. Saturated and unsaturated cohesionless soils (some silts, sands, and gravels) should be assumed to always reside in a drained / effective stress state.

e. A Geotechnical Report summarizing the existing and proposed subsurface conditions shall be provided by a Licensed Professional Engineer. The Geotechnical Report shall include:

i. Boring location plan showing the location of each boring in relation to tracks and the proposed shoring.

ii. Boring logs that indicate the elevation and depth of each layer of soil encountered, USCS classification of each layer of soil, an indication of whether the soil is fill or natural soil, the depth/elevation of groundwater, results of in-situ testing, index properties of the soil layers as determined by laboratory testing (e.g., moisture, density, sand content, plasticity, unconfined strength, etc.)

iii. Results of all laboratory testing. Laboratory testing shall include at a minimum: moisture content, density, unconfined compression tests on clay/rock, and direct shear or triaxial compression testing on soils to determine the effective cohesion and internal angle of friction.
iv. Recommended soil properties for the design of shoring for each layer of soil as follows:

- Top/bottom elevation of soil layer
- Moist (γ) and effective (γ′) unit weight
- Undrained shear strength (Su) of cohesive soils
- Effective cohesion (c′) and friction angle (ϕ′)
- Active and passive earth pressure coefficients
- Parameters for p-y curve generation, if necessary.

v. If required, allowable bearing capacity for spread footings.

vi. Compaction recommendations for backfill, optimum moisture content and maximum density of fill material, and design parameters for the compacted fill. See Sections 3.5b and 3.5c.

vii. Water table elevation to be assumed on both sides of the shoring system.

viii. Dewatering recommendations, as needed, and proposed flownets or zones of groundwater influence.

3.6 (Step 3) SHORING TYPES

a. Shoring/Trench Box is a prefabricated shoring system which is installed as the excavation progresses. This system is allowed in special applications only, typically where Railroad live load surcharge is not present unless it can be shown that the over excavation outside the box will be filled and compacted before the presence of Railroad live load.

b. Anchored systems with tiebacks are discouraged, as the tiebacks will be an obstruction to future utility installations and may also damage existing utilities. If used, see Section 3.1.j for design requirements for tiebacks and soil nails.

c. Sheet Pile Wall (Anchored) is a structure designed to provide lateral support for a soil mass and derives stability from passive resistance of the soil in which the sheet pile is embedded and the tensile resistance of tiebacks.

d. Sheet Pile Wall (Cantilevered) is a structure designed to provide lateral support for a soil mass and derives stability from passive resistance of the soil in which the sheet pile is embedded. Cantilever sheet pile walls shall be used only in granular soils or stiff clays. The maximum height of wall above the excavation line shall be 10 feet in Zone A (see Figure 1) and 12 feet in Zone B.

e. Soldier Pile with Lagging Wall (Anchored) is a structure designed to provide lateral support for a soil mass and derives stability from passive resistance of the soil/rock in which the soldier beam is embedded and from the tensile resistance of tiebacks. Soldier beams include steel H-piles, wide flange sections or other fabricated sections that are driven or set in drilled holes. Lagging refers to the members spanning between soldier beams.

f. Soldier Pile with Lagging Wall (Cantilever) is a structure designed to provide lateral support for a soil mass and derives stability from passive resistance of the soil/rock in which the soldier beam is embedded. The maximum height of the wall above the excavation line shall be 8 feet for Zone A (see Figure 1) and 12 feet for Zone B.

g. Braced Excavation is a structure designed to provide lateral support for a soil mass and derives stability from passive resistance of the soil in which the vertical members are embedded and from the structural capacity of the bracing members. For purposes of these guidelines, the vertical members of the braced excavation system include steel sheet piling or soldier beams comprised of steel H-piles, wide flange sections, or other fabricated sections that are driven or installed in drilled holes. Wales are horizontal structural members designed to transfer lateral loads from the vertical members to struts or rakers. Struts and rakers are structural compression members that support the lateral loads from the wales and transfer the load to either another side of a shored excavation (struts) or to a reaction pile/thrust block (raker).

h. Cofferdam is an enclosed temporary structure used to keep water and soil out of an excavation for a permanent structure such as a bridge pier or abutment or similar structure. Cofferdams may be
constructed of timber, steel, concrete or a combination of these. These guidelines consider cofferdams primarily constructed with steel sheet piles.

3.7 (Step 4) APPLIED LOADS AND CALCULATIONS

a. For shoring design submittal, all design criteria, temporary and permanent loading must be clearly stated in the design calculations and on the contract and record plans.

b. Applied loading will consist of driving pressures/forces on the back of the shoring and resisting pressures/forces on the front of the shoring.

- **Driving pressure** will generally consist of:
  - Active, At-Rest & Apparent pressures. *(Sections 3.7c.i, 3.7c.ii, 3.7c.iii)*
  - Surcharge *(Section 3.7c.iv)*
  - Hydrostatic pressures *(Section 3.7c.v)*.

- **Resisting pressure** will generally consist of:
  - Passive earth pressure *(3.7d.i)* and brace/tieback loading.

c. **Driving Pressures/Loads:**

  i. **Active Earth Pressure**

    - Use for cantilever walls and flexible walls with only one row of tiebacks/braces (i.e., flexible anchored bulkheads), if the minimum deflection criteria per AREMA Vol. 2, Ch. 8, Article 20.1.2.d is met. If the minimum deflection criteria for flexible anchored bulkheads is not met, use Apparent Earth Pressure for top-down shoring construction *(Section 3.7c.iii)*, and At-Rest Earth Pressure for walls that are backfilled *(Section 3.7c.ii)*.

    - The active earth pressure may be computed by the Rankine, Coulomb or Log-Spiral theories. The active earth pressure may also be based on general soil type per AREMA Vol. 2, Ch. 8, Part 20, Table 8-20-3 as provided in the *Appendix*.

    - For interface friction angles used for Coulomb and Log-Spiral theories, the interface friction angle shall not be greater than one-half of the effective friction angle of the soil, or that consistent with published values for specific types of soil in contact with either steel or concrete *(e.g., NAVFAC DM7.02, Chapter 3, Table 1)*.

    - The backslope of the retained soil shall be considered when calculating the active earth pressure.

    - See *Section 3.5b*. Subsurface Characterization, for further requirements for computing earth pressure from compacted backfill.
NON-COHESIVE SOILS

Level Backslope (Rankine)

\[ \sigma_{AH} = K_A \gamma z , \text{where } K_A = \tan^2 \left( 45 - \frac{\phi'}{2} \right) \]

Sloping Backslope (Rankine)

\[ \sigma_{AH} = K_A \gamma z \cos \beta , \text{where } K_A = \cos \beta \left( \frac{\cos \beta - \sqrt{\cos^2 \beta - \cos^2 \phi'}}{\cos \beta + \sqrt{\cos^2 \beta - \cos^2 \phi'}} \right) \]

COHESIVE SOILS & FRACTURED ROCK

Drained Cohesive & Fractured Rock - Level & Sloping Backslope (Rankine/Bell)

- Use these drained equations unless the undrained equations below result in greater earth pressures in the shoring design.

\[ \sigma_{AH} = K_A \gamma z - 2c' \sqrt{K_A} \]

\[ K_A = \tan^2 \left( 45 - \frac{\phi'}{2} \right) , \text{For Level Backslope} \]

\[ K_A = \cos \beta \left( \frac{\cos \beta - \sqrt{\cos^2 \beta - \cos^2 \phi'}}{\cos \beta + \sqrt{\cos^2 \beta - \cos^2 \phi'}} \right) , \text{For Sloping Backslope} \]
- **Effective Cohesion Note:** Effective cohesion shall be assumed to be zero, unless local experience by a Licensed Geotechnical Engineer indicates the fully softened strength of the clay will have an effective cohesion greater than zero.

- **Fractured Rock Note:** The active earth pressure for fractured rock and intermediate geomaterials (e.g., weak shales, sandstone, etc.) shall be based on either the rock mass effective cohesion and friction angle, or mass shear strength. The mass strength parameters shall be determine using a methodology that accounts for rock type, intact strength, spacing and conditions of joints, rock quality designation (RQD), geological strength index (GSI), and/or rock mass rating (RMR).

**Undrained Cohesive – Level Ground (Rankine/Bell)**

- Only use undrained when it results in a higher earth pressure in the shoring design. Otherwise use the Drained equations above.
- Assumes $\phi = 0$ and $c' = S_u$

$$\sigma_{AH} = \gamma z - 2S_u$$

or

$$\sigma_{AH} = K_A \gamma z \text{, where } K_A = 1 - \frac{2S_u}{\gamma z}$$

**Very Soft to Medium Clays/Silts**

- Where the Stability Number $N_s = \gamma H / S_{ub}$ is greater than 4, active earth pressure shall be estimated as the greater of that determined using the equations above for drained (effective) and undrained (total stress) conditions, or the equations directly below. The factor of safety against basal heave shall also be analyzed per Section 3.8j.ii. For $N_s > 6$, the global stability of the shoring shall also be evaluated by a limit-equilibrium method of slices per Section 3.8j.ii.

  - For $4 < N_s < 5.14$, $K_A = 0.22$
  - For $N_s > 5.14$ (Henkel, 1971), $K_A = 1 - \frac{4S_u}{\gamma H} + 2\sqrt{2} \frac{d}{H} \left( 1 - \frac{5.14S_{ub}}{\gamma H} \right) \geq 0.22$

Where:

- $S_u =$ Undrained strength of retained soil (lbf/ft$^2$)
- $S_{ub} =$ Undrained strength of soil below excavation base (lbf/ft$^2$)
- $\gamma =$ Total unit weight of retained soil (lbf/ft$^3$)
- $H =$ Total excavation depth (ft)
- $d =$ Depth of potential base failure surface below base of excavation (ft)

(The lessor of either the thickness of soft to medium stiff clay below the bottom of excavation, or the width of the excavation divided by the square root of 2. See Figure 3 below.)
ii. **At-Rest Earth Pressure.**

- Used for rigid walls (e.g., reinforced concrete walls) that deflect less than that indicated in Table 1.

**Table 1 - When to Use At-Rest Earth Pressure**

<table>
<thead>
<tr>
<th>Type of Backfill</th>
<th>Wall Deflection / Wall Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dense sand</td>
<td>0.001</td>
</tr>
<tr>
<td>Medium dense sand</td>
<td>0.002</td>
</tr>
<tr>
<td>Loose sand</td>
<td>0.004</td>
</tr>
<tr>
<td>Compacted Silt</td>
<td>0.002</td>
</tr>
<tr>
<td>Compacted lean clay</td>
<td>0.010</td>
</tr>
<tr>
<td>Compacted fat clay</td>
<td>0.010</td>
</tr>
</tbody>
</table>

(Clough & Duncan, 1991)

- At-Rest earth pressure shall also be used for walls that are restrained above the dredge line by braces/tiebacks and are backfilled with compacted fill. See also Section 3.8j.ii.
- At-Rest earth pressure shall be calculated as follows:

  **Level Ground**

  \[
  \sigma_{0H} = K_0 \gamma z, \text{ where } K_0 = (1 - \sin \phi')OCR^{(\sin \phi')}
  \]

  **Sloping Backslope**

  \[
  \sigma_{0H} = K_0 \gamma z (1 + \sin \beta)
  \]

  Where:

  - \(\sigma_{0H}\) – Horizontal At-Rest Earth Pressure (lbf/ft²)
  - \(K_0\) – At-Rest Earth Pressure Coefficient
  - \(\phi'\) – Effective Friction Angle (deg)
  - OCR – Over-Consolidation Ratio
  - \(\beta\) – Backslope Angle (deg)
iii. Apparent Earth Pressure

- Use for braced excavations with single or multiple levels of braces/tiebacks.
- Use equations determined per AREMA Vol. 2, Ch. 8, Article 28.5.4.1 or FHWA-IF-99-015, Sections 5.2.4 (sands), 5.2.5 (stiff to hard clays) and 5.2.6 (soft to medium clays).
- For braced excavations that bottom out in very soft to medium stiff clays/silts, where the Stability Number \( N_s = \gamma H / S_{ub} \) is greater than 4, the requirements of Section 3.7c.i for very soft to medium clays shall also apply if they control for design.

iv. Surcharge Loads

- Loads include but are not limited to: Railroad vertical and centrifugal loading, railroad service vehicles (HS-20 truck), roadway loading, fills placed above the top of shoring, construction equipment, crane pads, future grading and paving, structures, material storage piles, and snow.
- Dead load assumptions to be used for design:
  - Spoil pile: must be included assuming a minimum height of two feet of soil adjacent to the excavation.
  - Track: use 200 lbs/linear-ft for rails, inside guardrails and fasteners.
  - Roadbed: ballast, including track ties, use 120 lbs per cubic foot.
- For specific applications of the Cooper E80 live load, refer to Appendix 5.1, which illustrates Live Load Pressure Due to Cooper E80.
- Additional analysis for centrifugal force calculations as described in AREMA Vol. 2, Ch. 15, Article 1.3.6. Centrifugal Loads are required where shoring is located along the outer side of curved track and track curvature exceeds three degrees.
- Lateral pressure from to infinite and uniform surcharge load.
  - The surcharge can effectively be treated as another soil layer, whereby the vertical surcharge pressure is multiplied by the active or at-rest earth pressure coefficient as shown below:
    \[
    \sigma_{UA} = K_A q \quad \text{or} \quad \sigma_{U0} = K_0 q
    \]
    Where:
    - \( \sigma_{UA} \) – Uniform lateral surcharge pressure for active condition (lbf/ft²)
    - \( \sigma_{U0} \) – Uniform lateral surcharge pressure for at-rest condition (lbf/ft²)
    - \( K_A \) - Active earth pressure coefficient
    - \( K_0 \) – At-rest earth pressure coefficient
    - \( q \) - Uniform surcharge load (lbf/ft²)
- Lateral pressure from to point, line, uniform strip, and rectangular-area surcharge loads.
  - Equations shall be based on Boussinesq theory (i.e., elastic theory) and a rigid wall condition.
  - For point loads, see AREMA, Vol. 2, Ch. 8, Article 20.3.2.4.
  - For line loads, see AREMA, Vol. 2, Ch. 8, Article 20.3.2.3.
  - For rectangular loads, see NAVFAC DM7.02, Figure 11.
  - For uniform strip loads, see Case I (Cooper E80 loading parallel to walls) in Appendix 5.1, or AREMA, Vol. 2, Ch. 8, Article 20.3.2.2.
- Trial Wedge method per AREMA, Vol. 2, Ch. 8, Article C5.3.2 II may also be used.
v. Hydrostatic Pressure Due to Unbalanced Groundwater Levels.

- Hydrostatic pressure shall be assumed on secant/tangent pile and sheet pile shoring if the base of the excavation extends below the water table and no drainage system is installed behind the shoring.
- Weep holes are not considered an effective drainage system, unless the soil behind the shoring above the dredge line is uniformly free-draining granular material.

d. Resisting Pressures/Loads:

i. Passive earth pressure

- The passive earth pressure, $P_p$, below the excavation line may be computed by Rankine or Log-Spiral theories, but not the Coulomb theory.
- For Log-Spiral theory, the interface friction angle shall not be greater than one-half of the effective friction angle of the soil, or that consistent with published values for specific types of soil in contact with either steel or concrete.
- The passive earth pressure for cohesionless soils (sands, gravels and some silts), uncontrolled fill, and mixed layers of cohesive and cohesionless soil shall be calculated based on the effective friction angle of the soil.
- The passive earth pressure for cohesive (clay and some silts) soils and controlled backfill shall be calculated for the effective stress condition (see Section 3.5.d.i for definition), unless the resulting earth pressure for the total stress condition (i.e., $S_u$) is less.
- For conditions where the slope in front of the shoring slopes down and away from the wall, the slope in front of the wall shall be considered when calculating passive pressure. If the ground in front of the shoring slopes upwards away from the wall, the ground level shall be assumed to be level for analysis.
- For reference, Rankine equations are provided below:

$$K_P = \text{Passive Earth Pressure Coefficient}$$
$$\sigma_{PH} = \text{Horizontal Passive Earth Pressure (lbf/ft}^2)$$
$$\phi' = \text{Effective Friction Angle (deg)}$$
$$c' = \text{Effective cohesion (lbf/ft}^2)$$
$$S_u = \text{Undrained Shear Strength (lbf/ft}^2)$$
$$\gamma = \text{Moist Unit Weight of Soil (lbf/ft}^3)$$
$$z = \text{Depth Below Ground Surface (ft)}$$
$$\beta = \text{Front Slope Angle (deg)}$$

**NON-COHESIVE SOILS**

**Level Frontslope (Rankine)**

$$\sigma_{PH} = K_P \gamma z , \text{where } K_P = \tan^2 \left(45 + \frac{\phi'}{2}\right)$$

**Sloping Frontslope (Rankine)**

- Use only if ground is sloping down and away from shoring (i.e., $\beta$ is negative)

$$\sigma_{PH} = K_P \gamma z \cos \beta , \text{where } K_P = \cos \beta \left(\frac{\cos \beta + \sqrt{\cos^2 \beta - \cos^2 \phi'}}{\cos \beta - \sqrt{\cos^2 \beta - \cos^2 \phi'}}\right)$$
**COHESIVE SOILS & FRACTURED ROCK**

**Drained Cohesive & Fractured Rock - Level & Sloping Backslope (Bell’s)**

\[ \sigma_{PH} = K_p \gamma z + 2c' \sqrt{K_p} \]

\[ K_p = \tan^2 \left( 45 + \frac{\phi'}{2} \right), \text{For Level Frontslope} \]

\[ K_p = \cos \beta \left( \frac{\cos \beta + \sqrt{\cos^2 \beta - \cos^2 \phi'}}{\cos \beta - \sqrt{\cos^2 \beta - \cos^2 \phi'}} \right), \text{For Sloping Frontslope} \]

- Effective cohesion shall be assumed to be zero unless local experience by a Licensed Geotechnical Engineer indicates the fully softened strength of the clay will have an effective cohesion greater than zero.
- The passive resistance for fractured rock and intermediate geomaterials (e.g., weak shales, sandstone, etc.) shall be based on either the rock mass effective cohesion and friction angle, or mass shear strength. The mass strength parameters shall be determine using a methodology that accounts for rock type, intact strength, spacing and conditions of joints, rock quality designation (RQD), geological strength index (GSI), and/or rock mass rating (RMR).

**Undrained Cohesive – Level Ground (Rankine/Bell)**

- Only use undrained when it results in a lower earth pressure in the shoring design. Otherwise use Drained equations above.
- Assumes \( \phi = 0 \) and \( c' = S_u \)

\[ \sigma_{PH} = \gamma z + 2S_u \]

\[ \text{or} \]

\[ \sigma_{PH} = K_p \gamma z \text{ \ where \ } K_p = 1 + \frac{2S_u}{\gamma z} \]

- For soldier pile walls, the upper 1.5 pile/shaft diameters of passive resistance in soil below the excavation line shall be ignored per AREMA, Vol. 2, Ch. 8, Article 28.5.3.2.a.
- Allowable arching factors for soldier pile walls shall comply with AREMA, Vol. 2, Ch. 8, Article 28.5.3.2.a.
- As noted in Section 3.1i.ii above, the width of the drilled hole for a soldier pile shall not be assumed to provide passive resistance unless the concrete backfill has a minimum compressive strength of 3,000 psi, and a minimum coverage of at least 3.0 inches between the edge of the pile and drilled hole.
- P-y curve methods shall use a P-multiplier less than 1 to account for group effects on sheet and soldier pile walls when piles are spaced less than 3.5D apart on center, and for slopes in front of the wall.

**ii. Seepage pressures on bulkheads and cofferdams.**

- Where the imbalance of water levels results in water seeping under the bottom of shoring and upward into the excavation, the seepage pressures on the wall and base of excavation shall be based on flownet or equivalent analyses, and the passive resistance reduced accordingly. See AREMA, Vol. 2, Ch. 8, Article 20.3.5 or FHWA-IF-99-015 Section 5.2.9 for further detail.
3.8 **(Step 5) STRUCTURAL DESIGN CALCULATIONS**

a. Temporary shoring is defined by AREMA, Vol. 2, Ch. 8, Article 28.1.1, and is anticipated to be in service for not more than an 18-month period. Earth retention structures that are anticipated to be in service for more than 18 months shall be designed per AREMA as permanent structures.

b. Calculations shall be performed for each stage of construction, when one or more rows of braces/tiebacks are being implemented. The calculations shall be performed for each stage of excavation before the braces/tiebacks are installed for that stage.

c. Calculations shall be performed by one of two methods:

1. **Classical Method:** A sum of forces and moments analysis whereby driving and resisting pressures are balanced. Driving pressures are applied from the top to the bottom of the back side of the shoring. For braced excavations, Apparent earth pressure will be applied from the top down to the excavation line, and below the excavation line, Active earth pressure will be applied down to the bottom of the shoring on the back side of the shoring. Resisting pressures/forces are applied from the excavation line to the bottom of the front side of the shoring. To achieve an acceptable factor of safety for embedment, the passive resistance will be reduced as required in Section 3.8.j.i. It is noted that all AREMA requirements are based on an assumption that the Classical Method will be used for design.

2. **P-y Method:** A force-deflection analysis (i.e., Winkler beam analysis) whereby the soil below the excavation line on both sides of the shoring is characterized as springs. Driving earth pressures are generally only applied above the excavation line. However, surcharge loads are generally applied to the bottom of the shoring elements. Minimum embedment is based on the base of the shoring reaching fixity as required in Section 3.8.j.i.

d. Calculations shall be in English units. If Metric units are used, all controlling dimensions, elevations, design criteria assumptions, and material stresses shall be expressed in dual units, with English units to be in parentheses.

e. List all assumptions used to design the temporary shoring system, and provide references for equations, tables, figures, and design criteria obtained from design manuals and guidelines.

f. Computerized calculations and programs must clearly indicate the input and output data. List all equations used in determining the output.

g. Example calculations with values must be provided to support computerized output and match the calculated computer result.

h. Provide a simple free body diagram showing all controlling dimensions and applied loads on the temporary shoring system.

i. Documents and manufacturer’s recommendations which support the design assumptions must be included with the calculations.

j. **Embedment depth and stability.**

   i. The minimum depth of embedment is that required to balance driving and resisting pressures/loads.

   • The minimum factor of safety for balancing active and passive pressures shall be 1.5 (See AREMA, Vol. 2, Ch. 8, Article 20.5.1.a). The factor of safety is achieved by reducing the passive earth pressure resistance by a factor of 0.67. A calculated factor of safety based on shallow penetration into strong soil layer is not acceptable.

   • Note, some commercially available software packages add ~ 30% length to the embedment computed for moment equilibrium in order to achieve force equilibrium. This additional length added by the software is not the required factor of safety noted above. Additional embedment, beyond the 30% added by the software package, is required to achieve the specified factor of safety.
• The minimum embedment for p-y methods shall be based on both the shoring meeting the deflection limit criteria in Table 2 over the full height of the shoring, and a moment reversal (i.e., moment diagram passes through zero twice) being achieve below the excavation line.

ii. In special circumstances, as indicated in these guidelines, minimum embedment might also be controlled by basal heave or global stability.

• The minimum factor of safety against basal heave shall be 1.5 for temporary structures. See FHWA-IF-99-015, Section 5.8.2 for further details on methodology.

• The minimum factor of safety for global stability shall be 1.3 when using a limit-equilibrium method of slices. (See AREMA, Vol. 2, Ch. 8, Article 20.4.1.c). The global stability analyses shall consider failure surfaces that pass both below and through non-continuous shoring (e.g., soldier piles) located below the dredge line, as well as both through and behind wall anchors. See FHWA IF-99-015, Section 5.7.3 for further details on methodology.

• Global stability shall also be analyzed for slopes steeper than 2(H):1(V) that are above, adjacent or below shoring.

iii. Multiple tiers of shoring should not be used if the active wedge of the lower wall overlies the passive wedge of the upper wall.

• If there is active/passive overlap between tiers of shoring, or the shoring will be supporting an existing retaining wall, the effect of loading of the upper wall/shoring on the lower wall shall be evaluated. This will require estimating the bearing, sliding and/or passive resistance demand of the upper wall, and applying those demands in part or fully to the lower wall. In addition, any loading in front of or behind the upper wall that is not fully supported by the wall, would also need to be applied to the shoring. Lastly, a global stability analysis per Section 3.8j.ii shall be performed to determine the external stability of the multi-tiered wall/shoring system.

k. Deflection limits.

i. Calculated total deflections of any part of the temporary shoring system and top of rail elevation shall not exceed the criteria outlined in Table 2 Deflection Criteria. Include the accumulated elastic deflection of all of the wall elements (piles, anchors, lagging, walers, strut/raker restraints, etc.), as well as the deflection due to the passive deflection of the resisting soil mass.

Table 2 - Deflection Criteria

<table>
<thead>
<tr>
<th>Horizontal distance from shoring to track C/L measured at a right angle from track</th>
<th>Maximum horizontal movement of shoring system</th>
<th>Maximum acceptable horizontal or vertical movement of rail</th>
</tr>
</thead>
<tbody>
<tr>
<td>15’ &lt; S &lt; 18’</td>
<td>3/8”</td>
<td>1/4”</td>
</tr>
<tr>
<td>18’ &lt; S &lt; 25’</td>
<td>1/2”</td>
<td>1/4”</td>
</tr>
<tr>
<td>S &gt; 25’</td>
<td>1% of shoring height above excavation line</td>
<td>-</td>
</tr>
</tbody>
</table>

ii. Braced excavations should be designed for conditions in which the ground surface on all sides is relatively uniform in elevation. If the ground surface elevation varies significantly from one side of the excavation to the other, the deflection of the higher braced shoring towards the side with lower braced shoring shall be evaluated. This analysis would approximate that required for shoring supported by rakers, where the lower shoring acts as the raker thrust block, such that the passive deflection of the lower shoring is added to the higher shoring deflection and the resulting sum is verified to not exceed the deflection criteria in Table 2.
I. **Strength design.**

i. Shall be performed using the Service Load Design method. Allowable Stresses based on AREMA requirements are as follows:

- Structural Steel Allowable Stress: See AREMA, Vol. 2, Ch. 15, Section 1.4, Table 15-1-11. For common shoring components, generally 0.55 of the yield strength of the steel.
- Sheet Pile Sections: 2/3 of yield strength for steel. (AREMA, Vol. 2, Ch. 8, Article 20.5.7)
- Concrete: 1/3 of Compressive strength. (AREMA, Vol. 2, Ch. 8, Article 20.5.7)
- Anchor Rods: 1/2 of yield strength for steel. (AREMA, Vol. 2, Ch. 8, Article 20.5.7)

ii. AISC allowances for increasing allowable stress due to temporary loading conditions are not acceptable.

iii. Structures and structural members shall be designed to have design strengths at all sections at least equal to the required strengths calculated for the loads and forces in such combinations as stipulated in AREMA, Vol. 2, Ch. 8, Article 2.2.4b, which represents various combinations of loads and forces to which a structure may be subjected. Each part of the structure shall be proportioned for the group loads that are applicable, and the maximum design required shall be used.

iv. In braced excavations, the connections between struts and wales shall be designed to resist both axial demands as well as the vertical demands from the self-weight of the members and any incidental vertical loads applied during construction.

v. Stiffeners shall be provided at points of bearing concentrated load. (See AREMA Vol. 2, Ch.15, Article 1.7.7).

m. Gravity type temporary shoring systems must also be analyzed for settlement, overturning, sliding, bearing capacity per AREMA, Vol. 2, Ch. 8, Part 5, and global stability per the requirements in Section 3.8j.ii.

n. Anchor blocks and deadman for tiebacks shall be designed for a safety factor of 2.0, where safety factor is derived as the ratio of the net passive resistance (passive earth pressure minus active earth pressure) on the anchor block to the load on tie rod. To utilize the full allowable anchor capacity, the minimum length of the tie rod shall be as shown in Figure 4. If site constraints prevent the minimum length of tie rods from being implemented, the anchor capacity shall be reduced as indicated in Figure 4. For deriving anchor block capacity where minimum tie rod length is achieved, NAVFAC DM7.02 or CalTrans 2011 may be referenced.

i. For sheet and soldier pile deadman, p-y methods may be used. The sum of the estimated deflection of the deadman pile and shoring shall be less than that indicated in Section 3.8k.
For cohesionless soils, anchor resistance in each zone is as follows:

A - No anchor resistance available

B - Anchor block resistance is reduced by \( P_1 - P_A \)

\[
P_1 = \frac{1}{2} h^2 \gamma \tan^2 \left( 45^\circ + \frac{\phi}{2} \right)
\]

\[
P_A = \frac{1}{2} h^2 \gamma \tan^2 \left( 45^\circ - \frac{\phi}{2} \right)
\]

C - Anchor block achieves full resistance but pressure is increased on the wall by \( \Delta P_F \).

(See \( \Delta P_F \) force diagram in Theoretical Soil Mechanics, pgs. 232-233 or NAVFAC DMR2, Figure 201)

B + C - Anchor block resistance is reduced by \( P_2 - P_A \) and pressure is increased on the wall by \( \Delta P_F \).

D - Anchor block achieves full resistance without adding additional load to the wall

Cohesive Soil or Stratum of Cohesive Extending Below Anchor to Wall (Dismuke, 1991)
3.9 DESIGN PLAN REQUIREMENTS

a. Shoring design plans shall be in English units. If Metric units are used, all controlling dimensions, elevations, design criteria assumptions, and material stresses shall be expressed in dual units, with English units to be in parentheses. The shoring plans must completely identify the site constraints and the shoring system, and must be signed and stamped by a Licensed Professional Engineer, registered in the state where the work will be performed. Use the design templates provided in the appendix as an example to show the required information, specifications and drawings. The specific requirements of the plan submittals are as follows:

i. General plan view should show:
   - Railroad Right-of-Way and North arrow.
   - Position of all railroad tracks and identify each track as mainline, siding, spur, etc.
   - Spacing between all existing tracks.
   - Location of all access roadways, drainage ditches and direction of flow.
   - Contours of existing grade elevations.
   - Footprint of proposed structure, proposed shoring system and any existing structures if applicable.
   - Proposed horizontal construction clearances. The minimum allowable is 15 feet measured at a right angle from centerline of track. In curved track the temporary horizontal construction clearances shall increase either 6 inches total or 1.5 inches for every degree of curve, whichever is greater, per Section 4.4.1.2 of the BNSF-UPRR Guidelines for Railroad Grade Separation Projects.
   - Location of existing and proposed utilities.
   - Location of soil borings used for design.
   - Specifications for all elements of the proposed shoring.
   - Detailed view of shoring along with controlling elevations and dimensions.

   ii. Typical sections and elevations perpendicular to adjacent track alignment should show:
      - Top of rail and/or top of tie elevations for all tracks.
      - Offset from the outside face of shoring system to the centerline of all tracks at all changes in horizontal alignment.
      - All structural components, controlling elevations and dimensions of shoring system.
      - All drainage ditches and controlling dimensions.
      - All slopes, existing structures and other facilities which may surcharge the shoring system.
      - Location of all existing and proposed utilities.
      - Total depth of shoring system.

   iii. General notes:
      - For shoring with tiebacks/bracing, elevations for each temporary stage of shoring construction.
      - The assumed groundwater elevation.
      - The extent of the Zone A envelope as it overlies the proposed shoring.

   iv. Miscellaneous:
      - Project name, location, GPS coordinates, track owner, railroad line segment, milepost and subdivision in the title block.
      - A detailed construction sequence outlining the installation and removal of the temporary shoring system.
      - A description of the tieback installation including

   For shoring with tiebacks/bracing, elevations for each temporary stage of shoring construction.
   The assumed groundwater elevation.
   The extent of the Zone A envelope as it overlies the proposed shoring.

   Temporary overstress allowances are not acceptable.
   All timber members shall be Douglas Fir grade 2 or better.
   In-situ soil classification.
   Backfill soil classification.
   Soil properties used for design.
   Active and passive soil coefficients.
   Fill and backfill compaction criteria.
   Slopes without shoring shall not be steeper than 2 horizontal to 1 vertical.
   Dredge line elevation.
   Shoring deflection to be calculated and meet Railroad requirements.
   Rail, ground and shoring movement monitoring requirements.
drilling, casing, grouting, stressing information and testing procedures, anchor capacity, type of tendon, anchorage hardware, minimum unbonded lengths, minimum anchor lengths, angle of installation, tieback locations, spacing, and distance below bottom of tie.

- All details for construction of drainage facilities associated with the shoring system shall be clearly indicated.
- Details and descriptions of all shoring system members and connection details.
- Handrail and protective fence details along the excavation.
- Railroad and other “CALL BEFORE YOU DIG” numbers and web sites
- Construction clearance diagram.

4. DEFINITIONS

**Access Road:**
A road used and controlled by the Railroad for maintenance, inspection and repair.

**Applicant:**
Any party proposing a temporary retaining structure project on Railroad Right-of-Way or other Railroad operating location, regardless of track being active or out of service. Includes all agents working on behalf of the Applicant.

**AREMA:**

**AASHTO:**

**BNSF:**
Burlington Northern Sante Fe Railway

**C & M Agreement:**
A Construction and Maintenance Agreement that has been negotiated between the Railroad and the Applicant that addresses all the duties and responsibilities of each party regarding the construction of the proposed grade separation and the maintenance requirements after construction of the said structure.

**Construction Documents:**
Design plans and calculations, project and/or standard specifications, geotechnical report and drainage report.

**Construction Window:**
A timeframe in which construction or maintenance can be performed by the Contractor with the required presence of a Flagman.

**Contractor:**
The individual, partnership, corporation or joint venture and all principals and representatives (including Applicant’s subcontractors) with whom the contract is made by the Applicant for the construction of the Grade Separation Project.

**Crossover:**
A track connection which allows trains and on-track equipment to cross from one track to another.

**Engineer-of-Record:**
The licensed Professional Engineer that develops the criteria and concept for the project and is responsible for the preparation of the Plans and Specifications.
Final Plans:
100% plans signed & stamped by the Engineer-of-Record.

Flagman:
A qualified employee of the Railroad providing protection to and from Railroad operations per Railroad requirements.

Guidelines:
Information contained in this document or referenced in AREMA or AASHTO.

Grade Separation Project:
A project that includes an Overhead or Underpass Structure that crosses the Railroad Right-of-Way or other Railroad operating location regardless of track status being active or out of service.

Main Track:
A principle track, designated by Timetable or special instructions, upon which train movements are generally authorized and controlled by the train dispatcher. Main Track must not be occupied without proper authority.

Multiple Main Tracks:
Two or more parallel or adjacent Main Tracks.

Overhead Structure:
A Roadway and/or Trail Structure over the Railroad Right-of-Way.

Railroad Local Representative / Railroad Representative:
The individual designated by the Railroad as the primary point of contact for the project.

Railroad:
Refers to BNSF Railway and/or Union Pacific Railroad.

Railroad Track Maintenance Representative (UPRR=MTM, BNSF=RDM):
Railroad representative responsible for maintenance of the track and supporting subgrade.

Railroad Right-of-Entry Agreement:
An agreement between the Railroad and an Applicant or a Contractor allowing access to Railroad property.

Railroad Right-of-Way:
The limits of property owned, controlled and/or operated upon by the Railroad.

Shoofly:
A temporary track built to bypass an obstruction or construction site.

Siding:
A track connected to the Main Track used for storing or passing trains.

Timetable:
A Railroad publication with instructions on train, engine or equipment movement. It also contains other essential Railroad information.

Trail:
A pathway impacting Railroad Right-of-Way or other Railroad operating locations regardless of track status being active or out of service. This includes pedestrian, bicycle, approved motorized recreational equipment and equestrian uses.

Underpass Structure:
Railroad Structure over a Roadway and/or Trail.

UPRR:
Union Pacific Railroad
**Yard:**
A system of tracks of defined limits, other than main tracks and sidings, for storing and sorting cars and other purposes.

**Yard Limits:**
A portion of main track designated by “yard limit” signs and included in the timetable special instructions or a track bulletin.

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### 5. APPENDIX

#### 5.1 LIVE LOAD PRESSURE DUE TO COOPER E80 LOADING

![Diagram of Cooper E80 Load](image)

COOPER E80 LOAD

**Lateral Pressure due to Live Load**

\[ P_s = \frac{2q}{\pi} \left[ \tan \beta \cos (2 \times \frac{\beta}{2}) \right] \]

Calculated using the Boussinesq Strip Load Equation, \( \alpha \) and \( \beta \) are angles measured in radians.

**Ps for Track Parallel to Shoring**

\[ P_s = \frac{2q}{\pi} \left[ \tan \beta \cos (2 \times \frac{\beta}{2}) \right] \]

**Ps for Track Perpendicular to Shoring**

\[ P_s = K_a q \]

where \( K_a = \tan \left( 45 - \frac{\beta}{2} \right) \)

\( q \) is the intensity of strip load due to E80 Railroad live load and shall be calculated as follows:

- For \( H_s = 0 \),
  \[ q = \frac{80,000 \text{ lb}}{(5 \text{ feet})(9 \text{ feet})} = 1,778 \text{ psf} \]
- For \( H_s > 0 \),
  \[ q = \frac{80,000 \text{ lb}}{(5 \text{ feet})(L_d)} \]

**Not to Scale**

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UPRR & BNSF GUIDELINES FOR TEMPORARY SHORING, 12/7/2021
7.b

CHART – LIVE LOAD PRESSURE DUE TO E80 LOADING
This chart identifies the active pressure and resulting forces due to E80 liveload.
1. Select distance S from track centerline to face of shoring.
2. Select depth H2 below base of tie.
3. Read Ps, M, R and

𝑧̅ from the table.

𝑷𝒔 =

𝟐𝒒
𝝅

[𝜷 − 𝐬𝐢𝐧 𝜷 𝐜𝐨𝐬(𝟐𝜶)]

Attachment: 23-1002939 0R801 CM Vina Vista UPRR SBCTA (9618 : I-15 Express Lanes C&M Agreement with Union Pacific)

4. Use the procedure outlined in the sample problem to determine values at
non-tabulated points.
where q = 1778 psf

Boussinesq surcharge pressure E80 live load for H1=0

2

4

Variables

Ps



(psf)
(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)

Ps



(psf)

(lbs/ft)

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)

Ps



(psf)

(lbs/ft)

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)
(lbs/ft)

12
305

14
220

16
166

18
130

20
105

22
86

24
72

26
61

28
53

30
46

1.38
0.14
1.32
215
317

1.41
0.10
1.33
152
226

1.44
0.07
1.33
114
170

1.45
0.06
1.33
89
132

1.47
0.05
1.33
71
106

1.48
0.04
1.33
58
87

1.48
0.03
1.33
49
73

1.49
0.03
1.33
41
62

1.50
0.02
1.33
36
53

1.50
0.02
1.33
31
46

496
1.21
0.25
2.59
1,609
1,141

558
1.06
0.33
3.77
4,944
2,214

381

299

240

197

164

138

118

102

89

1.27
0.19
2.61
1,165
840

1.31
0.14
2.63
882
643

1.34
0.11
2.64
692
508

1.36
0.09
2.64
557
411

1.38
0.07
2.65
459
339

1.40
0.06
2.65
384
285

1.41
0.05
2.65
327
242

1.43
0.05
2.65
281
209

1.44
0.04
2.66
244
182

461

381

317

266

225

193

167

146

128

1.13
0.25
3.83
3,674
1,696

1.19
0.20
3.88
2,830
1,332

1.23
0.16
3.90
2,244
1,070

1.27
0.13
3.92
1,822
877

1.29
0.11
3.94
1,508
731

1.32
0.09
3.95
1,269
618

1.34
0.08
3.96
1,082
529

1.35
0.07
3.96
933
458

1.37
0.06
3.97
813
400

RA

6

Horizontal distance (S) from shoring to track CL measured at a right angle

FT

Depth below top of
shoring H2 (ft)

8

(psf)

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)

Ps



(psf)

(lbs/ft)

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)

Ps



(psf)

(lbs/ft)

535

476

414

358

309

268

234

205

181

160

0.94
0.37
4.84
10,481
3,316

1.02
0.29
4.97
8,006
2,641

1.08
0.24
5.06
6,286
2,134

1.13
0.19
5.11
5,051
1,751

1.17
0.16
5.16
4,141
1,456

1.21
0.14
5.19
3,452
1,228

1.24
0.12
5.21
2,920
1,047

1.26
0.10
5.23
2,501
903

1.29
0.09
5.24
2,165
786

1.30
0.08
5.26
1,892
689

474

449

411

370

329

293

260

232

207

186

0.83
0.38
5.81
18,145
4,328

0.92
0.32
6.02
14,227
3,571

0.99
0.26
6.16
11,385
2,964

1.04
0.22
6.26
9,280
2,482

1.09
0.19
6.34
7,689
2,099

1.13
0.16
6.39
6,463
1,792

1.17
0.14
6.44
5,502
1,544

1.19
0.12
6.47
4,736
1,341

1.22
0.10
6.50
4,117
1,175

1.24
0.09
6.52
3,610
1,037

404

403

386

360

331

302

274

248

225

204

0.75
0.38
6.68
27,703
5,207

0.83
0.33
6.97
22,237
4,424

0.90
0.28
7.18
18,121
3,763

0.96
0.24
7.34
14,980
3,214

1.01
0.20
7.46
12,550
2,762

1.06
0.18
7.55
10,641
2,389

1.10
0.15
7.61
9,121
2,080

1.13
0.13
7.67
7,895
1,823

1.16
0.12
7.71
6,894
1,608

1.18
0.11
7.75
6,068
1,427

D

10

Ps



12

14

16

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)

Ps



(psf)

(lbs/ft)

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)

Ps



(psf)

(lbs/ft)

(radians)
(radians)

z

(ft)

M
R

(ft-lbs/ft)
(lbs/ft)

338

351

349

337

319

298

276

255

234

215

0.68
0.38
7.46
38,880
5,948

0.76
0.33
7.85
31,856
5,178

0.83
0.28
8.13
26,395
4,499

0.89
0.25
8.35
22,116
3,913

0.94
0.22
8.51
18,729
3,414

0.99
0.19
8.64
16,021
2,990

1.03
0.17
8.74
13,831
2,631

1.07
0.15
8.82
12,043
2,327

1.10
0.13
8.89
10,568
2,068

1.13
0.12
8.94
9,339
1,847

280

301

310

308

300

286

271

254

237

220

0.62
0.36
8.17
51,411
6,563

0.70
0.32
8.64
42,880
5,829

0.77
0.28
9.01
36,066
5,158

0.83
0.25
9.29
30,598
4,560

0.88
0.22
9.51
26,183
4,034

0.93
0.20
9.68
22,590
3,576

0.97
0.18
9.82
19,644
3,179

1.01
0.16
9.93
17,207
2,837

1.04
0.14
10.03
15,175
2,540

1.07
0.13
10.10
13,468
2,284

UPRR & BNSF GUIDELINES FOR TEMPORARY SHORING, 12/7/2021

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Packet Pg. 143


### Depth below top of shoring \( H_2 \) (ft)

<table>
<thead>
<tr>
<th>Variables</th>
<th>12</th>
<th>14</th>
<th>16</th>
<th>18</th>
<th>20</th>
<th>22</th>
<th>24</th>
<th>26</th>
<th>28</th>
<th>30</th>
</tr>
</thead>
<tbody>
<tr>
<td>( P_s ) (psf)</td>
<td>231</td>
<td>256</td>
<td>271</td>
<td>277</td>
<td>276</td>
<td>269</td>
<td>259</td>
<td>247</td>
<td>234</td>
<td>220</td>
</tr>
<tr>
<td>( \alpha ) (radians)</td>
<td>0.57</td>
<td>0.64</td>
<td>0.71</td>
<td>0.77</td>
<td>0.82</td>
<td>0.87</td>
<td>1.02</td>
<td>0.96</td>
<td>0.99</td>
<td>1.02</td>
</tr>
<tr>
<td>( \beta ) (radians)</td>
<td>0.35</td>
<td>0.31</td>
<td>0.28</td>
<td>0.25</td>
<td>0.23</td>
<td>0.20</td>
<td>0.18</td>
<td>0.16</td>
<td>0.15</td>
<td>0.13</td>
</tr>
<tr>
<td>( z ) (ft)</td>
<td>8.80</td>
<td>9.37</td>
<td>9.81</td>
<td>10.16</td>
<td>10.44</td>
<td>10.67</td>
<td>10.85</td>
<td>11.00</td>
<td>11.12</td>
<td>11.22</td>
</tr>
<tr>
<td>( M ) (ft lbs/ft)</td>
<td>65,062</td>
<td>55,110</td>
<td>46,976</td>
<td>40,313</td>
<td>34,834</td>
<td>30,304</td>
<td>26,536</td>
<td>23,384</td>
<td>20,728</td>
<td>18,477</td>
</tr>
<tr>
<td>( R ) (lbs/ft)</td>
<td>7,072</td>
<td>6,386</td>
<td>5,739</td>
<td>5,145</td>
<td>4,609</td>
<td>4,132</td>
<td>3,710</td>
<td>3,338</td>
<td>3,012</td>
<td>2,725</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Depth below top of shoring ( H_2 ) (ft)</th>
<th>Variables</th>
<th>Horizontal distance (( S )) from shoring to track CL measured at a right angle</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>( P_s ) (psf)</td>
<td>191</td>
</tr>
<tr>
<td>( \alpha ) (radians)</td>
<td>0.52</td>
<td></td>
</tr>
<tr>
<td>( \beta ) (radians)</td>
<td>0.33</td>
<td></td>
</tr>
<tr>
<td>( z ) (ft)</td>
<td>9.37</td>
<td></td>
</tr>
<tr>
<td>( M ) (ft lbs/ft)</td>
<td>79,641</td>
<td></td>
</tr>
<tr>
<td>( R ) (lbs/ft)</td>
<td>7,949</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Depth below top of shoring ( H_2 ) (ft)</th>
<th>Variables</th>
<th>Horizontal distance (( S )) from shoring to track CL measured at a right angle</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>( P_s ) (psf)</td>
<td>159</td>
</tr>
<tr>
<td>( \alpha ) (radians)</td>
<td>0.49</td>
<td></td>
</tr>
<tr>
<td>( \beta ) (radians)</td>
<td>0.31</td>
<td></td>
</tr>
<tr>
<td>( z ) (ft)</td>
<td>9.89</td>
<td></td>
</tr>
<tr>
<td>( M ) (ft lbs/ft)</td>
<td>94,986</td>
<td></td>
</tr>
<tr>
<td>( R ) (lbs/ft)</td>
<td>7,842</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Depth below top of shoring ( H_2 ) (ft)</th>
<th>Variables</th>
<th>Horizontal distance (( S )) from shoring to track CL measured at a right angle</th>
</tr>
</thead>
<tbody>
<tr>
<td>28</td>
<td>( P_s ) (psf)</td>
<td>112</td>
</tr>
<tr>
<td>( \alpha ) (radians)</td>
<td>0.42</td>
<td></td>
</tr>
<tr>
<td>( \beta ) (radians)</td>
<td>0.28</td>
<td></td>
</tr>
<tr>
<td>( z ) (ft)</td>
<td>10.78</td>
<td></td>
</tr>
<tr>
<td>( M ) (ft lbs/ft)</td>
<td>127,485</td>
<td></td>
</tr>
<tr>
<td>( R ) (lbs/ft)</td>
<td>8,376</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Depth below top of shoring ( H_2 ) (ft)</th>
<th>Variables</th>
<th>Horizontal distance (( S )) from shoring to track CL measured at a right angle</th>
</tr>
</thead>
<tbody>
<tr>
<td>32</td>
<td>( P_s ) (psf)</td>
<td>69</td>
</tr>
<tr>
<td>( \alpha ) (radians)</td>
<td>0.35</td>
<td></td>
</tr>
<tr>
<td>( \beta ) (radians)</td>
<td>0.25</td>
<td></td>
</tr>
<tr>
<td>( z ) (ft)</td>
<td>11.85</td>
<td></td>
</tr>
<tr>
<td>( M ) (ft lbs/ft)</td>
<td>179,452</td>
<td></td>
</tr>
<tr>
<td>( R ) (lbs/ft)</td>
<td>8,904</td>
<td></td>
</tr>
</tbody>
</table>

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**GUIDELINE**

- 2021
- UPRR & BNSF GUIDELINES FOR TEMPORARY SHORING, 12/7/2021
### 5.3 TABLES FOR SOIL SPECIFICATIONS

#### Table 8-20.1. Granular Soils

<table>
<thead>
<tr>
<th>Descriptive Term for Relative Density</th>
<th>Standard Penetration Test Blows per Foot \textbf{“N”}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Loose</td>
<td>0 – 4</td>
</tr>
<tr>
<td>Loose</td>
<td>4 – 10</td>
</tr>
<tr>
<td>Medium</td>
<td>10 – 30</td>
</tr>
<tr>
<td>Dense</td>
<td>30 – 50</td>
</tr>
<tr>
<td>Very Dense</td>
<td>Over 50</td>
</tr>
</tbody>
</table>

#### Table 8-20.2. Silt and Clay Soils

<table>
<thead>
<tr>
<th>Descriptive Term for Consistency</th>
<th>Unconfined Compressive Strength Tons per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Soft</td>
<td>Less than 0.25</td>
</tr>
<tr>
<td>Soft</td>
<td>0.25 – 0.50</td>
</tr>
<tr>
<td>Medium</td>
<td>0.50 – 1.00</td>
</tr>
<tr>
<td>Stiff</td>
<td>1.00 – 2.00</td>
</tr>
<tr>
<td>Very Stiff</td>
<td>2.00 – 4.00</td>
</tr>
<tr>
<td>Hard</td>
<td>Over 4.00</td>
</tr>
</tbody>
</table>

#### Table 8-20.3. Unit Weights of Soils, and Coefficients of Earth Pressure

<table>
<thead>
<tr>
<th>Type of Soil</th>
<th>Unit Weight of Moist Soil, (\gamma) (Note 1)</th>
<th>Unit Weight of Submerged Soil, (\gamma’) (Note 1)</th>
<th>Coefficient of Active Earth Pressure, (K_a)</th>
<th>Coefficient of Passive Earth Pressure, (K_p)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum</td>
<td>Maximum</td>
<td>Minimum</td>
<td>Maximum</td>
</tr>
<tr>
<td>Clean Sand:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dense</td>
<td>110</td>
<td>140</td>
<td>65</td>
<td>78</td>
</tr>
<tr>
<td>Medium</td>
<td>110</td>
<td>130</td>
<td>60</td>
<td>68</td>
</tr>
<tr>
<td>Loose</td>
<td>90</td>
<td>125</td>
<td>56</td>
<td>63</td>
</tr>
<tr>
<td>Silty Sand:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dense</td>
<td>110</td>
<td>150</td>
<td>70</td>
<td>88</td>
</tr>
<tr>
<td>Medium</td>
<td>95</td>
<td>130</td>
<td>60</td>
<td>68</td>
</tr>
<tr>
<td>Loose</td>
<td>80</td>
<td>125</td>
<td>50</td>
<td>63</td>
</tr>
</tbody>
</table>

#### Notes:

1. In pounds per cubic foot.
2. These angles, expressed in degrees, are \(\phi\), the angle of internal friction, and \(\delta\), the angle of wall friction, and are used in estimating the coefficients under which they are listed.
3. The symbol \(\gamma\) represents \(\gamma\) or \(\gamma’\), whichever is applicable; \(P\) is the effective unit pressure on the top surface of the stratum; \(q_u\) is the unconfined compressive strength; \(w\) is the natural water content, in percentage of dry weight; and \(z\) is the depth below the top surface of the stratum.
6. REFERENCES

a. The following list of references used in these guidelines are placed here in alphabetical order for your convenience.


Minute Action

AGENDA ITEM: 8

Date: August 10, 2023

Subject:
Full Funding of the Interstate 10 Corridor Freight and Managed Lane Project

Recommendation:
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

Adopt Resolution No. 24-006 committing SBCTA to full funding of the Interstate 10 Corridor Freight and Managed Lane Project from Interstate 15 to Pepper Avenue, upon receipt of a $60 million 2023 Infrastructure for Rebuilding America / Mega grant from the U.S. Department of Transportation.

Background:
The Interstate 10 (I-10) Corridor Freight and Managed Lane Project is a collaborative effort by the San Bernardino County Transportation Authority (SBCTA) and the California Department of Transportation (Caltrans), the purpose of which is to improve efficiency, operations, and safety by taking a “managed lane” approach to 1) address a nationally significant freight bottleneck, and 2) provide incentives for use of transit and shared rides that do not currently exist. The segment extends from Interstate 15 (I-15) in the City of Ontario to Pepper Avenue in the City of Colton, a distance of 11.1 miles, and carries 240,000 vehicles, including 25,000 trucks, on a typical weekday through one of the busiest centers of logistics in the U.S.

This 60-year-old freeway segment has four lanes eastbound and four westbound, and the project will construct a new high-occupancy toll (HOT) lane, or “managed lane,” in each direction. It will also add two strategic auxiliary lanes and two eastbound acceleration lane extensions to improve truck operations and safety. Locations include: acceleration lane extensions eastbound (EB) at the Cherry Avenue on-ramp, acceleration lane extension EB at the Sierra Avenue on-ramp, and auxiliary lanes EB and westbound (WB) between the Riverside/Pepper interchanges, both of which are heavily impacted by trucks. Currently, EB queues of trucks and other traffic regularly extend from these interchanges all the way back to the I-10/I-15 interchange in the PM peak period. As noted in the resolution, the I-10/I-15 interchange is ranked the 10th most critical truck bottleneck in the U.S. by the American Transportation Research Institute.

The new managed lanes (also known as express lanes) on this segment will connect with the managed lanes currently under construction on I-10 west of I-15. The segment under construction is known as Contract 1, and the segment from I-15 to Pepper Avenue is known as Contract 2, though the full name of I-10 Corridor Freight and Managed Lane Project is used in most reports and communications. Together, these managed lanes will open up a new opportunity to incentivize transit, shared-ride vehicles, and zero-emission vehicles with faster and more reliable travel times, consistent with the intent of the State of California’s Climate Action Plan for Transportation Infrastructure (CAPTI).

Entity: San Bernardino County Transportation Authority
The I-10 Corridor Freight and Managed Lane Project is included in the 2021 10-Year Delivery Plan as a $796 million project, with a $530 million commitment of Measure I funding and a $180 million funding gap. In June 2023, SBCTA was able to secure a Trade Corridor Enhancement Program (TCEP) grant from the California Transportation Commission of $85 million, $10 million of which is devoted to charging/fueling infrastructure to be placed in the I-10 corridor for zero-emission trucks.

In 2022, SBCTA applied for $60 million in funding from the U.S. Department of Transportation’s (USDOT) Multimodal Project Discretionary Grant (MPDG) Program, with a specific request for funding from one of two MPDG sources: Infrastructure for Rebuilding America and Mega. This application did not receive an award, but it was listed as “Recommended” in the USDOT evaluation. The project is being resubmitted with the same $60 million request for the 2023 MPDG grant solicitation, which is due to USDOT by August 21, 2023.

One of the things that USDOT is looking for is that their funding contribution will help projects to complete their full funding plan. It is the sense of staff that SBCTA is in the best position if we request the same funding amount for 2023 as we did in 2022 and if we are able to commit as an agency that the requested $60 million will complete the full-funding picture. Filling in the remaining funding gap may require additional commitment of Measure I funding through bonding, and the financial analysis indicates that this is possible. It is important to stress to USDOT that the $60 million federal contribution is a critical last piece of the funding puzzle and will directly benefit the National Freight Network.

The attached Resolution No. 24-006 has been crafted to express SBCTA’s commitment to fully funding the project upon receiving the $60 million MPDG award. SBCTA Board of Directors (Board) approval of the resolution will send an added message to USDOT of the importance of the project to San Bernardino County and the region, while also stressing the national benefits of this project, as it is a key link in the global supply chain. It has been estimated that 50 percent of the interstate truck traffic into and out of Southern California passes through the I-10/I-15 interchange, which is at the west end of the proposed segment. It is a priority for our county, and it should be a priority for the federal government as well.

The resolution highlights some of the key components of the project, to include the operational and safety improvements for trucks, the managed lanes, the investment of charging/fueling infrastructure for zero-emission vehicles, and the bringing of this 60-year-old freeway up to current standards, in collaboration with Caltrans. The approval of this resolution will be conveyed to USDOT as part of the application.

Financial Impact:
This item has no financial impact on the Fiscal Year 2023/2024 Budget.

Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft resolution.

Responsible Staff:
Steve Smith, Director of Planning

San Bernardino County Transportation Authority
RESOLUTION NO. 24-006

WHEREAS, the 11.1 mile Interstate 10 (I-10) Corridor Freight and Managed Lane Project (I-10 PROJECT) between I-15 in Ontario and Pepper Avenue in Colton will provide critical operational and safety improvements for trucks in this nationally significant, highly congested freight corridor; and

WHEREAS, the I-10 PROJECT will also provide a new priced, managed lane (also known as a high-occupancy toll lane or HOT lane) in each direction, which for the first time will enable toll-free trips and much more reliable travel times to be provided for transit, vanpools, and 3+ person carpools serving historically disadvantaged communities, as well as enhancing mobility for businesses in the corridor and to Ontario International Airport; and

WHEREAS, the I-10 PROJECT also includes substantial new electric truck charging facilities and hydrogen fueling facilities for zero-emission trucks traversing this corridor to help accelerate the transition to clean trucks, improving air quality and providing additional job opportunities for historically disadvantaged communities in the corridor; and

WHEREAS, the I-10 PROJECT also includes significant geometric and safety improvements for this 60-year-old freeway (the oldest freeway in San Bernardino County), bringing the facility up to current standards, with construction being contained almost entirely within existing right-of-way without the taking of any residential or commercial structures; and

WHEREAS, the I-10 PROJECT will be ready to list for construction in late 2024; and

WHEREAS, the remaining funding gap for the $796 million I-10 PROJECT is $60 million and SBCTA is submitting a 2023 INFRA/Mega grant to USDOT to fill this last remaining funding gap; and

WHEREAS, completion of the I-10 PROJECT is critical to freight mobility for the county, the Southern California region, and the nation, to include improvements to traffic flow at the I-10/I-15 interchange, which has been designated the 10th most critical freight bottleneck in the United States by the American Transportation Research Institute.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Bernardino County Transportation Authority:

Given the high priority of this project and the substantial local and state funding already committed, the Board commits to full funding of the Interstate 10 Corridor Freight and Managed
Lane Project from Interstate 15 to Pepper Avenue, upon receipt of a $60 million 2023 INFRA/Mega grant from the U.S. Department of Transportation.

PASSED AND ADOPTED at a meeting of the San Bernardino County Transportation Authority held on September 6, 2023.

Dawn Rowe, President
San Bernardino County Transportation Authority

ATTEST:

Marleana Roman, Clerk of the Board
San Bernardino County Transportation Authority
**Minute Action**

AGENDA ITEM: 9

**Date:** August 10, 2023

**Subject:**
Interstate 10 Corridor Freight and Express Lanes Project - Contract 1 Traffic Enforcement Services Agreement with the California Highway Patrol

**Recommendation:**
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

A. Approve Agreement No. 23-1002972 with the California Highway Patrol for Interstate 10 Corridor Freight and Express Lanes Project – Contract 1 (Project) Traffic Enforcement Services in an amount not-to-exceed $1,500,000 with a contract term through September 7, 2028; and authorize the Executive Director, or his designee, to execute the final agreement subject to approval as to form by SBCTA General Counsel.

B. Approve a contingency for a not-to-exceed amount of $150,000 for Agreement No. 23-1002972; and authorize the Executive Director, or his designee, to release contingency as necessary for the Project Traffic Enforcement Services.

**Background:**
On January 4, 2018, San Bernardino County Transportation Authority (SBCTA) Board of Directors (Board) approved a Toll Facility Agreement (TFA) with the California Department of Transportation (Caltrans) granting SBCTA a lease of the state highway right-of-way for the operation and maintenance of the SBCTA Interstate 10 Corridor Freight and Express Lanes Project - Contract 1 (Project). Under the TFA, SBCTA is obligated to provide and pay for express lanes facilities law enforcement services.

A critical element to ensuring express lanes toll revenue goals are met is the enforcement of toll policies and toll violations. The proposed express lanes toll policies provide free tolls to high occupancy vehicles with three or more occupants (HOV 3+). Vehicles that are eligible for the HOV 3+ discount set their FasTrak® switchable transponder to 3+. Toll gantries are equipped with enforcement beacons that indicate the occupancy setting of a switchable transponder in the vehicle.

To discourage vehicles with less than three occupants from self-declaring as HOV 3+ and receiving discounted tolls, California Highway Patrol (CHP) officers will visually observe the enforcement beacon and number of occupants in the vehicle and issue citations to drivers who falsely declare as HOV 3+. In addition to occupancy enforcement, CHP will enforce other facility violations such as speeding, crossing in and out of the express lanes outside of the designated ingress/egress zones and vehicles with more than two axles. SBCTA staff will work closely with CHP to review monthly citation reports and adjust enforcement and deterrent tactics as appropriate.

The proposed agreement is a time and materials agreement that will be managed through the scheduling of CHP activity to ensure enforcement during peak periods when the loss of revenue would be the highest for HOV 3+ violations. The estimated annual contract value is $300,000 for a five-year not-to-exceed amount of $1,500,000.

*Entity: San Bernardino County Transportation Authority*
Financial Impact:
This item is consistent with the Fiscal Year 2023/2024 Budget under Task No. 0750 Express Lanes Operations, Sub-Task No. 0823 I-10 Corridor Phase 1.

Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel and Risk Manager have reviewed this item and the draft agreement.

Responsible Staff:
Philip Chu, Chief of Toll Operations
### Contract Summary Sheet

**Contract No:** 23-1002972  
**Amendment No.:** _____  

**Contract Class:** Payable  
**Department:**  
**Toll Operations**

**Vendor No.:** 00493  
**Vendor Name:** California Highway Patrol

**Description:** I-10 Express Lanes Enforcement Contract CHP 23R855000

**List Any Related Contract Nos.:**

**Dollar Amount**

<table>
<thead>
<tr>
<th>Description</th>
<th>Dollar Amount</th>
<th>Revenue Code Name</th>
<th>Original Contingency</th>
<th>Total Contingency Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract</td>
<td>$1,500,000.00</td>
<td>I-10 10 Enterprise</td>
<td>$150,000.00</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>Prior Amendments</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Prior Contingency Released</td>
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<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Current Amendment</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

**Total/Revised Contract Value:** $1,500,000.00  
**Total Dollar Authority (Contract Value and Contingency):** $1,650,000.00

**Estimated Start Date:** 09/06/2023  
**Expiration Date:** 09/07/2028  
**Revised Expiration Date:**

**NHS:** N/A  
**QMP/QAP:** N/A  
**Prevailing Wage:** N/A

**Board of Directors**  
**Date:** 09/06/2023  
**Committee**  
**Item #:**

**Contract Management (Internal Purposes Only)**

<table>
<thead>
<tr>
<th>Local</th>
<th>Services</th>
<th>N/A</th>
</tr>
</thead>
</table>

**Accounts Payable**

**Vendor Name:** California Highway Patrol  
**Description:** I-10 Express Lanes Enforcement Contract CHP 23R855000

**List Any Related Contract Nos.:**

**Philip Chu**  
**Project Manager (Print Name)**

**Tim Byrne**  
**Task Manager (Print Name)**

**Additional Notes:** Enforcement start date will change based on the opening date of the Express Lanes.
San Bernardino County Transportation Auth.
1170 W. Third Street, 2nd Floor
San Bernardino, CA 92410

Subject: Agreement Number 23R855000-0

Congratulations, you have been awarded the agreement. Please complete the following marked item(s) and return to the above address within ten (10) business days:

- STD. 213A, Standard Agreement Amendment. Sign the first page of the STD. 213A, sign the additional single STD. 213A, and return both copies.
- STD. 210, Short Form Contract. Sign and return both copies.
- STD. 204, Payee Data Record. Complete and return.
- CCC, Contractor Certification Clauses. Complete and return.
- Obtain and forward the liability insurance certificate required by the terms of the Agreement.
- Resolution, motion, order, or ordinance from the local governing body authorizing this Agreement. STD.
- 807, Payment Bond. Complete and return one copy.
- CHP 78V, Conflict of Interest & CHP 116, Darfur Certification
- Letter of Agreement. Sign and return both copies.

Contract status.

- The enclosed agreement is signed on behalf of the Department of California Highway Patrol. Process and when approved, return an original to this office.
- The enclosed approved agreement is for your records. You are now authorized to provide services.

KELLIE AU
Contract Analyst

Enclosures

Safety, Service, and Security

An Internationally Accredited Agency
1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

**CONTRACTING AGENCY NAME**
Department of California Highway Patrol

**CONTRACTOR NAME**
San Bernardino County Transportation Authority (SBCTA)

2. The term of this Agreement is:

START DATE
09/06/2023

THROUGH END DATE
09/07/2028

3. The maximum amount of this Agreement is:
$1,500,000.00 (One Million Five Hundred Thousand Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

<table>
<thead>
<tr>
<th>Exhibits</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>Scope of Work</td>
<td>2</td>
</tr>
<tr>
<td>Exhibit B</td>
<td>Budget Detail and Payment Provisions</td>
<td>1</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>General Terms and Conditions (4/2017)</td>
<td></td>
</tr>
<tr>
<td>Exhibit D</td>
<td>Special Terms and Conditions</td>
<td>1</td>
</tr>
</tbody>
</table>

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at [https://www.dgs.ca.gov/DLS/Resources](https://www.dgs.ca.gov/DLS/Resources)

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

**CONTRACTOR NAME** (If other than an individual, state whether a corporation, partnership, etc.)
San Bernardino County Transportation Authority (SBCTA)

**CONTRACTOR BUSINESS ADDRESS**
1170 W. 3rd Street, 2nd Floor

**CITY**
San Bernardino

**STATE**
CA

**ZIP**
9241

PRINTED NAME OF PERSON SIGNING

TITLE

**CONTRACTOR AUTHORIZED SIGNATURE**

DATE SIGNED

---

**STATE OF CALIFORNIA**

**CONTRACTING AGENCY NAME**
Department of California Highway Patrol

**CONTRACTING AGENCY ADDRESS**
601 North 7th Street

**CITY**
Sacramento

**STATE**
CA

**ZIP**
9581

PRINTED NAME OF PERSON SIGNING

TITLE

**CONTRACTING AGENCY AUTHORIZED SIGNATURE**

DATE SIGNED

**CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL**

EXEMPTION (IF Applicable)
CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<table>
<thead>
<tr>
<th>Contractor/Bidder Firm Name (Printed)</th>
<th>Federal ID Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed

Executed in the County of

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

   a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

   b. Establish a Drug-Free Awareness Program to inform employees about:

      1) the dangers of drug abuse in the workplace;
      2) the person's or organization's policy of maintaining a drug-free workplace;
      3) any available counseling, rehabilitation and employee assistance programs; and,
      4) penalties that may be imposed upon employees for drug abuse violations.

   c. Every employee who works on the proposed Agreement will:

      1) receive a copy of the company's drug-free workplace policy statement; and,
      2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the
certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES $50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full-time attorneys in the firm’s offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:
   a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

   b. The contractor agrees to cooperate fully in providing reasonable access to the contractor’s records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,
or the Department of Justice to determine the contractor’s compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of $100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of $100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

**DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

   **Current State Employees (Pub. Contract Code §10410):**

   1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

   2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

   **Former State Employees (Pub. Contract Code §10411):**

   1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

   2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))
2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
   a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
   b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
   c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.
EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. The Contractee, San Bernardino County Transportation Authority (SBCTA) agrees to reimburse the Department of California Highway Patrol (CHP) for costs associated with the I-10 Express Lanes traffic enforcement services during peak commute hours, support from uniformed and non-uniformed personnel for the gathering, preparation, processing and submission of enforcement related documents, statistical data, billing and additional documents as required related to enforcement provided by the CHP Rancho Cucamonga Area office.

2. The services shall be provided during:

   The hours of duty performed by CHP officer(s) under this Agreement are those mutually agreed upon by the CHP Contract Coordinator and SBCTA. Any changes to the proposed plan such as additional hours, dates, and sites for traffic enforcement can be requested and/or on an “as needed” basis and must be mutually agreed upon by the local CHP command and SBCTA.

3. The project representatives during the term of this agreement will be:

<table>
<thead>
<tr>
<th>STATE AGENCY</th>
<th>CONTRACTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of California Highway Patrol</td>
<td>San Bernardino County Transportation Authority</td>
</tr>
<tr>
<td>NAME</td>
<td>NAME</td>
</tr>
<tr>
<td>Sgt. Dan Howard, Rancho Cucamonga Area office</td>
<td>Phillip Chu, Toll Operations</td>
</tr>
<tr>
<td>TELEPHONE NUMBER</td>
<td>EMAIL</td>
</tr>
<tr>
<td>909-980-3994          <a href="mailto:dhoward@chp.ca.gov">dhoward@chp.ca.gov</a></td>
<td>909-884-8276</td>
</tr>
</tbody>
</table>

Direct all inquiries to:

<table>
<thead>
<tr>
<th>STATE AGENCY</th>
<th>CONTRACTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of California Highway Patrol</td>
<td>San Bernardino County Transportation Authority</td>
</tr>
<tr>
<td>SECTION/UNIT</td>
<td>SECTION/UNIT</td>
</tr>
<tr>
<td>Business Services Section/Contract Services Unit</td>
<td>Business Services Section/Contract Services Unit</td>
</tr>
<tr>
<td>ATTENTION</td>
<td>ATTENTION</td>
</tr>
<tr>
<td>Kellie Au, Contract Analyst</td>
<td>Kellie Au, Contract Analyst</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>ADDRESS</td>
</tr>
<tr>
<td>601 North 7th Street</td>
<td>1170 W. 3rd Street, 2nd Floor</td>
</tr>
<tr>
<td>Sacramento, CA 95811</td>
<td>San Bernardino, CA 92410</td>
</tr>
<tr>
<td>TELEPHONE NUMBER</td>
<td>EMAIL</td>
</tr>
<tr>
<td>(916) 843-3610          <a href="mailto:kellie.au@chp.ca.gov">kellie.au@chp.ca.gov</a></td>
<td>909-884-8276</td>
</tr>
</tbody>
</table>
EXHIBIT A
(Standard Agreement)

SCOPE OF WORK (Continued)

5. Detailed description of work to be performed:

A. CHP Rancho Cucamonga Area office shall provide CHP officer(s) with vehicles and coordinate all traffic enforcement. Should the CHP Rancho Cucamonga Area be unable to fill the necessary staffing, the shortage of CHP Officers will be utilized from out-of-Area uniformed personnel.

B. The traffic enforcement service to be performed by CHP officer(s) under this Agreement, including the standards of performance, discipline, and control thereof, shall be the responsibility of CHP.

C. It is understood by SBCTA that billing of CHP officer(s) time shall be from portal to portal (CHP Area office to the service location and return to CHP Area office) except as specified in Item D.

D. If the CHP officer(s) has reported to the assigned location and has worked less than four (4) hours, SBCTA agrees to pay every assigned CHP officer(s) a minimum of four (4) hours overtime. Exception: This does not apply to those cases when the hours worked is part of an extended shift.

E. If the CHP officer(s) report(s) to the assigned service location and if for any reason CHP reassigns the officer(s) away from the service location, SBCTA will be billed only for the officer(s) actual time incurred from the CHP Area office to the service location and for the time spent at the assigned service location covered under this Agreement.

6. CANCELLATION

A. SBCTA shall not be charged for service cancellations made more than 24 hours prior to the scheduled assignment.

B. SBCTA agrees that if service cancellation is made within 24 hours prior to the scheduled assignment and the assigned CHP officer(s) cannot be notified of such service cancellation, a minimum of four (4) hours overtime shall be charged for each assigned CHP officer.

C. SBCTA agrees that if service cancellation is made within 24 hours prior to the scheduled assignment and CHP officer(s) is notified of such service cancellation, SBCTA shall only be charged a short notice service cancellation fee of $50.00 per assigned CHP officer(s).

D. All service cancellation notices to CHP must be made during normal CHP business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays.

E. The CHP agrees to make reasonable efforts to notify the assigned CHP officer(s) of the service cancellation.
EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

A. The CHP shall provide SBCTA with an itemized invoice which details all CHP costs for traffic enforcement services under this Agreement. This invoice shall include the following:

   Monthly itemized invoices will be submitted to:

   San Bernardino County Transportation Authority
   1170 W. 3rd Street, 2nd Floor
   San Bernardino, CA 92410

   SBCTA agrees to pay CHP within thirty (30) days after the date of the invoice.

B. In consideration for the traffic control services contained herein, SBCTA agrees to reimburse the CHP upon receipt of an itemized invoice. SBCTA agrees to reimburse the CHP for the actual costs incurred at the time services are provided. The rates indicated in this agreement are for estimate purposes only. It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and/or statute and that no advance written notification is necessary prior to implementing the increased rates. In the event CHP is granted a rate increase, SBCTA agrees to pay the increased rate. The following information are the CHP officer and sergeant overtime rates effective Fiscal Year 22/23, until superseded:

<table>
<thead>
<tr>
<th>CLASSIFICATION</th>
<th>OVERTIME RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHP Officer</td>
<td>$113.58 per hour</td>
</tr>
<tr>
<td>CHP Sergeant</td>
<td>$138.18 per hour</td>
</tr>
<tr>
<td>M/C Officer</td>
<td>$118.10 per hour</td>
</tr>
<tr>
<td>M/C Sergeant</td>
<td>$143.68 per hour</td>
</tr>
<tr>
<td>CHP Automobile</td>
<td>$1.51 per mile</td>
</tr>
<tr>
<td>CHP Motorcycle</td>
<td>$1.43 per mile</td>
</tr>
</tbody>
</table>
General Terms and Conditions (GTC 04/2017)

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract’s benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours’ notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. **TIMELINESS:** Time is of the essence in this Agreement.
13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor’s expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

   1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

   2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
16. **CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of $100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. **PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of $200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. **SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
20. **LOSS LEADER**: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)
EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. The CHP and SBCTA agree this Agreement may be canceled by either party with thirty (30) days advance written notice.

2. In the event of an emergency, this Agreement may be canceled by either party without prior notice.

3. The CHP and SBCTA, agree that this Agreement may be amended by written mutual consent of the parties hereto.

4. Unforeseen events may require CHP officer(s) to expend hours in excess of the original estimate. Any costs in excess of the original estimated amount will be processed by appropriate amendment to the Agreement to reflect the actual costs incurred.

5. Additional charges may be assessed for CHP supplies, additional equipment utilized, damage to property repaired or replaced at State expense, which are directly related to the services provided herein, but only to the extent such supplies or additional equipment are specifically requested in writing by SBCTA or such need for repair or replacement of property arises directly from SBCTA gross misconduct or willful negligence with respect to the property.

6. Gifts, donations, or gratuities may not be accepted by CHP employees in their own behalf or in behalf of the Department, informal squad club, or other local funds.

7. Any dispute concerning a question of fact arising under the terms of this agreement which is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this contract shall be brought to the attention of the Administrative Services Officer (or designated representative of each organization for joint resolution.)
Minute Action

AGENDA ITEM: 10

Date: August 10, 2023

Subject: Express Lanes Program Support Services Award Contract No. 23-1002944 to HNTB Corporation

Recommendation: That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

A. Award Contract No. 23-1002944 to HNTB Corporation for SBCTA Express Lanes Program Support Services, in an amount not-to-exceed $3,000,000, for an initial term through September 30, 2026, with two one-year extension options.

B. Approve a contingency for a not-to-exceed amount of $300,000 for Contract No. 23-1002944; and authorize the Executive Director, or his designee, to release contingency as necessary for SBCTA Express Lanes Program Support Services.

Background:
In March 2019, San Bernardino County Transportation Authority (SBCTA) initiated the design-build of the Interstate 10 (I-10) Corridor Freight and Express Lanes Project - Contract 1 (Project). The Project and Construction Management (PCM) consultant team for the Project includes toll experts that support tolling development and implementation for the Project. Once the Project transitions from implementation to operations in 2023, the support of the PCM curtails, leaving staff without consultant support for Express Lanes operations.

Meanwhile, SBCTA initiated design of the Interstate 15 (I-15) Corridor Freight and Express Lanes Project (Contract 1) in December 2020. As SBCTA expands its Express Lanes system, there is a need for consistent, comprehensive, and long-term consultant support services for the overall Express Lanes Program. Additionally, the Express Lanes Program consultant support services will provide staff with access to a wide variety of express lanes subject matter experts who will advise staff with the needs identified in the scope of work (SOW). Staff assessed needs and determined that the best approach is to issue a Request for Proposals (RFP) for an Express Lanes consultant support services contract. Staff developed a SOW, which includes task categories based on a review of SBCTA Express Lanes Program needs. The contract term is for three years with two one-year optional extensions, this will ensure the Express Lanes Program support services will remain consistent through the Contract 1 opening date.

RFP No. 23-1002944 was released on March 4, 2023, and sent electronically to approximately 40 consultants registered on PlanetBids, seeking a firm knowledgeable and experienced in providing express lanes support services. The RFP was downloaded by approximately 40 firms. The solicitation was issued in accordance with current SBCTA policies and procedures for Consultant Services.

Two proposals were received by the date and time specified in the RFP. A responsiveness review was conducted by the Procurement Analyst and found both proposals to be responsive. The following is a summary of the events that transpired in the evaluation and selection process.

Entity: San Bernardino County Transportation Authority
Summary of Evaluation Process:

The proposals were disseminated to all Evaluation Committee members. A copy of the Score Sheets, the Declaration of Impartiality and Confidentiality form were also distributed to the Evaluation Committee members. The Evaluation Committee was comprised of individuals from SBCTA and the Los Angeles County Metropolitan Transportation Authority.

Evaluation Committee Meeting:

Evaluators concluded their individual review of the proposals and convened to review, discuss and score the proposals. The Evaluation Committee members met on June 19, 2023, and discussed each proposal according to the evaluation criteria, including the proposal strengths and weaknesses. At the completion of discussions, the Evaluation Committee members individually scored the proposals based on the following evaluation criteria; Qualifications, Related Experience, and References of the Firm – 30 points, Proposed Staffing and Project Organization – 40 points, Work Plan – 15 points and Price Proposal – 15 points.

Based on the Evaluation Committee proposal scoring, the firms were ranked in the following order of technical merit and both firms were invited to interviews:

<table>
<thead>
<tr>
<th>Firm Name</th>
<th>Ranking</th>
</tr>
</thead>
<tbody>
<tr>
<td>HNTB Corporation</td>
<td>1</td>
</tr>
<tr>
<td>WSP</td>
<td>2</td>
</tr>
</tbody>
</table>

Minor variances in the criteria scores were noted and discussed. Full detail of the scores is included in the Contract Audit File.

The following is the ranking of the firms as determined by the combined scores of the proposal evaluation and interviews:

<table>
<thead>
<tr>
<th>Firm Name</th>
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</tr>
</thead>
<tbody>
<tr>
<td>HNTB Corporation</td>
<td>1</td>
</tr>
<tr>
<td>WSP</td>
<td>2</td>
</tr>
</tbody>
</table>

The Committee considered both firms qualified to perform the work specified in the RFP. The highest ranked firm, HNTB Corporation is being selected due to their knowledge of the SBCTA Express Lanes Program, firm experience, and proposed project staff.

As a result of the scoring, the Evaluation Committee recommends that the contract to perform the scope of work (SOW) as outlined in RFP No. 23-1002944, be awarded to HNTB Corporation, the firm ranked first in technical score and overall score. The firm clearly demonstrated a thorough understanding of the SOW and proposed a strong team. Evaluation forms and reference checks are located in the Contract Audit File.

Financial Impact:
This item is consistent with the Fiscal Year 2023/2024 Budget under Task No. 0750 and Task No. 0821.

San Bernardino County Transportation Authority
Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft contract.

Responsible Staff:
Philip Chu, Chief of Toll Operations
## General Contract Information

**Contract No:** 23-1002944  
**Amendment No.:** _____  
**Contract Class:** Payable  
**Department:** Toll Operations  
**Vendor No.:** 01022  
**Vendor Name:** HNTB Corp  
**Description:** Express Lanes Program Consultant Support Service

### Dollar Amount

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<th>Original Contingency</th>
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<tr>
<td>Current Amendment</td>
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**Total/Revised Contract Value:** $ 3,000,000.00  
**Total Contingency Value:** $ 300,000.00

### Contract Authorization

**Board of Directors**  
**Date:** 09/06/2023  
**Committee**  
**Item #:**

### Contract Management (Internal Purposes Only)

**Other Contracts**  
**Sole Source?** No  
**No Budget Adjustment**

**Local**  
**Professional Services (Non-A&E)** N/A

### Accounts Payable

**Estimated Start Date:** 09/06/2023  
**Expiration Date:** 09/30/2026  
**Revised Expiration Date:**

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</tbody>
</table>

**Project Manager (Print Name):** Philip Chu  
**Task Manager (Print Name):** Tim Byrne

### Additional Notes:
CONTRACT NO. 23-1002944

BY AND BETWEEN

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

AND

HNTB CORPORATION

FOR

EXPRESS LANES PROGRAM SUPPORT

This contract ("Contract") is made and entered into by and between the San Bernardino County Transportation Authority ("SBCTA"), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and HNTB Corporation ("CONSULTANT"), whose address is 3633 Inland Empire Blvd., Suite 750, Ontario, California 91764. SBCTA and CONSULTANT are each a "Party" and are collectively the "Parties".

RECITALS:

WHEREAS, SBCTA requires certain work services as described in Exhibit "A" of this Contract; and

WHEREAS, CONSULTANT has confirmed that CONSULTANT has the requisite professional qualifications, personnel and experience and is fully capable and qualified to perform the services identified herein; and

WHEREAS, CONSULTANT desires to perform all Work identified herein and to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1. PROJECT DESCRIPTION/SCOPE OF WORK

1.1 CONSULTANT agrees to perform the work and services set forth in Exhibit A "Scope of Work" ("Work") in accordance with all applicable professional standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein, and in the sequence, time, and manner defined herein. The word "Work" includes, without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT.
hereunder; and the Work performed hereunder shall be completed to the satisfaction of SBCTA, with SBCTA’s satisfaction being based on prevailing applicable professional standards.

1.2 The Project Manager for this Contract is Philip Chu, Chief of Toll Operations, or such other designee as shall be designated in written notice to CONSULTANT from time to time by the Department Director of SBCTA or his or her designee. The Project Manager shall have authority to act on behalf of SBCTA in administering this Contract, including giving notices (including, without limitation, notices of default and/or termination), technical directions and approvals; demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

ARTICLE 2. CONTRACT TERM

The Contract term shall commence upon issuance of a written Notice To Proceed (NTP) issued by SBCTA’s Procurement Analyst, and shall continue in full force and effect through September 30, 2026 until otherwise terminated, or unless extended as hereinafter provided by written amendment, except that all indemnity and defense obligations hereunder shall survive termination of this Contract. CONSULTANT shall not be compensated for any Work performed or costs incurred prior to issuance of the NTP.

SBCTA at its sole discretion may extend the original term of the Contract for two one-year option terms. The maximum term of this Contract, including the Option Term(s), if exercised, will not exceed September 30, 2028.

ARTICLE 3. COMPENSATION

3.1 Total compensation to CONSULTANT for full and complete performance of the Scope of Work, identified herein and, in compliance with all the terms and conditions of this Contract, shall be on a Time & Materials basis for all obligations incurred in, or application to, CONSULTANT’s performance of Work, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by SBCTA) shall not exceed the amount set forth in section 3.2 below.

3.2 The total Contract Not-To-Exceed Amount is Three Million Dollars ($3,000,000). All Work provided under this Contract is to be performed as set forth in Exhibit A “Scope of Work”, and shall be reimbursed pursuant to Exhibit B “Price Proposal for Time and Materials”. The hourly labor rates identified in Exhibit B shall remain fixed for the term of this Contract and include CONSULTANT’s direct labor costs, indirect costs, and profit. All expenses shall be reimbursed for the amounts identified in Exhibit B. Any travel expenses must be pre-approved by SBCTA and shall be reimbursed for per diem expenses at a rate not to exceed the currently authorized rates for state employees under the State Department of Personnel Administration rules. SBCTA will not reimburse CONSULTANT for any expenses not shown in Exhibit B or agreed to and approved by SBCTA as required under this Contract.

3.3 INTENTIONALLY OMITTED
3.4 The Cost Principles and Procedures set forth in 48 CFR, Ch. 1, subch. E, Part 31, as constituted on the effective date of this Contract shall be utilized to determine allowability of costs under this Contract and may be modified from time to time by written amendment of the Contract.

3.4.1 CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

3.4.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31, or 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, shall be repaid by CONSULTANT to SBCTA.

3.5 Any Work provided by CONSULTANT not specifically covered by the Scope of Work shall not be compensated without prior written authorization from SBCTA. It shall be CONSULTANT’s responsibility to recognize and notify SBCTA in writing when services not covered by the Scope of Work have been requested or are required. All changes and/or modifications to the Scope of Work shall be made in accordance with the “CHANGES” Article in this Contract. Any additional services agreed to in accordance with this Contract shall become part of the Work.

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

ARTICLE 4. INVOICING

4.1 Payment to CONSULTANT as provided herein shall be payable in four (4) week billing period payments, forty-five (45) calendar days after receipt of an acceptable invoice by SBCTA of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Work.

4.2 CONSULTANT shall prepare invoices in a form satisfactory to and approved by SBCTA, which shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a four-week billing period and will be marked with SBCTA’S contract number, description and task order number, if applicable. Invoices shall be submitted within fifteen (15) calendar days for the period covered by the invoice except for the month of June, which will require the invoice to be submitted by July 10th. Invoices shall include request for payment for Work (including additional services authorized by SBCTA) completed by CONSULTANT during each billing period and shall include backup information sufficient to establish the validity of the invoice. Any invoice submitted which fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT’s sole expense. The final invoice shall be marked “FINAL” and will be submitted within 60 calendar days after SBCTA has received and approved all Work and deliverables. Invoices should be e-mailed to SBCTA at the following address:

ap@gosbcta.com

For large files over 30 megabytes, invoices can be submitted using this link:
CONSULTANT shall include a statement and release with each invoice, satisfactory to SBCTA, that CONSULTANT has fully performed the Work invoiced pursuant to the Contract for the period covered, that all information included with the invoice is true and correct, and that all payments to and claims of CONSULTANT and its subconsultants for Work during the period will be satisfied upon making of such payment. SBCTA shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.

4.4 Intentionally omitted.

4.5 No payment will be made prior to approval of any Work, nor for any Work performed prior to the NTP or the issuance of an applicable CTO, nor for any Work under any amendment to the Contract until SBCTA’s Awarding Authority takes action.

4.6 CONSULTANT agrees to promptly pay each subconsultant for the satisfactory completion of all Work performed under this Contract no later than ten (10) calendar days from the receipt of payment from SBCTA. CONSULTANT also agrees to return any retainage payments to each subconsultant within ten (10) calendar days after the subconsultant’s work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval by SBCTA. SBCTA reserves the right to request documentation from CONSULTANT showing payment has been made to its subconsultants. SBCTA also reserves the right, at its own sole discretion, to issue joint checks to CONSULTANT and any subconsultant(s), which shall constitute payment to CONSULTANT in compliance with the terms of this Contract. This clause applies to both DBE and non-DBE subconsultants.

4.7 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31 are subject to repayment by CONSULTANT to SBCTA.

ARTICLE 5. TAXES, DUTIES AND FEES

Except to the extent expressly provided elsewhere in this Contract, CONSULTANT shall pay when due, and the compensation set forth herein, shall be inclusive of all: a) local, municipal, State, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONSULTANT; and d) other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

ARTICLE 6. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not appropriated and/or allocated and available to SBCTA for the continuance of Work performed by CONSULTANT, Work directly or indirectly involved may be suspended or terminated by SBCTA at the end of the period for which funds are available. When SBCTA becomes aware that any portion of Work will or may be affected by a shortage of funds, it will promptly notify CONSULTANT. Nothing herein shall relieve SBCTA from its obligation to compensate CONSULTANT for work
already performed pursuant to this Contract. No penalty shall accrue to SBCTA in the event this provision is exercised.

ARTICLE 7. PERMITS AND LICENSES

CONSULTANT shall, without additional compensation, keep current all governmental permits, certificates and licenses (including professional licenses) and required registrations necessary for CONSULTANT to perform Work identified herein.

ARTICLE 8. DOCUMENTATION AND RIGHT TO AUDIT

8.1 CONSULTANT shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SBCTA, or until the conclusion of all litigation, appeals or claims related to this Contract, whichever is longer. CONSULTANT shall provide SBCTA, the California State Auditor, or other authorized representatives of SBCTA access to Consultants’ records which are directly related to this Contract for the purpose of inspection, auditing or copying during the entirety of the records maintenance period above. CONSULTANT further agrees to maintain separate records for costs of Work performed by amendment. CONSULTANT shall allow SBCTA and its representatives or agents to reproduce any materials as reasonably necessary.

8.2 The cost proposal and/or invoices for this Contract are subject to audit by SBCTA and/or any state or federal agency funding this Work at any time. After CONSULTANT receives any audit recommendations, the cost or price proposal shall be adjusted by CONSULTANT and approved by SBCTA’s Project Manager to conform to the audit recommendations. CONSULTANT agrees that individual items of cost identified in the audit report may be incorporated into the Contract at SBCTA’s sole discretion. Refusal by CONSULTANT to incorporate the audit or post award recommendations will be considered a breach of the Contract and cause for termination of the Contract. Any dispute concerning the audit findings of this Contract shall be reviewed by SBCTA’s Chief Financial Officer. CONSULTANT may request a review by submitting the request in writing to SBCTA within thirty (30) calendar days after issuance of the audit report.

8.3 Subcontracts in excess of $25,000 shall contain this provision.

ARTICLE 9. RESPONSIBILITY OF CONSULTANT

9.1 CONSULTANT shall be responsible for the professional quality, technical accuracy, and assurance of compliance with all applicable federal, State and local laws and regulations and other Work furnished by CONSULTANT under the Contract. The Contract includes reference to the appropriate standards for Work performance stipulated in the Contract.

9.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, CONSULTANT shall, as an integral part of its Work, employ quality control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality and safety of the Project and the Work performed by CONSULTANT within the areas of CONSULTANT’s expertise. At any time during performance of the Scope of Work,
should CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk to SBCTA or the Project, CONSULTANT shall immediately document such matters and notify SBCTA in writing. CONSULTANT shall also similarly notify SBCTA in regard to the possibility of any natural catastrophe, or potential failure, or any situation that exceeds assumptions and could precipitate a failure of any part of the Project. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable SBCTA to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.

ARTICLE 10. REPORTING AND DELIVERABLES

All reports and deliverables shall be submitted in accordance with Exhibit A “Scope of Work”. At a minimum, CONSULTANT shall submit monthly progress reports with their monthly invoices. The report shall be sufficiently detailed for SBCTA to determine if CONSULTANT is performing to expectations and is on schedule; to provide communication of interim findings; and to sufficiently address any difficulties or problems encountered, so remedies can be developed.

ARTICLE 11. TECHNICAL DIRECTION

11.1 Performance of Work under this Contract shall be subject to the technical direction of SBCTA’s Project Manager, identified in Section 1.2, upon issuance of the NTP and/or subsequently by written notice during the Contract. The term “Technical Direction” is defined to include, without limitation:

11.1.1 Directions to CONSULTANT which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the Scope of Work.

11.1.2 Provision of written information to CONSULTANT which assists in the interpretation of reports or technical portions of the Scope of Work described herein.

11.1.3 Review and, where required by the Contract, approval of technical reports and technical information to be delivered by CONSULTANT to SBCTA under the Contract.

11.1.4 SBCTA’s Project Manager may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications are limited to: substitutions of personnel identified in the Contract, including Key Personnel and subconsultants; modifications to classifications, hourly rates and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All such modifications will be documented in writing between the Parties.

11.2 Technical Direction must be within the Scope of Work under this Contract. SBCTA’s Project Manager does not have the authority to, and may not, issue any Technical Direction which:

11.2.1 Increases or decreases the Scope of Work;

11.2.2 Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;
11.2.3 Constitutes a change as defined in the “CHANGES” Article of the Contract;

11.2.4 In any manner causes an increase or decrease in the Contract price as identified in the “COMPENSATION” Article or the time required for Contract performance;

11.2.5 Changes any of the expressed terms, conditions or specifications of the Contract, unless identified herein;

11.2.6 Interferes with CONSULTANT’s right to perform the terms and conditions of the Contract unless identified herein; or

11.2.7 Approves any demand or claims for additional payment.

11.3 Failure of CONSULTANT and SBCTA’s Project Manager to agree that the Technical Direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken with respect thereto, shall be subject to the provisions of the “DISPUTES” Article herein.

11.4 All Technical Direction shall be issued in writing by SBCTA’s Project Manager.

11.5 CONSULTANT shall proceed promptly with the performance of Technical Direction issued by SBCTA’s Project Manager, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONSULTANT, any instruction or direction by SBCTA’s Project Manager falls within one of the categories defined in sections 11.2.1 through 11.2.7 above, CONSULTANT shall not proceed but shall notify SBCTA in writing within five (5) working days after receipt of any such instruction or direction and shall request SBCTA to modify the Contract accordingly. Upon receiving the notification from CONSULTANT, SBCTA shall:

11.5.1 Advise CONSULTANT in writing within thirty (30) calendar days after receipt of CONSULTANT’s letter that the Technical Direction is or is not within the scope of this Contract.

11.5.2 Advise CONSULTANT within a reasonable time whether SBCTA will or will not issue a written amendment.

ARTICLE 12. CHANGES

12.1 The Work shall be subject to changes by additions, deletions, or revisions made by SBCTA. CONSULTANT will be advised of any such changes by written notification from SBCTA describing the change. This notification will not be binding on SBCTA until SBCTA’s Awarding Authority has approved an amendment to this Contract.

12.2 Promptly after such written notification of change is given to CONSULTANT by SBCTA, the Parties will attempt to negotiate a mutually agreeable adjustment to compensation or time of performance, and amend the Contract accordingly.
ARTICLE 13. EQUAL EMPLOYMENT OPPORTUNITY

13.1 During the term of this Contract, CONSULTANT shall not willfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, gender, sex, marital status, gender identity, gender expression, sexual orientation, age, or military and veteran status. CONSULTANT agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

13.2 The CONSULTANT and all subconsultants shall comply with all provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin. In addition, CONSULTANT and all subconsultants will ensure their services are consistent with and comply with obligations and procedures outlined in SBCTA’s current Board-adopted Title VI Program, including the Public Participation Plan and the Language Assistance Plan.

ARTICLE 14. CONFLICT OF INTEREST

CONSULTANT agrees that it presently has no interest, financial or otherwise, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or be contrary to the interests of SBCTA as to the Project. CONSULTANT further agrees that in the performance of this Contract, no person having any such interest shall be employed. CONSULTANT is obligated to fully disclose to SBCTA, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT and its staff shall comply with SBCTA’s Conflict of Interest Policy, No. 10102.

ARTICLE 15. KEY PERSONNEL

The personnel specified below are considered to be essential to the Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects, or reallocation of any tasks or hours of Work that are the responsibility of key personnel to other personnel, CONSULTANT shall notify SBCTA in writing in advance and shall submit justifications (including proposed substitutions, resumes and payroll information to support any changes to the labor rates) in sufficient detail to permit evaluation of the impact on the Project. Diversion or reallocation of key personnel shall not be made without prior written consent of SBCTA’s PM. CONSULTANT shall not substitute any key personnel without the prior written consent of SBCTA. In the event that the Parties cannot agree as to the substitution of key personnel, SBCTA may terminate this Contract. Key Personnel are:

<table>
<thead>
<tr>
<th>Name</th>
<th>Job Classification/Function</th>
</tr>
</thead>
<tbody>
<tr>
<td>William Allen</td>
<td>Project Manager</td>
</tr>
<tr>
<td>Kimanh Doan</td>
<td>Express Lanes Planning and Policy</td>
</tr>
<tr>
<td>Richard Van Hyning</td>
<td>Express Lanes Operations Support</td>
</tr>
</tbody>
</table>
ARTICLE 16. REPRESENTATIONS

All Work supplied by CONSULTANT under this Contract shall be supplied by personnel who are qualified, careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that they are supplying professional services, findings, and/or recommendations in the performance of this Contract and agrees with SBCTA that the same shall conform to professional standards that are generally accepted in the profession in the State of California.

ARTICLE 17. PROPRIETARY RIGHTS/CONFIDENTIALITY

17.1 If, as a part of this Contract, CONSULTANT is required to produce materials, documents data, or information ("Products"), then CONSULTANT, if requested by SBCTA, shall deliver to SBCTA the original of all such Products, which shall become the sole property of SBCTA.

17.2 All materials, documents, data or information obtained from SBCTA's data files or any SBCTA-owned medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of SBCTA. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONSULTANT without the express written consent of SBCTA.

17.3 Except as reasonably necessary for the performance of the Work, CONSULTANT agrees that it, its employees, agents and subconsultants will hold in confidence and not divulge to third parties, without prior written consent of SBCTA, any information obtained by CONSULTANT from or through SBCTA unless (a) the information was known to CONSULTANT prior to obtaining same from SBCTA, or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes, part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or subconsultants, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from SBCTA and who had, to CONSULTANT's knowledge and belief, the right to disclose the same. Any materials and information referred to in this Article, which are produced by CONSULTANT shall remain confidential until released in writing by SBCTA, except to the extent such materials and information become subject to disclosure by SBCTA under the California Public Records Act, or other law, or otherwise become public information through no fault of CONSULTANT, or its employees or agents.
17.4 CONSULTANT shall not use SBCTA's name or photographs in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SBCTA.

17.5 All press releases, or press inquiries relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by SBCTA unless otherwise agreed to in writing by both Parties.

17.6 CONSULTANT, its employees, agents and subconsultants shall be required to comply with SBCTA’s Confidentiality Policy; anyone who may have access to Personally Identifiable Information (“PII”) and/or Sensitive Security Information (“SSI”) will be required to execute a Confidentiality Agreement.

ARTICLE 18. TERMINATION

18.1 Termination for Convenience - SBCTA shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Work and shall preserve Work in progress and completed Work, pending SBCTA's instruction, and shall turn over such Work in accordance with SBCTA’s instructions.

18.1.1 CONSULTANT shall deliver to SBCTA all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA for payment in accordance with the terms herein.

18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from SBCTA as complete and full settlement for such termination a pro rata share of the Contract cost based upon the percentage of all contracted Work satisfactorily executed to the date of termination.

18.1.3 CONSULTANT shall be entitled to receive the actual costs incurred by CONSULTANT to return CONSULTANT’s tools and equipment, if any, to it or its suppliers’ premises, or to turn over Work in progress in accordance with SBCTA’s instructions plus the actual cost necessarily incurred in effecting the termination.

18.2 Termination for Cause - In the event CONSULTANT shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONSULTANT, or a receiver shall be appointed on account of its insolvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice, SBCTA may, without prejudice to any other rights or remedies SBCTA may have, and in compliance with applicable Bankruptcy Laws: (a) hold in abeyance further payments to CONSULTANT; (b) stop any Work of CONSULTANT or its subconsultants related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying
the date of termination. In the event of such termination by SBCTA, SBCTA may take possession of the deliverables and finished Work by whatever method SBCTA may deem expedient. A waiver by SBCTA of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, of the same or any other provision, nor be deemed to waive, amend, or modify any term of this Contract.

18.2.1 CONSULTANT shall deliver to SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA within ten (10) working days of said notice.

18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to SBCTA, satisfactory in form and content to SBCTA and verified by SBCTA. In no event shall CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

ARTICLE 19. STOP WORK ORDER

Upon failure of CONSULTANT or its subconsultants to comply with any of the requirements of this Contract, SBCTA shall have the right to stop any or all Work affected by such failure until such failure is remedied or to terminate this Contract in accordance with section “Termination” above.

ARTICLE 20. CLAIMS

SBCTA shall not be bound to any adjustments in the Contract amount or schedule unless expressly agreed to by SBCTA in writing. SBCTA shall not be liable to CONSULTANT for any claim asserted by CONSULTANT after final payment has been made under this Contract.

ARTICLE 21. INSURANCE

21.1 Prior to commencing the Work, subject to the provisions of Article 21.2 “General Provisions”, and at all times during the performance of the Work and for such additional periods as required herein, CONSULTANT and all sub-consultants of every tier performing any Work under this contract shall, at CONSULTANT’s and sub-consultant's sole expense, procure and maintain broad form insurance coverage at least as broad as the following minimum requirements specified below:

21.1.1 Professional Liability. The policies must include the following:

• A limit of liability not less than $2,000,000 per claim
• An annual aggregate limit of not less than $4,000,000
• Coverage shall be appropriate for the CONSULTANT’S profession and provided services to include coverage for errors and omissions arising out of the CONSULTANT’S professional services, or services of any person employed by the CONSULTANT, or any person for whose acts, errors, mistakes or omissions the CONSULTANT may be legally liable.
• If Coverage is on a claims made basis:
Policy shall contain a retroactive date for coverage of prior acts, which date will be prior to the date the CONSULTANT begins to perform Work under this Contract.

21.1.2 Worker’s Compensation/Employer’s Liability. The policies must include the following:

- Coverage A. Statutory Benefits
- Coverage B. Employer’s Liability
- Bodily Injury by accident - $1,000,000 per accident
- Bodily Injury by disease - $1,000,000 policy limit/$1,000,000 each employee

Such policies shall contain a waiver of subrogation in favor of the parties named as Indemnitees below. Such insurance shall be in strict accordance with the applicable workers’ compensation laws in effect during performance of the Work by CONSULTANT or any subconsultant of any tier. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONSULTANT and all parties named as Indemnitees below. Where coverage is provided through the California State Compensation Insurance Fund, the requirement for a minimum A.M. Best rating does not apply.

21.1.3. Commercial General Liability. The policy must include the following:

- Consultant shall maintain commercial general liability(CGL) insurance (Insurance Services Office (ISO) Form CG 00 01), and if necessary excess/umbrella commercial liability insurance, with a combined limit of liability of not less than $7,000,000 each occurrence.
- The policy shall, at a minimum, include coverage for any and all of the following: bodily injury, property damage, personal injury, broad form contractual liability (including coverage to the maximum extent possible for the indemnifications in this Contract), premises-operations duty to defend in addition to (without reducing) the limits of the policy(ies).
  - $7,000,000 per occurrence limit for property damage or bodily injury
  - $1,000,000 per occurrence limit for personal injury and advertising injury
  - $1,000,000 per occurrence limits for products/completed operations coverage (ISO Form 20 37 10 01) if SBCTA’s Risk Manager determines it is in SBCTA’s best interests to require such coverage,
- If a general aggregate applies, it shall apply separately to this project/location. The contract no. and brief explanation of the project/work must be indicated under “Description of Operations/Locations” (ISO Form CG 25 03 or CG 2504).
- Coverage is to be on an “occurrence” form. “Claims made” and “modified occurrence” forms are not acceptable.
• A copy of the declaration page or endorsement page listing all policy endorsements for the CGL policy must be included.

All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the CGL insurance coverage with limits not less than:

• Each occurrence limit: $1,000,000
• General aggregate limit: $2,000,000
• Personal injury and advertising limit $1,000,000
• Products-completed operations aggregate limit $2,000,000

All subconsultants’ and sub-subconsultants’ deductibles or self-insured retentions must be acceptable to SBCTA’s Risk Manager.

21.1.4 Umbrella/Excess CGL. The policy must include the following:

• If the CONSULTANT elects to include an umbrella or excess policy to cover any of the total limits required beyond the primary commercial general liability policy limits and/or the primary commercial automobile liability policy limits, then the policy must include the following:
  o The umbrella or excess policy shall follow form over the CONSULTANT’s primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
  o The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
  o The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.
  o The umbrella or excess policy must also extend coverage over the automobile policy if it is to be used in combination with the primary automobile policy to meet the total insurance requirement limits.

There shall be no statement limiting the coverage provided to the parties listed as additionally insureds or as indemnitees below.

21.1.5 Commercial Auto. The policy must include the following:

• A total limit of liability of not less than $2,000,000 combined single limits each accident. This total limits of liability may be met by combining the limits of the primary auto policy with an umbrella or excess policy in accordance with subparagraph 4 (Umbrella/Excess CGL) of Section A of this Article.
• Such insurance shall cover liability arising out of any vehicle, including owned, hired, leased, borrowed and non-owned vehicles assigned to or used in performance of the CONSULTANT services.
• Combined Bodily Injury and Property Damage Liability insurance. The commercial automobile liability insurance shall be written on the most recent edition of ISO Form CA 00 01 or equivalent acceptable to SBCTA.

21.1.6 Pollution Liability. Intentionally Omitted
21.1.7 Cyber Liability Insurance. Appropriate to the Consultant’s profession and work hereunder, with limits not less than $2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of SBCTA in the care, custody, or control of the CONSULTANT. If not covered under the CONSULTANT’s liability policy, such “property” coverage of SBCTA may be endorsed onto the CONSULTANT’s Cyber Liability Policy as covered property as follows:

Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of SBCTA that will be in the care, custody, or control of CONSULTANT.

21.1.8 Railroad Protective Liability. Intentionally Omitted

21.2 General Provisions

21.2.1 Qualifications of Insurance Carriers. If policies are written by insurance carriers authorized and admitted to do business in the state of California, then the insurance carriers must have a current A.M. Best rating of A-VIII or better and if policies are written by insurance carriers that are non-admitted but authorized to conduct business in the state of California, then they must meet the current A.M. Best rating of A-X or better, unless otherwise approved in writing by SBCTA’s Risk Manager.

21.2.2 Additional Insured Coverage. All policies, except those for Workers’ Compensation and Professional Liability insurance, shall be endorsed by ISO Form CG 20 10 11 85, or if not available, then ISO Form CG 20 38, to name San Bernardino County Transportation Authority and its officers, directors, members, employees, and agents, as additional insureds (“Additional Insureds”). With respect to general liability arising out of or connected with work or operations performed by or on behalf of the CONSULTANT under this Contract, coverage for such Additional Insureds shall not extend to liability to the extent prohibited by section 11580.04 of the Insurance Code. The additional insured endorsements shall not limit the scope of coverage for SBCTA to vicarious liability, but shall allow coverage for SBCTA to the full extent provided by the policy.

21.2.3 Proof of Coverage. Evidence of insurance in a form acceptable to SBCTA’s Risk Manager, including declarations pages of each policy, certificates of insurance and the required additional insured endorsements, shall be provided to SBCTA’s Procurement Analyst prior to issuance of the NTP or prior to commencing any Work,
as SBCTA specifies. Certificate(s) of insurance, as evidence of the required insurance shall: be executed by a duly authorized representative of each insurer; show compliance with the insurance requirements set forth in this Article; set forth deductible amounts applicable to each policy; list all exclusions which are added by endorsement to each policy; and also include the Contract Number and the SBCTA Project Manager’s name on the face of the certificate. If requested in writing by SBCTA, CONSULTANT shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SBCTA.

### 21.2.4 Deductibles and Self-Insured Retention
Regardless of the allowance of exclusions or deductibles by SBCTA, CONSULTANT shall be responsible for any deductible or self-insured retention (SIR) amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its sub-CONSULTANTS to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. Any deductibles or self-insured retentions must be declared to and approved in writing by SBCTA’s Risk Manager. Without SBCTA’s Risk Manager’s expressed written approval no deductibles or SIR will be allowed. At the option of SBCTA, if the deductible or SIR is approved and it is greater than $10,000 or one (1) percent of the amount of coverage required under this Contract, whichever is less, the CONSULTANT shall guarantee that either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to SBCTA, its directors, officials, officers, employees and agents; or, (2) the CONSULTANT shall procure a bond guaranteeing the amount of the deductible or self-insured retention. SBCTA shall have the right to review any and all financial records that SBCTA, at its sole discretion deems necessary to approve any deductible or SIR. SBCTA will have the right, but not the obligation, to pay any deductible or SIR due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due to CONSULTANT. The CONSULTANT’s policies will neither obligate nor prohibit SBCTA or any other Additional Insured, from paying any portion of any CONSULTANT’s deductible or SIR.

### 21.2.5 CONSULTANT’s and Subconsultants’ Insurance will be Primary
All policies required to be maintained by the CONSULTANT or any subconsultant, with the exception of Professional Liability and Worker’s Compensation shall be endorsed, with a form at least as broad as ISO Form CG 20 01 04 13, to be primary coverage, and any coverage carried by any of the Additional Insureds shall be excess and non-contributory. Further, none of CONSULTANT’s or subconsultants’ pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.

### 21.2.6 Waiver of Subrogation Rights
To the fullest extent permitted by law, CONSULTANT hereby waives all rights of recovery under subrogation for all policies, except for Professional Liability against the Additional Insureds named herein, and any other consultant, subconsultant or subsubconsultant performing work or rendering services on behalf of SBCTA in connection with the planning,
development and construction of the Project. To the fullest extent permitted by law, CONSULTANT shall require similar written express waivers and insurance clauses from each of its subconsultants of every tier. CONSULTANT shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds (ISO Form CG 24 04 05 09). Such insurance and coverages provided shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss or claim.

21.2.7 Cancellation. If any insurance company elects to cancel or non-renew coverage for any reason, CONSULTANT will provide SBCTA thirty (30) days prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SBCTA ten (10) days prior written notice. In any event, CONSULTANT will provide SBCTA with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONSULTANT receives within one business day after CONSULTANT receives it by submitting it to SBCTA at procurement@gosbcta.com, to the attention of SBCTA’s Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.

21.2.8 Non-Limitation of Insurance Requirements. The insurance coverage provided and limits required under this Contract are minimum requirements and are not intended to limit the CONSULTANT’s indemnification obligations under the Contract, nor do the indemnity obligations limit the rights of the Indemnified Parties to the coverage afforded by their insured status. To the extent required by Law in connection with Work to be performed, the CONSULTANT shall obtain and maintain, or cause to be obtained and maintained, in addition to the insurance coverage expressly required under this Contract, such other insurance policies for such amounts, for such periods of time and subject to such terms, as required by Law and any other agreements with which the CONSULTANT is required to comply, including any Third-Party Agreements. Liability insurance coverage will not be limited to the specific location designated as the Site, except that if the CONSULTANT arranges project-specific general liability, excess liability, or workers’ compensation coverage, limitations of coverage to the Site will be permitted subject to SBCTA approval and use of the broadest available sitespecific endorsements. No liability policy will contain any provision or definition that would serve to eliminate so-called “third-party-over action” claims, including any exclusion for bodily injury to an employee of the insured or of any Subcontractor. The CONSULTANT acknowledges and will at all times comply with the provisions of Labor Code Section 3700 which require every employer in the State to be insured against liability for workers’ compensation, or to undertake self-insurance in accordance with the provisions of that code.

21.2.9 Enforcement. SBCTA may take any steps as are necessary to assure CONSULTANT’s compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONSULTANT fails to obtain or maintain any insurance coverage required, SBCTA may, but is not required to,
maintain this coverage and charge the expense to the CONSULTANT or withhold such expense from amounts owed CONSULTANT, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONSULTANT of its duties and responsibility under the Contract, including but not limited to obligation to indemnify, defend and hold harmless the Indemnitees named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude SBCTA from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONSULTANT, or any subconsultant of any tier of their obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.

21.2.10 No Waiver. Failure of SBCTA to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.

21.2.11 Project Specific Insurance. Intentionally Omitted.

21.2.12 No Representations or Warranties. SBCTA makes no representation or warranty that the coverage, limits of liability, or other terms specified for the insurance policies required under this contract are adequate to protect the CONSULTANT against its undertakings under this Contract or its liability to any third party, nor will they preclude SBCTA from taking any actions as are available to it under this Contract or otherwise at law.

21.2.13 Review of Coverage. SBCTA may at any time review the coverage, form, and amount of insurance required under this contract, and may require the CONSULTANT to make changes in such insurance reasonably sufficient in coverage, form, and amount to provide adequate protection against the kind and extent of risk that exists at that time. SBCTA may change the insurance coverages and limits required under this contract by notice to the CONSULTANT, whereupon the CONSULTANT will, within sixty (60) days of such notice date, procure the additional and/or modified insurance coverages. Upon such change any additional cost (at actual cost) from such change will be paid by SBCTA and any reduction in cost will reduce the Contract Price pursuant to a Contract amendment.

21.2.14 Subconsultant Insurance. Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all subconsultants to cover their services performed under this Contract. CONSULTANT may reduce types and the amounts of insurance limits provided by subconsultant(s) to be proportionate to the amount of the subconsultant’s contract and the level of liability exposure for the specific type of work performed by the subconsultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.

21.2.15 Higher limits. If CONSULTANT maintains higher limits than the minimums shown above, SBCTA shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SBCTA.
21.2.16 Special Risks or Circumstances. SBCTA reserves the right to modify any or all of the above insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 22. INDEMNITY

22.1 To the extent, but only to the extent, that CONSULTANT’s Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:

CONSULTANT shall indemnify and defend (with legal counsel reasonably approved by SBCTA) SBCTA, the SBCTA’s Entities and their authorized officers, employees, agents and volunteers (collectively “Indemnitees”), from any and all losses, damages, liability, actions, and/or costs for claims that arise out of, pertain to, or are related to the negligence, recklessness, or willful misconduct of the professional to the maximum extent permitted by Civil Code Section 2782.8.

22.2 For all other Work and obligations under this Contract, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA), and hold harmless SBCTA, SBCTA’s Entities and their authorized officers, employees, agents and volunteers (“Indemnitees”), from any and all claims, actions, losses, damages and/or liability (Claims) arising out of this Contract from any cause whatsoever, including acts, errors, or omissions of any person and for any costs or expenses incurred by SBCTA on account of any claim, except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. CONSULTANT’s indemnification obligation applies to SBCTA’s “active” as well as “passive” negligence, but does not apply to SBCTA’s “sole negligence” or “willful misconduct” within the meaning of Civil Code section 2782.

ARTICLE 23. ERRORS AND OMISSIONS

CONSULTANT shall be responsible for the professional quality, technical accuracy, and coordination of all Work required under this Contract. CONSULTANT shall be liable for SBCTA’s costs resulting from errors or deficiencies in Work furnished under this Contract, including, but not limited to, any fines, penalties, damages, and costs required because of an error or deficiency in the Work provided by CONSULTANT under this Contract.

ARTICLE 24. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONSULTANT under this Contract shall become the sole property of SBCTA when prepared, whether delivered to SBCTA or not.

ARTICLE 25. SUBCONTRACTS

25.1 CONSULTANT shall not subcontract performance of all or any portion of Work under this Contract, except to those subconsultants listed in CONSULTANT’s proposal, without first notifying SBCTA in writing of the intended subcontracting and obtaining SBCTA’s written approval of the subcontracting and the subconsultant. The definition of subconsultant and the requirements for subconsultants hereunder shall include all subcontracts at any tier.
25.2 CONSULTANT agrees that any and all subconsultants of CONSULTANT performing Work under this Contract will comply with the terms and conditions of this Contract applicable to the portion of Work performed by them. CONSULTANT shall incorporate all applicable provisions of this Contract into their subcontracts regardless of the tier. If requested by SBCTA, CONSULTANT shall furnish SBCTA a copy of the proposed subcontract for SBCTA’s approval of the terms and conditions thereof and shall not execute such subcontract until SBCTA has approved such terms and conditions. SBCTA’s approval shall not be unreasonably withheld.

25.3 Approval by SBCTA of any Work to be subcontracted and the subconsultant to perform said Work will not relieve CONSULTANT of any responsibility or liability in regard to the acceptable and complete performance of said Work. Any substitution of subconsultants must be approved in writing by SBCTA. CONSULTANT shall have sole responsibility for managing all of their subconsultants, including resolution of any disputes between CONSULTANT and its subconsultants.

ARTICLE 26. RECORD INSPECTION AND AUDITING

SBCTA or any of its designees, representatives, or agents shall at all times have access during normal business hours to CONSULTANT’s operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by SBCTA shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Work or products.

ARTICLE 27. INDEPENDENT CONTRACTOR

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Work provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. SBCTA shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT’s employees in the performance of Work or as to the manner, means and methods by which Work is performed. All personnel furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subconsultant(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SBCTA.

ARTICLE 28. ATTORNEY’S FEES

If any legal action is instituted to enforce or declare any Party’s rights under the Contract, each Party, including the prevailing Party, must bear its own costs and attorneys’ fees. This Article shall not apply to those costs and attorneys’ fees directly arising from any third party legal action against a Party hereto and payable under the “Indemnity” provision of the Contract.

ARTICLE 29. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or
substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any Party to this Contract will be the Superior Court of California, San Bernardino County. Each Party hereby waives any law or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County.

ARTICLE 30. FEDERAL, STATE AND LOCAL LAWS

CONSULTANT warrants that in the performance of this Contract, it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.

ARTICLE 31. PRECEDENCE

31.1 The Contract consists of these Contract Articles, Exhibit A “Scope of Work”, and Exhibit B “Price Proposal for Time and Materials”, SBCTA’s Request for Proposal and CONSULTANT’s proposal, all of which are incorporated into this Contract by this reference.

31.2 The following order of precedence shall apply: first, the Contract Articles; second, Exhibits A and B; third, SBCTA’s Request for Proposal; and last, CONSULTANT’s proposal. In the event of a conflict between the Contract Articles and the Scope of Work, the Contract Articles will prevail.

31.3 In the event of an express conflict between the documents listed in this Article, or between any other documents which are a part of the Contract, CONSULTANT shall notify SBCTA in writing within three (3) business days of its discovery of the conflict and shall comply with SBCTA's resolution of the conflict.

ARTICLE 32. COMMUNICATIONS AND NOTICES

Notices sent by mail shall be by United States Mail, postage paid, certified mail (return receipt requested). Any and all notices permitted or required to be given hereunder shall be deemed duly given and received: (a) upon actual delivery, if delivery is personally made or if made by fax or email during regular business hours; (b) the first business day following delivery by fax or email when not made during regular business hours; or (c) on the fourth business day after deposit of such notice into the United States Mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time by a notice given in accordance with this Article. CONSULTANT shall notify SBCTA of any contact information changes within ten (10) business days of the change.

<table>
<thead>
<tr>
<th>To CONSULTANT</th>
<th>To SBCTA</th>
</tr>
</thead>
<tbody>
<tr>
<td>3633 Inland Empire Blvd., Suite 750</td>
<td>1170 W. 3rd Street, 2nd Floor</td>
</tr>
<tr>
<td>Ontario, CA 91764</td>
<td>San Bernardino, CA 92410-1715</td>
</tr>
<tr>
<td>Attn: William Allen</td>
<td>Attn: Philip Chu</td>
</tr>
<tr>
<td>Email: <a href="mailto:wiallen@hntb.com">wiallen@hntb.com</a></td>
<td>Email: <a href="mailto:pchu@gosbcta.com">pchu@gosbcta.com</a></td>
</tr>
<tr>
<td>Phone: (512) 202-2775</td>
<td>Phone: (909) 884-8276</td>
</tr>
<tr>
<td>2nd Contact: Kevin Haboian</td>
<td>Copy: Procurement Manager</td>
</tr>
<tr>
<td>Email: <a href="mailto:khaboian@hntb.com">khaboian@hntb.com</a></td>
<td>Email: <a href="mailto:procurement@gosbcta.com">procurement@gosbcta.com</a></td>
</tr>
</tbody>
</table>
ARTICLE 33. DISPUTES

33.1 In the event any dispute, other than an audit, arises between the Parties in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Work to be performed, Scope of Work and/or time of performance), the dispute shall be decided by SBCTA’s Procurement Manager within thirty (30) calendar days after notice thereof in writing, which notice shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have ten (10) calendar days after receipt of the decision in which to file a written appeal thereto with SBCTA’s Executive Director. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such dispute may be reviewed by a court of competent jurisdiction.

33.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

ARTICLE 34. GRATUITIES

CONSULTANT, its employees, agents, or representatives shall not offer or give to any officer, official, agent or employee of SBCTA, any gift, entertainment, payment, loan, or other gratuity.

ARTICLE 35. REVIEW AND ACCEPTANCE

All Work performed by CONSULTANT shall be subject to periodic review and approval by SBCTA at any and all places where such performance may be carried on. Failure of SBCTA to make such review or to discover defective work shall not prejudice the rights of SBCTA at the time of final acceptance. All Work performed by CONSULTANT shall be subject to periodic and final review and acceptance by SBCTA upon completion of all Work.

ARTICLE 36. CONFIDENTIALITY

Any SBCTA communications or materials to which CONSULTANT or its subconsultants or agents have access, or materials prepared by CONSULTANT under the terms of this Contract, shall be held in confidence by CONSULTANT, who shall exercise reasonable precautions to prevent the disclosure of confidential information to anyone except as expressly authorized by SBCTA. Any communications with or work product of SBCTA’s legal counsel to which CONSULTANT or its subconsultants or agents have access in performing work under this Contract shall be subject to the attorney-client privilege and attorney work product doctrine and shall be confidential. CONSULTANT shall not release any reports, information or promotional material or allow for the use of any photos related to this Contract for any purpose without prior written approval of SBCTA.

ARTICLE 37. EVALUATION OF CONSULTANT

CONSULTANT’s performance may be evaluated by SBCTA periodically throughout the Contract performance period, such as at the completion of certain milestones as identified in Scope of Work and/or at the completion of the Contract. A copy of the evaluation will be given to CONSULTANT for their information. The evaluation information shall be retained as part of the Contract file and may be used to evaluate CONSULTANT if they submit a proposal on a future RFP issued by SBCTA.
ARTICLE 38.  SAFETY

CONSULTANT shall strictly comply with OSHA regulations and local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT's operations in the performance of Work under this Contract. CONSULTANT shall comply with all safety instructions issued by SBCTA or their representatives.

ARTICLE 39.  DRUG FREE WORKPLACE

CONSULTANT agrees to comply with the Drug Free Workplace Act of 1990 per Government Code section 8350 et seq.

ARTICLE 40.  ASSIGNMENT

CONSULTANT shall not assign this Contract in whole or in part, voluntarily, by operation of law, or otherwise, without first obtaining the written consent of SBCTA. SBCTA’s exercise of consent shall be within its sole discretion. Any purported assignment without SBCTA’s prior written consent shall be void and of no effect, and shall constitute a material breach of this Contract. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE 41.  AMENDMENTS

The Contract may only be changed by a written amendment duly executed by the Parties. Work authorized under an amendment shall not commence until the amendment has been duly executed.

ARTICLE 42.  PREVAILING WAGES

42.1 The State of California’s General Prevailing Wage Rates are not applicable to this Contract.

ARTICLE 43.  CONTINGENT FEE

CONSULTANT warrants by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, SBCTA has the right to terminate this Contract without liability, pay only for the value of the Work actually performed, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 44.  FORCE MAJEURE

CONSULTANT shall not be in default under this Contract in the event that the Work performed by CONSULTANT is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, or other catastrophic events which are beyond the reasonable control of CONSULTANT and which CONSULTANT could not reasonably be expected to have
prevented or controlled. “Other catastrophic events” does not include the financial inability of CONSULTANT to perform or failure of CONSULTANT to obtain either any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of CONSULTANT.

ARTICLE 45. WARRANTY

CONSULTANT warrants that all Work performed shall be in accordance with the Contract and all applicable professional standards. In the event of a breach of this provision, CONSULTANT shall take the necessary actions to correct the breach at CONSULTANT’s sole expense. If CONSULTANT does not take the necessary action to correct the breach, SBCTA, without waiving any other rights or remedies it may have, may take the necessary steps to correct the breach, and the CONSULTANT shall promptly reimburse SBCTA for all expenses and costs incurred.

ARTICLE 46. ENTIRE DOCUMENT

46.1 This Contract constitutes the sole and only agreement governing the Work and supersedes any prior understandings, written or oral, between the Parties respecting the Project. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been expressly incorporated into this Contract.

46.2 No agent, official, employee or representative of SBCTA has any authority to bind SBCTA to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.

46.3 Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

ARTICLE 47. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

CONSULTANT shall comply with all applicable provisions of the Americans with Disabilities Act in performing Work under this Contract.

ARTICLE 48. EFFECTIVE DATE

The date that this Contract is executed by SBCTA shall be the Effective Date of the Contract.

-------------------------SIGNATURES ARE ON THE FOLLOWING PAGE-------------------------
IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

HNTB CORPORATION

By: ________________________________

Kevin A. Haboian
Vice President

Date: ________________________________

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: ________________________________

Dawn M. Rowe
President, Board of Directors

Date: ________________________________

APPROVED AS TO FORM

By: ________________________________

Craig W. Denson
Secretary

Date: ________________________________

CONCURRENCE

By: ________________________________

Shaneka M. Morris
Procurement Manager

Date: ________________________________
EXHIBIT “A”
“SCOPE OF WORK”
Express Lanes Program Support
Scope of Work

Background
The San Bernardino County Transportation Authority (SBCTA) is currently under construction of the I-10 Express Lanes Contract 1 project and in design on the I-15 Corridor Freight and Express Lanes Contract 1 and the I-10 Express Lanes Contract 2 projects along with developing future express lane facilities. The I-10 Express Lanes Contract 1 project is anticipated to begin operations in late 2023. As SBCTA express lanes and related facilities continue to progress through project development phases to operations, toll consultant support is needed to assist SBCTA with strategic planning, toll collection system implementation, express lanes operation, and maintenance and design activities.

Activities performed under this agreement are independent from other planning, design, construction or construction management efforts that may be required for the delivery of SBCTA’s Express Lanes Program, and as such, should not pose a conflict of interest in pursuing those components of delivering future projects. The Department of Toll Operations will manage the Express Lanes Program Support contract such that no services would be provided by consultants under this agreement that would be privileged thereby excluding them from pursuing other contracts supporting the agencies’ Express Lanes Program. To ensure a conflict of interest would not exist, any member of the Express Lanes Program Support team could not participate in any future project where an actual, potential, apparent financial or competitive advantage would exist. If Proposer is concerned about a potential conflict of interest that may exist with a member of their team/firm, please contact the Project Manager for this solicitation.

Description of Work
SBCTA’s Department of Toll Operations is seeking toll consultant support services for upcoming SBCTA express lane facility operations and development of future express lane facilities. Services include supporting the toll program on a wide variety of topics pertaining to the back office, customer service, toll roadside systems, revenue collection and violations, Express Lanes Equity Program, Toll Service Provider key performance indicators, analysis and reporting of traffic and revenue, toll system operations, maintenance and business rules. In addition, SBCTA seeks input on innovative products and systems as they are introduced that could improve efficiency of express lanes facilities.

The activities identified below are characteristic of the categories of work for which SBCTA is seeking qualified Proposers. In addition to the specific activities described below, general responsibilities that may be required also include: task/project schedule development, cost estimate development and review, benefit/cost analyses development and evaluation, toll service provider procurement document development and support, toll service provider and operations services contract administration (California Highway Patrol enforcement, Freeway Service Patrol (FSP), Caltrans maintenance and customer service center), invoice review and approval, contractor/consultant oversight, contract deliverable review and approval, industry best practices research, standard operating procedure/business rule development, and contractor, consultant, and agency coordination.
The estimated value of this contract is $5 million for an estimated period of five years. Activities below are intended to be performed under the direction of SBCTA’s Chief of Toll Operations.

**Task I - I-10 Contract 2 Toll Implementation Support**
The Consultant shall provide tolling implementation support services for I-10 Express Lanes Contract 2. Services include the oversight and management of the Toll Service Provider (TSP) efforts and contract associated with the TSP amendment for the project as well as coordination with SBCTA partners to ensure delivery, operation and maintenance of the project including but not limited to:

- TSP contract administration, planning and support
- Toll operations and maintenance planning
- Performance metrics and evaluations
- Asset management
- Communications and marketing strategy
- Incident management and disaster recovery
- Standard operating procedures
- Oversight, coordination and owner verification Toll system implementation oversight

**Task II - Express Lanes Planning and Policy**
The Consultant shall support SBCTA with strategic and operational planning and policy work for future express lanes extensions. Planning and policy work require balancing SBCTA’s financial obligations and program goals with regional policy and other related requirements. Tasks include a wide range of planning and policy work including but not limited to:

- Concept of operations updates
- Business rule review and refinement
- Toll Program and facility policy and goal review and refinement
- Legislation research and monitoring
- Organizational readiness planning
- User survey development
- Long-term express lanes system strategic planning
- General express lanes program management and support

**Task III – Express Lanes Operations Support**
The Consultant shall provide oversight support for the operations of the SBCTA Express Lanes System including the necessary technical expertise and staffing resources to provide oversight of the toll service providers and other operations and maintenance contractors. Tasks include a wide range of oversight support including but not limited to:

- Toll collections system oversight, coordination and monitoring
- Express Lanes operations and maintenance oversight
- Contract management and administration
- Transaction processing and financial reconciliation oversight and support
Task IV - Technology and Systems Support
The Consultant shall support SBCTA with the assessment, planning, implementation and management of technology and systems used in the operation and management of the express lanes and facilities. Tasks include a wide range of technology and system support activities including but not limited to:

- Existing technology and systems monitoring
- Manage system upgrade configuration management processes
- Perform technical evaluations
- Long-term system replacement plan development
- System generated reports/data validation and analysis
- System design review and approval
- Emerging technology evaluation and preparation of white papers on potential application in SBCTA Express Lanes Program
- Implementation and support of technology pilot programs
- Audit system performance assessments
- System maintenance monitoring and evaluation
- System plans, documents, drawings, etc. review
- Perform asset management
- Evaluate transponder or other payment method technology
- System interface review
- Identify and evaluate future opportunities in customer service and back office operations
- Oversight support of tolling contractors

Task V - Customer Service and Back Office Operations Support
The Consultant shall support SBCTA with oversight of the back office operations, customer service, toll transaction and evasion violation processes upon revenue commencement including but not limited to:

- Website content, customer materials, customer correspondence development
- Perform complex reporting of back office and customer service performance
- Collection program evaluation
- Audit contract performance requirements
- Audit contract standard operating procedures
- Audit transactions, revenue and reconciliations
- Audit and review financial processes
- Third party audit support
- Review Service Organization Control, Payment Card Industry, Personally Identifiable Information, and Department of Motor Vehicle compliance
- Perform operational assessments and reporting
- Manage and deliver operational initiatives
- Respond to customer inquiries
- Coordinate with marketing and outreach consultants
- Recommend processing efficiencies
- Perform data management

**Task VI - Roadway Maintenance Support**

The Consultant shall support SBCTA with a wide range of roadway and construction support activities including but not limited to:

- Express lanes and general purpose lane closure coordination
- Roadway maintenance plan development and maintenance oversight
- Roadway sign replacement or upgrade coordination
- Incident management plan review and update
- Freeway Service Patrol coordination
- California Highway Patrol enforcement coordination
- Coordination with Caltrans on routine and lifecycle maintenance of roadway assets
- Asset management, repair, and replacement plan development and implementation
- Coordination with projects impacting the express lanes
- Standard operating procedure development, update and implementation

**Task VII - Industry Representation**

The Consultant shall support SBCTA participation with outside agencies and within the transportation tolling industry with activities including but not limited to:

- Presentation material preparation
- Deliver presentations
- Perform research
- Organize and conduct tours
- Coordinate events
- Industry committee participation
- Interface with other agencies
- Identify available industry platforms
- Manage agency initiatives

**Task VIII - Express Lanes Performance**

The Consultant shall support SBCTA with the performance monitoring of express lanes operations with activities including but not limited to:

- Perform general traffic, origin-destination, High-Occupancy-Vehicle, and other counts
- Traffic simulation and modeling support for express lanes operations
- General purpose and express lanes speed monitoring
- Dynamic pricing algorithm evaluation
- Performance Measurement System (PeMS) data collection and analysis
  - Video/drone recording and analysis
- Research and implement business analytic tools (i.e. performance dashboards)
**Task IX - Financial Support**

The Consultant shall support SBCTA with work related to existing facility and future project financings and general financial support as SBCTA separately contracts for detailed toll financial support through the Finance Department. Activities include but are not limited to:

- Estimation of life-cycle costs for toll technology, express lane pavement, and other capital costs
- Analyze surplus toll revenue, assist in the development of surplus toll revenue expenditure plans
- Providing insight and expertise on State/Federal/Local funding sources in accordance with Governmental Accounting Standard Board (GASB) and Federal Highway Administration (FHWA) rules and regulations.
EXHIBIT “B”

“PRICE PROPOSAL FOR TIME AND MATERIALS”
Attachment B Price Proposal for
Time and Materials

Year 1 – 2023/24 – PAGE 1

Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate</th>
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<tbody>
<tr>
<td>Will Allen</td>
<td>Program Manager</td>
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<tr>
<td>Kimanh Doan</td>
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<td>Richard Van Hyning</td>
<td>Program Manager</td>
<td>Express Lanes Operations Task Lead</td>
<td>$304.19</td>
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<td>Dan Baker</td>
<td>Deputy Project Mgr - Toll Technology</td>
<td>Technology and Operations Task Lead</td>
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<tr>
<td>Wendy Viellenave</td>
<td>Deputy Project Mgr - Toll Technology</td>
<td>Customer Service and Operations Task Lead</td>
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<tr>
<td>Monica Castelilanos</td>
<td>Deputy Project Mgr - Toll Technology</td>
<td>Roadway Support Task Lead</td>
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<tr>
<td>Kary Witt</td>
<td>National Practice Consultant</td>
<td>Industry Representation Task Lead</td>
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<tr>
<td>Todd Pendleton</td>
<td>Toll Technology Consultant</td>
<td>Express Lanes Performance Task Lead</td>
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<tr>
<td>Theresa Weekes</td>
<td>Deputy Project Mgr - Toll Technology</td>
<td>Financial Support Task Lead</td>
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</tr>
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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President

Signature of Authorized Person

July 13, 2023

Date

Other Direct Cost Schedule (ODC)

All ODC’s are to be proposed at cost-without mark-ups.

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<tr>
<th>Type of ODC</th>
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<td>Travel (airfare/hotel/meals/rental) - per trip (assumes 3 days per trip)</td>
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## Key Personnel

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<th>Name</th>
<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate</th>
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## Other Direct Cost Schedule (ODC)

*All ODC's are to be proposed at cost-without mark-ups.*

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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President

Signature of Authorized Person

July 13, 2023

Date
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# Other Direct Cost Schedule (ODC)

All ODC’s are to be proposed at cost-without mark-ups.

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<thead>
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<th>Unit Cost</th>
<th>Estimated Budget Amount</th>
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Date: July 13, 2023
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<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate</th>
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<tbody>
<tr>
<td>Will Allen</td>
<td>Program Manager</td>
<td>Project Manager</td>
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<td>Kimanh Doan</td>
<td>Program Manager</td>
<td>Planning and Policy Task Lead</td>
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<td>Richard Van Hyning</td>
<td>Program Manager</td>
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<td>Deputy Project Mgr - Toll Technology</td>
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<td>Deputy Project Mgr - Toll Technology</td>
<td>Customer Service and Operations Task Lead</td>
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<td>Monica Castellanos</td>
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<td>Kary Witt</td>
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<th>Unit Cost</th>
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<tr>
<td>Mileage (IRS Standard Mileage Rate)- per mile</td>
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<td>$1,000</td>
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<tr>
<td>Travel (airfare/hotel/meals/rental) - per trip (assumes 3 days per trip)</td>
<td>$2,000</td>
<td>$10,000</td>
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<tr>
<td>Printing (B/W) - per sheet</td>
<td>$0.06</td>
<td>$200</td>
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<tr>
<td>Printing (color) - per sheet</td>
<td>$0.29</td>
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HNTB Corporation

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HNTB Corporation

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<tbody>
<tr>
<td>Principal Planner</td>
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HNTB Corporation

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July 13, 2023

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<tbody>
<tr>
<td>Will Allen</td>
<td>Program Manager</td>
<td>Project Manager</td>
<td>$360.37</td>
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<td>Kimanh Doan</td>
<td>Program Manager</td>
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<td>Richard Van Hyning</td>
<td>Program Manager</td>
<td>Express Lanes Operations Task Lead</td>
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<tr>
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<td>$270.21-345.27</td>
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## Other Direct Cost Schedule (ODC)

*All ODC’s are to be proposed at cost-without mark-ups.*

<table>
<thead>
<tr>
<th>Type of ODC</th>
<th>Unit Cost</th>
<th>Estimated Budget Amount</th>
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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President

Signature of Authorized Person

July 13, 2023

Date
## Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate</th>
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<tr>
<td>Will Allen</td>
<td>Program Manager</td>
<td>Project Manager</td>
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<td>Program Manager</td>
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<td>Industry Representation Task Lead</td>
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## Other Direct Cost Schedule (ODC)

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<table>
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<th>Type of ODC</th>
<th>Unit Cost</th>
<th>Estimated Budget Amount</th>
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<td>Travel (airfare/hotel/meals/rental) - per trip (assumes 3 days per trip)</td>
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<td>$10,000</td>
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<td>Printing (BW) - per sheet</td>
<td>$0.06</td>
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<td>Printing (color) - per sheet</td>
<td>$0.29</td>
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HNTB Corporation

Proposer

[Signature]

Kevin A Haboian, PE, Senior Vice President

July 13, 2023

Date
### Key Personnel

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<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate</th>
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### Other Direct Cost Schedule (ODC)

All ODC's are to be proposed at cost-without mark-ups.

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<th>Type of ODC</th>
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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President

Signature of Authorized Person

July 13, 2023

Date
## Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
<th>Classification/Title</th>
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## Other Direct Cost Schedule (ODC)

All ODC’s are to be proposed at cost-without mark-ups.

<table>
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<th>Type of ODC</th>
<th>Unit Cost</th>
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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President

Signature of Authorized Person

July 13, 2023

Date
Attachment B Price Proposal for Time and Materials

Year 5 – 2027/28 (Optional) – PAGE 1

Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
<th>Classification/Title</th>
<th>Job Function</th>
<th>Hourly Rate</th>
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<tr>
<td>Will Allen</td>
<td>Program Manager</td>
<td>Project Manager</td>
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<td>Kimanh Doan</td>
<td>Program Manager</td>
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Other Direct Cost Schedule (ODC)

All ODC's are to be proposed at cost-without mark-ups.

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<thead>
<tr>
<th>Type of ODC</th>
<th>Unit Cost</th>
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<tbody>
<tr>
<td>Mileage (IRS Standard Mileage Rate)- per mile</td>
<td>$ 0.655</td>
<td>$ 1,000</td>
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<tr>
<td>Travel (airfare/hotel/meals/rental) - per trip (assumes 3 days per trip)</td>
<td>$ 2,000</td>
<td>$ 10,000</td>
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<tr>
<td>Printing (BW) - per sheet</td>
<td>$ 0.06</td>
<td>$ 200</td>
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<tr>
<td>Printing (color) - per sheet</td>
<td>$ 0.29</td>
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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President
Signature of Authorized Person
July 13, 2023
Date
## Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
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<th>Job Function</th>
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## Other Direct Cost Schedule (ODC)

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HNTB Corporation
Proposer

Kevin A Haboian, PE, Senior Vice President
Signature of Authorized Person
July 13, 2023
Date
## Key Personnel

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<th>Hourly Rate</th>
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<tbody>
<tr>
<td>Principal Planner</td>
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## Other Direct Cost Schedule (ODC)

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HNTB Corporation

Proposer

Kevin A Haboian, PE, Senior Vice President

Date: July 13, 2023

Signature of Authorized Person

[Attachment B Price Proposal for Time and Materials]

Year 5 – 2027/28 (Optional) – PAGE 3
## Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
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<td>Principal</td>
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<td>Anna Luo</td>
<td>Principal</td>
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<td>Jinghua Xu</td>
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<td>Diwu Zhou</td>
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## Other Direct Cost Schedule (ODC)

All ODC’s are to be proposed at cost-without mark-ups.

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<thead>
<tr>
<th>Type of ODC</th>
<th>Unit Cost</th>
<th>Estimated Budget Amount</th>
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<tbody>
<tr>
<td>Mileage (IRS Rate)</td>
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<td>$500</td>
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</table>

Fehr & Peers, sub to HNTB Corporation

Proposer

Signature of Authorized Person: [Signature]

Date: June 8, 2023
# Attachment B Price Proposal for Time and Materials

## Year 2 – 2024/25 – PAGE 1

### Key Personnel

<table>
<thead>
<tr>
<th>Name</th>
<th>Classification/Title</th>
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### Other Direct Cost Schedule (ODC)

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Fehr & Peers, sub to HNTB Corporation

Proposer

Signature of Authorized Person

June 8, 2023

Date
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Proposer: [Signature]

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Fehr & Peers, sub to HNTB Corporation

Proposer

Signature of Authorized Person

Date: June 8, 2023
Minute Action

AGENDA ITEM: 11

Date:  August 10, 2023

Subject:
Express Lanes Toll Services Amendment No. 1 to Cooperative Agreement No. 18-1001854 with Transportation Corridor Agencies

Recommendation:
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority (SBCTA), at a regularly scheduled Board meeting:

A. Approve Amendment No. 1 to Cooperative Agreement No. 18-1001854 with the Transportation Corridor Agencies for the provision of toll transaction and violation processing, customer service and other toll operations related services for Express Lanes within San Bernardino County; and authorize the Executive Director, or his designee, to execute the amendment upon approval as to form by SBCTA General Counsel. The estimated contract amount for Fiscal Year (FY) 2023/2024 is $2,100,000.

B. Authorize the Executive Director, or his designee, to adjust the contract amount based on the number of Express Lanes transactions, violations and other toll operations related service needs for FY 2023/2024 as defined in Exhibit A of Cooperative Agreement No. 18-1001854.

Background:
On January 4, 2018, the San Bernardino County Transportation Authority (SBCTA) Board of Directors (Board) approved Cooperative Agreement No. 18-1001854 with the Transportation Corridor Agencies (TCA) for the provision of toll transaction and violation processing, customer service and account management, and other toll operations related services for express lanes within San Bernardino County. Board approval of the agreement also included waiving the five-year contract term limit in Contracting and Procurement Policy No. 11000 as the agreement remains in effect until terminated. Amendment No. 1 amends and restates the original agreement to account for updated and refined TCA processes and protocol, SBCTA express lanes operational procedures and business rules which were not finalized when the original agreement was executed in January 2018.

Staff identified that significant cost savings will be achieved by collaborating with another operating regional toll agency for these services, while reducing risk to delivering and operating SBCTA’s initial express lanes project, the Interstate 10 (I-10) Corridor Freight and Express Lanes Project - Contract 1 (Project), and subsequent express lanes projects. The scale of the TCA operations and extensive operating experience resulted in the greatest potential for cost savings and operating risk mitigation for SBCTA. Agencies in California and throughout the United States have used a similar approach to launch tolling projects, as it is a proven method to leverage existing operations to reduce project risks and costs.

Under this Cooperative Agreement, TCA will provide the following services to SBCTA:

- Toll transaction processing for payment, including both transponder-based and video tolling, as well as violation processing
- Customer service and account management

Entity: San Bernardino County Transportation Authority
• Financial reconciliation
• Associated management and administrative support

SBCTA’s Toll Service Provider (currently contracted out to TransCore) will provide billable transactions to TCA from the express lanes roadside system. SBCTA will reimburse TCA on a per-transaction basis for both toll transaction and violation processing. The per-transaction cost model (Exhibit A) has been updated to reflect current actual costs and will be jointly reviewed by TCA and SBCTA on an annual basis to incorporate current actual costs and ensure fairness for both agencies. Based on the updated cost model and the projected transactions, the estimated cost for TCA’s toll transaction services in Fiscal Year (FY) 2023/2024 is $2,100,000 for the Project based on six months of toll operational service.

Since the cost of the service is dependent upon the actual number of transactions and violations processed annually by TCA, staff recommends that the Board authorize the Executive Director, or his designee, to adjust the contract amount based on the actual number of express lanes transactions and violations processed for FY 2023/2024, should actual values exceed those numbers forecast by SBCTA’s team when the Project financial plan was developed. SBCTA staff will provide the Board an annual update to the service cost based on the annual review of the per-transaction cost model with TCA during subsequent budget development processes. The initial period of performance of this Cooperative Agreement is three years and the agreement would remain in effect until terminated by either SBCTA or TCA under the conditions laid out in the agreement.

On May 3, 2023, the Board approved Cooperative Agreement No. 22-1002721 with the Riverside County Transportation Commission (RCTC) for the development of the Interstate 15 (I-15) Corridor Freight and Express Lanes Project – Contract 1. The Cooperative Agreement with RCTC delineates SBCTA and RCTC roles and responsibilities for project implementation as the SBCTA I-15 express lanes facility will connect with the existing RCTC 15 Express Lanes. Implementation of the project will impact operation of the RCTC facility as a portion of the existing RCTC facility will be transferred to SBCTA to operate and maintain. This arrangement requires consent from the United States Department of Transportation (USDOT) due to RCTC’s Transportation Infrastructure Finance and Innovation Act (TIFIA) loan on their existing 15 Express Lanes facility. To ensure that I-15 express lanes revenue collected by TCA is transferred to RCTC as outlined in Cooperative Agreement No. 22-1002721, USDOT required that the SBCTA Cooperative Agreement with TCA include language protecting RCTC’s right to the transfer of revenue tied to their existing facility that will be turned over to SBCTA. As a result, language was included to account for the I-15 revenue transfer and RCTC was included as a third-party beneficiary and signatory to Cooperative Agreement No. 18-1001854 specifically limited to the toll revenue transfer provision.

Financial Impact:
This item is consistent with the Fiscal Year 2023/2024 Budget.

Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel, Procurement Manager and Risk Manager have reviewed this item and the draft amendment.

Responsible Staff:
Timothy Byrne, Director of Toll Operations
San Bernardino County Transportation Authority
**Contract Summary Sheet**

### General Contract Information

- **Contract No:** 18-1001854
- **Amendment No:** 1
- **Contract Class:** Payable
- **Department:** Toll Operations
- **Vendor No:** 03364
- **Vendor Name:** Transportation Corridor Agencies
- **Description:** Toll Service Cooperative agreement with TCA

#### List Any Related Contract Nos.

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<th>Dollar Amount</th>
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<tbody>
<tr>
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<td>Prior Amendments</td>
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<td>Prior Contingency Released</td>
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<td>Current Amendment</td>
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</table>

#### Total Dollar Authority (Contract Value and Contingency)

| Total Dollar Authority (Contract Value and Contingency) | $ | - |

### Contract Authorization

- **Board of Directors:**
  - Date: 09/06/2023

### Contract Management (Internal Purposes Only)

- **Other Contracts:**
  - **Sole Source:** Yes
  - **No Budget Adjustment:**
  - **Local Services:**
    - **Services:**
      - Monthly

### Accounts Payable

- **Estimated Start Date:** 01/04/2018
- **Expiration Date:** 01/01/2068
- **Revised Expiration Date:** 12/30/2073
- **NHS:** N/A
- **QMP/QAP:** N/A
- **Prevailing Wage:** N/A
- **Fund:**
  - **Prog Task:**
    - **Object:**
      - **Revenue:**
        - **PA Level:**
          - **Revenue Code Name:**
            - **Total Contract Funding:**
              - $ | - |
            - **Total Contingency:**
              - $ | - |

Additional Notes: contract amount is adjusted annually per agenda item. Payable amount is dependent on the number of annual transctions and violations processed by TCA. Contract begins in 1/2018 to capture any development cost prior to opening. Contract is evergreen per 1/4/2018 agenda item (or until terminated by either party) Revised exp date on CSS assumes 50 years from the beginning of revenue service at 12/30/2023. Amounts authorized for payment by the Board or through Executive Director authority will be managed through an administrative contract.
FIRST AMENDED AND RESTATED
COOPERATIVE AGREEMENT

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY (AGREEMENT NO. 18-1001854-01)

AND

TRANSPORTATION CORRIDOR AGENCIES (AGREEMENT NO. K001238)

FOR

TOLL SERVICES
FIRST AMENDED AND RESTATED COOPERATIVE AGREEMENT FOR TOLL SERVICES BETWEEN
TRANSPORTATION CORRIDOR AGENCIES and SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

This COOPERATIVE AGREEMENT ("Agreement") is dated as of __________, 2023 by and between the Foothill/Eastern Transportation Corridor Agency, a California Joint Powers Agency, and the San Joaquin Hills Transportation Corridor Agency, a California Joint Powers Agency, collectively the TRANSPORTATION CORRIDOR AGENCIES ("TCA") and SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY ("SBCTA"). TCA and SBCTA are sometimes referred to herein individually as "Party", and collectively as the "Parties". Capitalized terms not separately defined in the Recitals have the meanings assigned such terms in Section 1 of this Agreement.

RECITALS

WHEREAS, TCA is a California toll road operator and, through its various contractors (collectively “Toll Services Contractors”), performs Transaction processing, customer service and account management functions for its Toll Facilities (State Routes 73, 133, 241 and 261) under the FasTrak® logo; and

WHEREAS, on April 24, 2018 the Parties entered into a Cooperative Agreement identified as SBCTA Agreement No. 18-1001854 and as TCA Contract No. K001238 (“Original Agreement”), to delineate roles, responsibilities, and funding commitment relative to the provision of Toll Services by TCA for SBCTA toll facilities; and

WHEREAS, refinements to the Original Agreement are necessary prior to the commencement of revenue service on SBCTA Toll Facilities to clarify application of the Cost Model and to account for business practice revisions at TCA since entering into this Agreement; and

WHEREAS, SBCTA intends to operate the Interstate 10 (I-10) Express Lanes, the Interstate 15 (I-15) Express Lanes and other Toll Facilities in San Bernardino County (collectively “Express Lanes”), which will provide Customers with the option to use FasTrak® as Customer account options, as well as One-Time-Toll and TCA’s other payment methods to pay tolls; and

WHEREAS, SBCTA needs toll Transaction (including video tolling) and Violation processing, customer service and account management operations, and other toll operations related services (herein referred to collectively as “Toll Services”), for the future I-10 Express Lanes, I-15 Express Lanes and other SBCTA Toll Facilities; and

WHEREAS, TCA and SBCTA wish to enter into this Agreement to provide for the integration of the Express Lanes into the state’s interoperable network of Toll Facilities, and to set forth the terms and conditions pursuant to which TCA will cause its Toll Services Contractors to provide Toll Services for the future I-10 and I-15 Express Lanes and other SBCTA Toll Facilities, in order for both TCA and SBCTA to
achieve cost savings through economies of scale through use of the TCA’s toll services capabilities to serve SBCTA Customers; and

WHEREAS, TCA is willing to provide Toll Services to SBCTA in order to achieve such economies of scale, and neither TCA nor SBCTA intends for TCA to be a guarantor of SBCTA’s collection of tolls incurred by Customers of the Express Lanes or otherwise assume any liability to SBCTA for the collection of such tolls other than to require TCA’s Toll Services Contractors to perform Toll Services for the SBCTA Customers’ Transactions in accordance with the Toll Services Contracts, and to otherwise comply with the terms of this Agreement and applicable law; and

WHEREAS, the Parties wish to amend and restate the Agreement;

NOW, THEREFORE, the Parties hereto agree as follows:

1. DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meanings hereinafter provided:

1.1. “Accepted SBCTA Transaction” shall mean Fully Formed Trips in accordance with the ICD that are confirmed received by TCA’s BOS.

1.2. “Accountholder” shall mean a Customer who has a valid account for the payment of tolls on TCA or SBCTA toll facilities.

1.3. “Account Unsuspension Fee” shall mean a prescribed fee charged to an accountholder whose account is suspended due to non-payment or insufficient balance.

1.4. “Agreement” shall mean this FIRST AMENDED AND RESTATED COOPERATIVE AGREEMENT FOR TOLL SERVICES between SBCTA and TCA.

1.5. “Back Office System” or “BOS” shall mean the TCA computer system(s) used to: post Transactions; manage Customer accounts; process payments; and to perform other Customer or Violation related functions.

1.6. “California Toll Operators Committee” or “CTOC” shall mean the organization of California Toll Facility owners/operators that oversees interoperability requirements and provides for coordination amongst the various agencies.

1.7. “Collection Services Provider” shall mean a contractor that provides debt collection services.

1.8. “Cost Model” shall have the meaning set forth in Exhibit A.

1.9. “Credit Card Processing Fee” shall mean fees calculated by TCA on a monthly basis using TCA’s average credit card processing rate multiplied by the total amount of collected revenue transferred to SBCTA for the month. Amount will be invoiced and collected on a monthly basis and netted with Account Unsuspension Fee credits per Section 10.5.4.
1.10. “CSC Contractor” means the entity under contract to TCA to provide CSC services.

1.11. “Customer” shall mean a driver that has chosen to use either TCA or SBCTA’s Toll Facilities.

1.12. “Customer Service Business Rules” shall mean TCA’s documented policies and/or procedures for toll services.

1.13. “Customer Service Center” or “CSC” means the facility or facilities operated by TCA or its contractor for the purpose of handling Customer inquiries, performing account management; processing Transactions; or providing other toll services.

1.14. “Customer Service Positions” or “CSP” means staff assigned to customer service functions inclusive of leads, supervisors and representatives.

1.15. “Express Lanes” shall mean Interstate I-10 Express Lanes (Contract 1), I-15 Express Lanes (Contract 1), and future Toll Facilities in San Bernardino County as SBCTA designates in a written notice to TCA sent 12 months prior to the inclusion of future Toll Facilities under this Agreement.

1.16. “FasTrak® Charge Account” shall mean a postpaid FasTrak® account established by a Customer with TCA whereby the Customer pays for tolls and fees using a credit card.

1.17. “FasTrak® Invoice Account” shall mean a postpaid FasTrak® account established by a Customer with TCA whereby TCA provides the Customer a monthly invoice for the prior month’s activity, which is paid by the Customer.

1.18. “FasTrak® Prepaid Account” shall mean a FasTrak® account established by a Customer with TCA whereby the Customer maintains a prepaid balance.

1.19. “FasTrak®” is a trademark owned by TCA and used in California to identify interoperable toll facilities that accept transponders issued by other California agencies.

1.20. “Fully Formed Trip” shall mean a record of Transaction(s) that contains the required specifications defined in the ICD for the process of collecting toll(s).

1.21. “Interface Control Document” or “ICD” shall mean the most recently adopted and agreed upon version of the document that describes the technical specifications for file and data exchange between TCA and SBCTA.

1.22. “Interoperable” or “IOP” shall have the meaning generally understood in the electronic toll payment industry, i.e., the ability for registered customers of participating toll facilities to pay tolls through a combination of electronic and image-based Transactions and settlement of the associated toll Transactions between the participating agencies and organizations.
1.23. “Minimum Compensation” shall mean the annual projection for Customer Service Center Staffing costs for SBCTA calculated in accordance with Exhibit A Cost Model for each fiscal year and designated as Item A in Table 4.

1.24. “One-Time-Toll” is a trademark owned by TCA used to identify the option for payment of tolls using a vehicle’s license plate.

1.25. “Opening Day” shall mean the first day SBCTA collects tolls for usage of its Toll Facilities.

1.26. “Party” shall mean a party to this Agreement and “Parties” shall mean both of them.

1.27. “Personally Identifiable Information” or “PII” shall mean any information that could be used to identify a person, including, but not limited to, travel pattern data, address, telephone number, Transponder number, email address, license plate number, photograph, bank account information, or credit card number.

1.28. “Processing Agency” shall have the meaning provided for such term in California Vehicle Code Section 40253.

1.29. “Projected Transactions” shall mean the volume of Transactions forecasted to occur in the subsequent fiscal year.

1.30. “Roadway Business Rule” shall mean the respective Party’s documented policies and/or procedures regarding Toll Facilities’ usage.

1.31. “Response File” shall mean the electronic file sent by TCA to SBCTA in response to the transmittal of SBCTA Transactions to TCA’s BOS.

1.32. “SBCTA Transactions” shall mean the Transactions captured by SBCTA’s Toll Collection System and sent to TCA for processing. For avoidance of doubt, SBCTA Transactions shall not include Transactions captured by SBCTA’s Toll Collections System that are not sent to TCA for processing.

1.33. “Start-up Period” shall mean, with respect to each of the Express Lanes facilities, the period starting on the date SBCTA opens such Express Lanes and ending on the first to occur of (a) the last day of the first month when Toll Services volumes achieve 1,000,000 Transactions in that month or (b) 12 months after the Express Lanes opening.

1.34. “TCA Customer Account” shall mean an account established by an Accountholder with TCA for the electronic or video payment of tolls.

1.35. “Toll Collection System” or “TCS” shall mean all in-lane equipment and toll collection hardware and software systems necessary to capture and transmit toll Transactions.
1.36. “Toll Facility” or “Toll Facilities” shall mean the road(s) or lane(s) for which each respective Party is duly authorized to charge and collect tolls and to enforce toll Violations.

1.37. “Toll Services” shall mean services involving toll Transaction (including video tolling) and Violation processing; customer service and account management operations; and other toll operations related services as agreed to by the Parties.

1.38. “Toll Services Contract” shall mean an agreement between TCA and a Toll Services Contractor covering materials and/or services required to provide Toll Services over a specific period of time specified in such agreement.

1.39. “Toll Services Contractor” shall mean the person or entity that provides materials or labor to perform a service or work under a Toll Services Contract.

1.40. “Transaction” shall mean the passage of any vehicle through any portion of the Toll Facilities for which a toll would normally be collected (whether directly from the vehicle’s driver or from operators of interoperable facilities for the use of the Toll Facilities by their patrons), and regardless of whether the toll is collected. Additionally, “Transactions” shall include the Transactions of Customers at interoperable facilities.

1.41. “Transponder” shall mean the electronic device used by the TCS to identify a Customer vehicle using a Toll Facility.

1.42. “Violation” shall mean a Transaction for which payment of the appropriate toll is not received.

2. PURPOSE AND INTENT; TOLL SERVICES CONTRACTS

The Parties to this Agreement enter into it with the sole purpose to establish understandings and commitments regarding Transaction processing and Customer/account management functions with the intent to provide each of the Parties cost savings through leveraging and economies of scale. Nothing in this Agreement, except where otherwise expressly provided, is intended to convey authority for the setting of toll rates and/or Violation penalty amounts; or responsibilities for facility or equipment maintenance; or debt covenants between or among the distinct Parties.

Prior to commencement of provision of Toll Services for SBCTA pursuant to this Agreement, TCA shall provide SBCTA an opportunity to review TCA’s Toll Services Contracts and plans with respect to future Toll Services Contracts in existence at the time that SBCTA plans to commence testing for the provision of Toll Services for the SBCTA Toll Facilities in accordance with Section 5.12 of this Agreement. By proceeding with testing and commencement of Toll Services for the SBCTA’s Toll Facilities, SBCTA shall be deemed to acknowledge and agree that it made its own independent judgment that the Toll Services to be provided pursuant to, and in accordance with the terms and conditions set forth in, the Toll Services Contracts are adequate and acceptable for SBCTA’s needs, and that TCA has not made any representation or warranty, and SBCTA is not relying upon any representation or warranty of TCA, with respect to the Toll Services or the Toll Services Contracts in entering into this Agreement or accepting the provision of Toll Services.
pursuant to this Agreement. TCA shall make reasonable efforts to provide SBCTA with advance notice of and opportunity to comment with respect to any contemplated amendments or modifications to the Toll Services Contracts, and shall consider SBCTA’s comments in entering into any such amendments or modifications.

To the extent not addressed in the awarded Toll Services Contracts, or in prior amendments to Toll Services Contracts, prior to commencing the provision of Toll Services for SBCTA, TCA shall amend the Toll Services Contracts to include SBCTA in the scope of work, and to include SBCTA as an indemnified party and an additional insured under such contracts at SBCTA’s sole cost, with coverage to be provided to the same extent as provided to TCA. In addition, TCA shall amend the Toll Services Contracts to require that its Toll Services Contractors maintain the confidentiality of all SBCTA-provided PII (as defined in Sections 1.27 and 8) to the same extent the Toll Services Contractors are required to maintain the confidentiality of TCA-provided PII. TCA shall amend the Toll Services Contracts to include SBCTA as a third party beneficiary under the Toll Services Contracts, with SBCTA’s rights limited to enforcement of the indemnification and insurance provisions in favor of SBCTA. Any such amendments shall specify that for purposes of Chapter 1, Article 4 of the Vehicle Code, TCA is the SBCTA Processing Agency for purposes of SBCTA Transactions occurring on SBCTA Toll Facilities. If TCA is unable to amend the Toll Services Contracts as provided in this Paragraph prior to the commencement of Toll Services for SBCTA, then at SBCTA’s option, SBCTA may terminate this Agreement, or in writing waive or, subject to TCA’s agreement, modify one or more of the requirements in this Paragraph.

3. AGREEMENT EXECUTION AND COMMUNICATIONS

The Parties agree to establish and identify primary points of contacts within their respective agencies to coordinate activities related to the fulfillment of this Agreement and resolution of any associated problems as designated below:

For SBCTA:

Tim Byrne
Director of Toll Operations
1170 W 3rd St
San Bernardino, CA 92410
909-884-8276
Email: tbyrne@gosbcta.com

For TCA:

Vincent Valdez
Chief Toll Operations Officer
125 Pacifica
Irvine, CA 92618
949-754-3456
Email: vvaldez@thetollroads.com
Either Party may from time to time designate another primary point of contact by written notice to the other Party.

4. **DELINEATION OF RESPONSIBILITIES AND EXPECTATIONS**

The Parties acknowledge that under the terms of this Agreement, TCA will provide Toll Services to SBCTA, and the Parties agree to work in good faith to address any issues that may arise and to explore any opportunities for mutual benefit that may also arise. As further delineated in this document:

SBCTA agrees to:

4.1. Collect/capture and package the record of Transactions from its Toll Facilities in accordance with CTOC requirements and to transmit those Transaction records to TCA’s BOS systems, to the extent possible, in an accurate and timely manner and as defined by the ICD. For purposes of Chapter 1, Article 4 of the California Vehicle Code, TCA shall be SBCTA’s Processing Agency.

4.2. Solicit feedback from TCA on any changes to SBCTA Roadway Business Rules regarding usage or signage on SBCTA Toll Facilities that SBCTA is considering prior to making such changes in a timeframe sufficient for TCA to evaluate and respond.

4.3. Compensate TCA for all costs set forth in this Agreement per the provisions in Section 10.

TCA agrees to:

4.4. Process SBCTA’s Transactions by SBCTA Express Lane Toll Facility (i.e. I-10 Express Lanes Contract 1, I-15 Express Lanes Contract 1 and future Toll Facilities), posting those Transactions against the appropriate TCA or IOP agency accounts, or matched payments, or cause TCA’s Toll Services Contractors acting as Processing Agencies to post Transactions to Violation accounts, in a manner consistent with the posting of Transactions occurring on TCA’s Toll Facilities and in compliance with the Customer Service Business Rules and CTOC requirements.

4.5. Provide standardized reports and/or data related to the processing of SBCTA Transactions (by SBCTA Express Lane Toll Facility) and related revenue as well as any financial settlements, in the same manner and forms as are provided to TCA by the Toll Services Contractors under the Toll Services Contracts.

4.6. Utilize consistent practices for Accountholders and other Customers regardless of which Toll Facilities the Accountholder or Customer uses while considering business rules that may vary between the Parties.

4.7. Provide information, observations and/or feedback to SBCTA on system design, operations, signage or other tolling related aspects.
4.8. Solicit feedback from SBCTA on any initiatives TCA may have regarding changes to Customer Service Business Rules that may affect SBCTA, and make best efforts to address such feedback in order to minimize any increased costs or adverse impacts on users of SBCTA’s Toll Facilities, and on SBCTA Programs to address environmental justice issues with the Express Lanes, that may result from such changes.

5. **TOLL FACILITY ROADWAY OPERATIONS**

The Parties agree that regardless of this Agreement, each Party is distinct and retains sole responsibility and authority for establishing Roadway Business Rules related to the usage of their respective Toll Facilities. However, to facilitate the Toll Services contemplated under this Agreement and to minimize the related costs, the Parties agree to discuss with one another in good faith any changes to their respective Roadway Business Rules.

SBCTA Roadway Business Rules shall permit all Customers to use: 1) the Express Lanes with: valid FasTrak® Transponders or license plates registered to valid FasTrak® accounts; 2) other options provided by TCA for payments of tolls using a vehicle’s license plate (I-10 Express Lanes only); and 3) TCA’s other payment methods to pay tolls.

SBCTA shall:

5.1. Be solely responsible for the capture, calculation, packaging and transmittal of Transactions/trips records and related license plate images occurring on SBCTA’s Toll Facilities in accordance with the ICD.

5.2. Procure, install, maintain and operate a TCS for the Express Lanes and any other SBCTA Toll Facilities with respect to which SBCTA requires Toll Services pursuant to this Agreement. All such equipment must be in compliance with California Code of Regulations, Title 21, Chapter 16 specifications for automatic vehicle identification (AVI) equipment required under the FasTrak® brand and permitted for operation within the State’s Right of Way.

5.3. Procure and maintain a secure communications connection between the Express Lanes’ designated host computer(s) and TCA’s designated BOS, currently located in Irvine, California.

5.4. Provide or perform image review functions to ensure that license plate numbers transmitted to TCA have a high degree of accuracy, with no more than a 0.5% error rate.

5.5. Transmit SBCTA Transaction records, which shall be Fully Formed Trips in accordance with the ICD. Such SBCTA Transactions shall be considered Accepted SBCTA Transactions upon confirmed receipt by TCA’s BOS.

5.6. Coordinate with TCA to develop mutually agreeable test plans and schedules and to conduct testing to achieve integration between TCA’s BOS and SBCTA’s TCS.
5.7. Subject to Section 5.12 below, receive approval from TCA for acceptance of test results and operational readiness prior to the transmittal of SBCTA Transactions to TCA.

TCA shall:

5.8. Develop and maintain the ICD in collaboration with SBCTA to accept and process SBCTA’s Transactions.

5.9. Provide a Response File showing counts for Accepted SBCTA Transaction records and rejected Transaction records.

5.10. Provide modifications to TCA’s BOS to accommodate the communications connection from the SBCTA TCS at SBCTA’s expense. TCA shall arrange for the appropriate Toll Services Contractor to make such modifications to accommodate the communications connection from SBCTA to TCA for a not-to-exceed contract price approved in advance by SBCTA.

5.11. Incorporate mutually agreed upon SBCTA Roadway Business Rules into TCA’s BOS. It shall not be unreasonable for TCA to withhold its agreement to any SBCTA Roadway Business Rule that would, in TCA’s judgment, increase costs or have a negative impact on the Toll Services, generally, and that impact has not been addressed to TCA’s satisfaction.

5.12. Participate in the development or execution of test plans; provide timely comments on test results, within no more than 10 business days of receipt of the results by TCA; and not unreasonably withhold approval for operational readiness. If TCA does not provide comments on any test results within the specified timeframe, unless otherwise agreed upon by the Parties, SBCTA will contact TCA to confirm whether or not TCA has any comments on the test results. If TCA does not provide comments on any test results within 3 business days thereafter TCA shall be deemed to have no comments on such test results. It shall not be unreasonable for TCA to withhold approval of operational readiness if, in TCA’s judgment, commencement of Toll Services for Transactions on the SBCTA Toll Facilities would have a negative impact on the Toll Services, generally; and that impact has not been addressed to TCA’s satisfaction. Mutually defined test plans will include prerequisites to begin each test phase and expected test results required for approval of the test before proceeding to the next test phase. TCA acknowledges SBCTA’s desire to achieve approval for operational readiness at least thirty (30) days prior to the anticipated Opening Day, and TCA will in good faith cooperate with SBCTA’s efforts to meet such schedule.

5.13. Provide such CSC and BOS system database redundancy as TCA determines is desirable to minimize CSC and BOS system downtime and ensure operational continuity by locating a backup system at a geographically separate location other than the primary location.
6. ACCOUNT MANAGEMENT, TRANSFER OF FILES AND TRANSACTION POSTING

TCA agrees to incorporate the Express Lanes into TCA’s BOS to leverage and streamline account management, for the transfer of files, and the posting of Transactions against the appropriate TCA or IOP agency accounts, matched payments or Violation accounts in compliance with CTOC requirements. The Parties agree that account management, Transaction posting, payment processing and other customer service functions will be performed in accordance with TCA’s adopted Customer Service Business Rules and standard operating procedures which will be consistently applied, regardless of a Customer’s Toll Facility usage. In so doing, TCA shall function as the Processing Agency for SBCTA.

SBCTA shall:

6.1. Transfer to TCA’s BOS, in near real time but no longer than the timeframe for Transaction processing identified in the CTOC specification and in accordance with the agreed ICD, all SBCTA Transaction/trip records that, pursuant to this Agreement, are to be processed by TCA and/or TCA’s Toll Services Contractors in accordance with the terms of the Toll Services Contracts.

6.2. Except to the extent required to comply with applicable law, maintain all records related to SBCTA Transactions in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment for the applicable SBCTA Transactions, or until the conclusion of all litigation, appeals or claims related to the applicable SBCTA Transactions, whichever is longer.

6.3. Except to the extent required to comply with applicable law, provide TCA, the California State Auditor, or other authorized representatives of TCA access to SBCTA’s records relating to SBCTA Transactions, including records maintained by SBCTA’s contractors for the purpose of inspection, auditing or copying during the entirety of the records maintenance period above.

TCA shall:

6.4. Transfer to SBCTA’s TCS every two hours, a Transponder and/or account status file, as specified in the ICD, to support SBCTA trip building and toll calculations.

6.5. Post Transactions to the appropriate accounts based on the details included in the SBCTA Transaction records and in accordance with the Customer Service Business Rules.

6.6. Instruct TCA’s Toll Services Contractors to process Violations in accordance with California laws and Customer Service Business Rules, including: securing mailing addresses based on license plate images, generating and mailing Violation notices, contacting the registered owner of the vehicle to attempt to resolve unpaid Violations notices, and transmitting records for unpaid Violations to California DMV in order to initiate vehicle registration holds and/or
to SBCTA’s Collection Services Provider, in accordance with the Customer Service Business Rules and as requested by SBCTA. SBCTA Violation notices shall be distinct and separate from TCA’s Violation notices and shall indicate SBCTA as the issuer but shall require Customers to submit payment, disputes, or inquiries through the TCA CSC. SBCTA shall provide TCA SBCTA’s form of Violation notice and SBCTA shall be solely responsible for ensuring that the form of its Violation notice complies with California laws. TCA shall be Processing Agency for purposes of any activities undertaken to process Violations on behalf of SBCTA.

6.7. Comply with the California Vehicle Code and DMV requirements in connection with obtaining or utilizing DMV information, including but not limited to the General Provisions applicable to the “Requester” as set forth in the Government Requester Account Application/Agreement between SBCTA and DMV, as such Application/Agreement may be amended from time to time.

6.8. Except to the extent otherwise required by applicable law, maintain all records relating to SBCTA Transactions and amounts charged to SBCTA hereunder in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SBCTA, or until the conclusion of all litigation, appeals or claims related to this Agreement, whichever is longer, and ensure that the Toll Services Contracts contain a provision requiring maintenance of books and records until 54 months after final payment under the contract.

6.9. Except to the extent otherwise required by applicable law, provide SBCTA, the California State Auditor, or other authorized representatives of SBCTA access to TCA’s records relating to SBCTA Transactions and amounts charged to SBCTA hereunder for the purpose of inspection, auditing or copying, during the entirety of the records maintenance period above, ensure that the Toll Services Contracts contain a provision allowing TCA audit rights until 54 months after final payment under the contract. If the Toll Services Contract does not allow SBCTA direct access to Toll Services Contract records, following receipt of a reasonable written request for audit from SBCTA, TCA agrees to exercise its audit rights for SBCTA’s benefit.

7. CUSTOMER SERVICE OPERATIONS

TCA agrees to utilize and leverage its Customer base, account management and Customer contact systems and processes to provide Toll Services to SBCTA and to service Customers of SBCTA’s Toll Facilities.

SBCTA shall:

7.1. Provide, at its sole expense, a designated representative to handle escalated Customer inquiries and/or disputes related to the Express Lanes.

7.2. Be solely responsible for any decision to dismiss or reduce a toll charge or Violation fine, fee or penalty on the Express Lanes. If SBCTA dismisses or reduces a disputed toll charge or
Violation fine, fee or penalty, SBCTA shall notify the TCA CSC (in writing via email). TCA shall have no responsibility or liability for any such decision by SBCTA, and shall be relieved of any further responsibility to pursue collection of any dismissed or reduced toll charge or Violation fine, fee or penalty after receipt of notification of dismissal or reduction by SBCTA.

7.3. Provide TCA with information and scripted verbiage to use in response to Customer inquiries regarding the use of the Express Lanes.

7.4. Adhere to California laws, Payment Card Industry (PCI) requirements and TCA practices regarding privacy of Customer information/data and as further defined under Sections 1.27 and 8 of this Agreement, “Personally Identifiable Information” (“PII”).

7.5. Comply with the California Vehicle Code and DMV requirements in connection with obtaining or utilizing DMV information, including but not limited to the General Provisions applicable to the “Requester” as set forth in the Government Requester Account Application/Agreement between SBCTA and DMV, as such Application/Agreement may be amended from time to time.

7.6. Access TCA’s BOS solely for the purpose of and to the extent necessary to handle inquiries, disputes and other actions directly related to use of the Express Lanes, and solely in accordance with the Customer Service Business Rules. TCA shall have the right to limit SBCTA’s access to the BOS at any time to the extent necessary or prudent to assure compliance with law concerning the collection, storage and/or dissemination of Customer information. SBCTA acknowledges and agrees that the information and data accessed for such purpose shall remain TCA’s sole and exclusive property, and SBCTA shall not use or disclose such information other than for the sole purpose, and to the limited extent necessary, in connection with the handling of inquiries, disputes and civil enforcement actions with respect to the Express Lanes, or as otherwise required by law or court order. SBCTA shall notify TCA as soon as possible prior to any such disclosure that SBCTA determines is required by law or court order, and shall delay such disclosure to the extent legally possible so that TCA may promptly notify SBCTA of its intent to contest such disclosure requirement and take such actions as it determines appropriate.

7.7. At SBCTA’s sole discretion, contract separately for third-party collection, adjudication/civil judgment and judgment recovery services, using contractors of SBCTA’s choosing, and be solely responsible for such activities.

7.8. Have the option of providing funding to achieve higher levels of performance if so desired and mutually agreed between TCA and SBCTA, and subject to the ability of the relevant Toll Services Contractor’s ability to provide such higher level of Toll Services performance.

7.9. Clearly indicate in any correspondence to Express Lanes users that such communication is on behalf of SBCTA and not reference TCA in any communication or publication without TCA’s prior written consent.
TCA shall:

7.10. Be the sole owner of all TCA Customer Accounts, perform TCA Customer Account management in accordance with the Customer Service Business Rules, through oversight of Toll Services Contractors support and manage a walk-in customer service center in San Bernardino County, and handle toll disputes and contested Violations for the Express Lanes as SBCTA’s Processing Agency in accordance with the Customer Service Business Rules in the same manner as TCA handles toll disputes and contested Violations with respect to TCA’s Toll Facilities.

7.11. Handle general calls regarding use of the Express Lanes and provide general information about the Express Lanes in accordance with the Customer Service Business Rules, and use the information and scripts provided by SBCTA with respect to Customer transactions on the SBCTA Toll Facilities.

7.12. Handle Customer disputes related to Violation notices and imposed penalties as SBCTA’s Processing Agency, including providing information regarding the availability of administrative hearings and resolution processes in accordance with Customer Service Business Rules. Support administrative hearings and judicial proceedings with respect to SBCTA Violations by assembling information and providing documentation packages to SBCTA or SBCTA’s designated representative for administrative hearings and civil judgment court proceedings, when applicable.

7.13. Allow secure system access to authorized SBCTA personnel assigned to resolve disputes with respect to SBCTA Transactions.

7.14. Require that TCA’s Toll Services Contractors adhere to performance standards and the terms and conditions of the Toll Services Contracts, subject to TCA’s discretion in terms of managing such Toll Services Contracts in the manner it deems appropriate and in the best interest of TCA and SBCTA.

7.15. Purchase Transponders to equip vehicles for FasTrak® use on SBCTA’s Toll Facilities.

7.16. Adhere to California laws, Payment Card Industry (PCI) requirements and TCA’s own practices regarding privacy of Customer information/data and as further defined under Sections 1.27 and 8 of this Agreement, “Personally Identifiable Information” (“PII”). TCA shall exercise the same efforts to adhere to law and protect the privacy of PII in TCA’s possession that is provided by or relating to SBCTA and SBCTA Customers as TCA exercises with respect to its own PII and that of TCA Customers, and TCA shall not be responsible to compensate SBCTA for any loss, liability, injury, damage, cost or expense, or other Claims (as defined in Section 12.1 of this Agreement) arising by reason of, or relating to, anything done or omitted to be done by a Toll Services Contractor with respect to PII, except to enforce the Toll Services
Contractor’s obligations under the relevant Toll Services Contract in accordance with the terms of this Agreement.

7.17. Comply with all applicable provisions of the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) in performing work under this Agreement.

TCA and SBCTA shall:

7.18. Review the performance of TCA’s Toll Services Contractors and their compliance with the performance targets specified in their respective Toll Services Contracts on a quarterly schedule or a schedule mutually agreed upon by both parties.

7.19. Develop a methodology to share in the recoupment of disincentive deductions or the payment of incentives no later than the annual Cost Model meeting prior to starting SBCTA operations and incorporate the methodology into this Agreement. In the event that TCA’s CSC Contractor’s performance targets are not met, and disincentive deductions are assessed by TCA, a portion will be credited to SBCTA. Similarly, if stipulated incentives are reached by TCA’s CSC Contractor, SBCTA will be assessed a portion of these incentive costs. In no case shall TCA’s compensation fall below the minimum compensation set forth in Section 10.3 of this Agreement. The disincentive deduction credits and stipulated incentive costs assessed to SBCTA shall be proportional to the volume of SBCTA transactions as a percentage of total transactions processed by TCA’s Toll Services Contractors during the relevant period for which the disincentive deduction credits and/or stipulated incentive costs are calculated. SBCTA and TCA agree on the methodology contained in Section 7 of Exhibit A.

8. PERSONALLY IDENTIFIABLE INFORMATION

Each Party agrees to provide designated personnel and or consultants of the other Party access to PII on a “need to know basis” to the extent permitted under applicable law, including but not limited to a Customer’s name, address, telephone number, email address, Transponder number, account number, license plate number, travel pattern data, or other information that personally identifies the Customer, subject to the limitations in this Section 8.

8.1 Each Party shall safeguard PII through physical, electronic and procedural means, and shall maintain the confidentiality of PII in strict compliance with applicable law.

8.2 Each Party may share such PII with its contractor(s) and contractors’ personnel for the sole purpose of facilitating activities related to toll collection (including marketing, to the extent conducted, in full compliance with the limitations set forth in Streets and Highways Code Section 31490) and violation enforcement. SBCTA shall require contractor(s) and contractors’ personnel to execute agreements that obligate such contractors and contractors’ personnel to maintain the confidentiality of PII in form approved by TCA that expressly identifies TCA as a third-party beneficiary with respect to such confidentiality obligation. SBCTA shall require
any SBCTA contractors to whom PII is disclosed to maintain insurance in an amount and form deemed appropriate by SBCTA, subject to approval by TCA, not to be unreasonably withheld, which insurance shall name TCA as an additional insured.

8.3 Unless explicitly approved by the other Party, each Party shall otherwise keep all PII confidential and shall not disclose such information, except as required by California law or where the express written consent of the Customer is obtained by SBCTA or TCA, as applicable.

8.4 Nothing in this Section 8 is intended to limit or modify SBCTA’s obligation to indemnify, defend, protect and hold harmless TCA with respect to claims of users of SBCTA’s Toll Facilities regarding PII as provided in Section 12.1.2.

8.5 Nothing in this Section 8 is intended to limit or modify TCA’s obligation to indemnify, defend, protect and hold harmless SBCTA with respect to claims of TCA’s customers regarding PII as provided in Section 12.1.1.

9. MARKETING AND CUSTOMER COMMUNICATIONS

The Parties agree that coordination of any marketing materials, signage or other Customer collateral is vital to Customer education and satisfaction for users of both Parties’ Toll Facilities.

SBCTA shall:

9.1 Execute a License Agreement with TCA prior to using the FasTrak® or other TCA trademarks or service marks for any purpose, and adhere to TCA’s then published branding guidelines applicable to all CTOC agencies.

9.2 Obtain TCA’s approval, which shall not be unreasonably withheld, prior to utilizing any marketing materials, signage or otherwise communicating with Customers regarding the use of FasTrak® on SBCTA’s Toll Facilities. All Customer communications shall be strictly in accordance with law, and marketing materials shall not be provided to Customers who have not expressly consented to receive such materials, in accordance Streets and Highways Code Section 31490(j).

9.3 Reimburse TCA for marketing activities that SBCTA requests TCA undertake regarding the Express Lanes.

TCA shall:

9.4 Review and provide comments on any marketing materials, signage or Customer communications provided by SBCTA, within 15 calendar days from receiving the same.

9.5 Incorporate SBCTA’s logo and name, as SBCTA on Customer statements and correspondence.
9.6 Cooperate with SBCTA to provide marketing activities, promotions, or other activities to promote the use of the Express Lanes and invoice SBCTA for costs incurred by TCA.

9.7 Provide CSC staff support at mutually agreed upon public outreach events to facilitate Customer account establishment and information, subject to reimbursement by SBCTA.

10. COSTS, SETTLEMENT AND PAYMENT

The Parties anticipate that TCA’s provision of Toll Services to SBCTA will result in economies of scale that will reduce costs for both Parties. However, in order to provide Toll Services to SBCTA, TCA will incur additional costs that would not otherwise have been borne by TCA without providing Toll Services to SBCTA. SBCTA agrees to compensate TCA for the Toll Services as provided herein and as further described in the Cost Model attached as Exhibit A. The costs reflected in the Exhibit A are based on TCA’s budgeted costs for fiscal year ending June 30, 2024. The costs will be updated, and the fees outlined in Section 10.2 will be adjusted accordingly, to reflect changes in TCA’s budgeted costs each fiscal year. TCA and SBCTA will meet periodically and no less than twice per TCA fiscal year to review costs associated with TCA providing Toll Services to SBCTA and determine if adjustments to TCA’s reimbursement are required to remain within the Parties’ mutual expectations under this Agreement. Both Parties will consider the continuing applicability of items in the Cost Model as part of the semi-annual meeting regarding operations support.

10.1 Reconciliation / Funds Transfer

TCA and SBCTA shall:

10.1.1 Establish a daily reconciliation process prior to the execution of the test plans whereby all Accepted SBCTA Transactions transmitted to TCA’s BOS for posting shall be reconciled and accounted for against those that were successfully posted to Customer accounts, matched to payments or resulted in Violations.

10.1.2 Establish a formal process whereby SBCTA can authorize adjustments to tolls and/or Violation penalties resulting from and specifically related to Transactions on the Express Lanes.

SBCTA shall:

10.1.3 If SBCTA directs TCA in writing, SBCTA shall allow TCA to deduct all amounts owed by SBCTA to TCA for Trip Transaction-Based Fees and Violation Processing Fees earned pursuant to Section 10.2 from the funds due to be remitted to SBCTA by TCA under Section 10.1.5, for collected revenues as a means to reduce administrative efforts and related costs.

10.1.4 Electronically transfer to TCA, no less frequently than once per week, all funds owed for Trip Transaction-Based Fees and Violation Processing Fees earned pursuant to Section 10.2.
Section 10.2, unless SBCTA directs TCA in writing to deduct the fees from remitted revenues under Section 10.1.6.

TCA shall:

10.1.5 Promptly credit back to SBCTA any Trip Transaction-Based Fees and Violation Processing Fees that are determined in the ordinary course of business to have been improperly deducted pursuant to Section 10.1.3 and the Business Rules.

10.1.6 Electronically transfer to SBCTA, no less frequently than once per week, all funds for Accepted SBCTA Transactions successfully posted against accounts, matched against payments and/or collected for Violations, net of, if applicable, reversals, adjustments and refunds related to amounts previously paid to SBCTA.

10.1.7 Provide to SBCTA a scheduled daily or other periodic report, in accordance with Section 4.5, showing the current status of all Accepted SBCTA Transactions and Violations for a specific date(s).

10.1.8 Except to the extent caused by TCA’s gross negligence or willful misconduct, not be liable for revenue loss to SBCTA incurred as a result of (i) any malfunction of SBCTA equipment, (ii) any failure of any TCA system or equipment, (iii) any failure of a Toll Services Contractor to perform its obligations with respect to the Toll Services Contracts, or (iv) a cause other than TCA’s gross negligence or willful misconduct in the performance of its obligations under this Agreement. SBCTA acknowledges and agrees that TCA shall not, by providing the Toll Services for SBCTA Toll Facilities, be deemed to be a guarantor to SBCTA or otherwise responsible to SBCTA except as expressly provided herein for SBCTA’s actual collection of tolls and Violations, and TCA shall only be responsible for carrying out its obligations as specified in this Agreement. In the event that a failure by a Toll Services Contractor providing the Toll Services pursuant to the Toll Services Contracts results in revenue loss to SBCTA, TCA’s sole responsibility shall be to enforce the provisions of the Toll Services Contracts in a manner determined by TCA after consultation with SBCTA to be in the best interest of TCA and SBCTA, and to provide to SBCTA an equitable share of any toll revenues, damages or other sums recovered from such contractor(s) with respect to such SBCTA revenue loss. If TCA elects not to pursue recovery of an SBCTA revenue loss against a Toll Services Contractor, SBCTA shall be entitled to exercise its rights as a third-party beneficiary under such contract and to pursue recovery for its own benefit.

10.2 Transaction and Violation Processing Costs

TCA and SBCTA agree that the primary method of reimbursement for Toll Services will be “per transaction” fees based on Accepted SBCTA Transactions and Violations. These fees will be inclusive of all costs related to the Toll Services, including Transaction posting, account
management, Customer contacts, revenue settlement, and the other costs specifically set out in Exhibit A—Cost Model for inclusion in the transaction fees.

10.2.1 Trip Transaction-Based Fee: TCA shall be reimbursed a fee as calculated and defined in Exhibit A - Cost Model for each Accepted SBCTA Transaction processed by TCA, as reflected in the Response File.

10.2.2 Violation Processing Fee: TCA shall be reimbursed an additional fee as calculated and defined in Exhibit A - Cost Model for processing each Violation. The Violation Processing Fee will be payable one time only for each Violation.

10.3 Minimum Compensation

SBCTA’s total annual payments to TCA for Trip Transaction-Based Fees shall not be less than the Minimum Compensation. For the period from inception of the Express Lanes’ operations through June 30 of TCA’s fiscal year, the Minimum Compensation shall be prorated using a fraction derived from a numerator which represents the number of days from the inception of the Express Lanes’ operations through June 30 of TCA’s fiscal year, and a denominator of 365 days. Minimum Compensation shall not be reduced as a result of any credits for disincentive deductions allocated to SBCTA as provided in Section 10.6.1.2.

If the amount paid to TCA for Trip Transaction-Based Fees is less than the Minimum Compensation established by this Section 10.3 for any fiscal year, then not later than 60 days following the end of such fiscal year, SBCTA shall pay to TCA, by electronic transfer, the full amount of the difference between the Minimum Compensation and the total paid for Trip Transaction-Based Fees for such fiscal year.

10.4 Other Reimbursable Costs

SBCTA shall be responsible for other costs that TCA may incur relating to the SBCTA Express Lanes as described below. SBCTA will not be responsible for costs that have not been expressly agreed upon in writing by SBCTA’s Project Manager prior to such costs being incurred by TCA.

10.4.1 Start-up Costs. SBCTA shall reimburse costs associated with additional work, equipment, Transponder and switchable Transponder procurements for Customers with San Bernardino County addresses, and services that are not part of the existing or contracted TCA CSC and BOS systems and operations, including costs related to design, development and testing for the Express Lanes; contract labor costs for temporary customer service positions during the Start-up Period; staff training for activities and processes specifically required for the Express Lanes; and, if needed, additional CSC and BOS equipment procurements, such as additional CSC phone lines and computers required for Express Lanes toll processing, will be considered Startup Costs. Prior to work being done or procurements being placed, TCA will provide cost details or budget summaries to SBCTA, and the Startup Costs must be approved in writing by SBCTA. TCA will deliver invoices on
a monthly basis for Start-Up Costs substantially in the form attached hereto as Exhibit C. The Parties acknowledge that TCA may continue to incur Start-Up Costs after the Opening Day, which will continue to be invoiced separately from (i) the weekly reconciliations and payments to be made under this Agreement relating to Trip Transaction-Based Fees and Violation Processing Fees under Sections 10.1 through 10.3 of this Agreement and (ii) settlement of performance incentive costs and disincentive deductions under Section 10.6 of this Agreement.

10.4.2 Marketing Costs. SBCTA shall reimburse TCA for any marketing or promotions-related expenses to which the Parties mutually agreed prior to incurrence, pursuant to Section 9.

10.4.3 Third-Party Retail Distribution and Cash Payment Network Services Costs. SBCTA shall reimburse TCA for any postage, collateral, retail incentives, marketing or promotions-related expenses to which the Parties mutually agreed prior to incurrence.

10.4.4 Transponder Costs. SBCTA shall reimburse TCA for the applicable costs, depending on the Transponder type, of newly assigned Transponders for Customers with San Bernardino County addresses. The Parties will determine the appropriate allocation method prior to the Start-up Period. SBCTA shall not reimburse TCA for Transponder Costs for transponders that are sold to a Customer.

10.4.5 Other Costs. SBCTA shall reimburse TCA for other costs authorized by SBCTA prior to incurrence, that are incurred by TCA in conjunction with this Agreement.

10.5 Payment and Statements

10.5.1 Method of Payment. The Parties shall agree on the method of payment for Start-up Costs, Marketing Costs, Third-Party Retail Distribution, Transponder costs, cash payment network services costs, and other costs or assessments.

10.5.2 Transaction and Violation Processing Costs. TCA shall prepare and submit to SBCTA a weekly invoice with supporting documentation for Trip Transaction-Based Fees and Violation Processing Fees via email or hard copy.

10.5.3 Payment for Other Reimbursable Costs. SBCTA shall pay TCA for Other Reimbursable Costs prior to the incurrence of such costs as mutually agreed by the Parties. If the actual incurred costs are less than the amount paid by SBCTA, TCA shall timely refund any excess amounts to SBCTA. If the actual incurred costs are more than the amount paid by SBCTA, SBCTA shall pay the amount of such underpayment to TCA within 30 days of receipt of an invoice therefore. Alternatively, TCA shall have the right to deduct such underpayment from its payment of amounts otherwise owing from TCA to SBCTA hereunder. Invoices shall be accompanied by supporting documentation. SBCTA acknowledges that, within 30 days of submittal of an invoice by the Contractor, TCA is obligated to pay the invoice or provide reasons for disapproving the invoice. SBCTA agrees to review invoices received...

from TCA promptly upon receipt and to advise TCA in writing of any issues that constitute
grounds for disapproval within 15 days of receipt. SBCTA will pay invoices within 30 days
of receipt, subject to withholding for amounts that have been previously disapproved as
described above.

10.5.4 Account Unsuspension Fee Credit. SBCTA’s portion of Account Unsuspension Fee revenue
will be determined as the total amount of Account Unsuspension Fees collected from
FasTrak® account holders that is proportional to the amount of tolls due on the suspended
account that is attributable to the SBCTA toll transactions at the time the Account
Unsuspension Fee is collected. Within 30 days following the end of each month, TCA will
reconcile SBCTA’s portion of Account Unsuspension Fees collected for the month. TCA
will then issue a credit to SBCTA for all Account Unsuspension Fee funds attributable to
SBCTA. The credit will appear as a reduction of the Credit Card Processing Fees on the
monthly invoice submitted to SBCTA by TCA.

10.6 Settlement

10.6.1 CSC Contractor’s Performance Incentive Costs and Disincentive Deductions

10.6.1.1 Within 30 days following the end of each Agreement year during the term, the first
of which shall commence on July 1 following the end of SBCTA’s Start-up Period and
end twelve months thereafter, TCA shall reconcile the performance incentive costs
incurred by TCA and any disincentive deductions assessed and recouped by TCA in
conjunction with work performed by the CSC Contractor, pursuant to Section 7.14.

10.6.1.2 In the event the disincentive deductions exceed the incentive costs, TCA shall credit
SBCTA a portion of the deductions.

10.6.1.3 In the event the incentive costs exceed the disincentive deductions, TCA shall assess
SBCTA a portion of the incentive costs.

10.7 Revenue Transfer to Riverside County Transportation Commission ("RCTC") Trustee for SBCTA
I-15 Express Lanes (Contract 1)

To facilitate implementation of the SBCTA I-15 Express Lanes (Contract 1), RCTC has or will
assign a portion of its existing I-15 Express Lanes to SBCTA for SBCTA to operate and maintain
through a cooperative agreement. As the RCTC I-15 Express Lanes are partially financed
through a Transportation Infrastructure Finance and Innovation ("TIFIA") loan agreement
with the United States Department of Transportation ("USDOT"), USDOT requires language in
SBCTA agreements with vendors responsible for collecting toll revenue on behalf of SBCTA to
ensure revenue associated with the assigned portion of the facility is remitted to Trustee as defined in the RCTC TIFIA loan agreement (“RCTC I-15 Trustee”).

10.7.1 Upon revenue service commencement of SBCTA I-15 Express Lanes (Contract 1), SBCTA will direct TCA on the flow of SBCTA I-15 Express Lanes (Contract 1) revenue as follows:

a. Beginning the first day of revenue service commencement and the first day of each subsequent fiscal year until the retirement of the RCTC I-15 Express Lanes RCTC I-15 TIFIA loan agreement, TCA shall deposit with the RCTC I-15 Trustee the first dollars collected from the SBCTA I-15 Express Lanes (Contract 1) gross toll revenues, continually accrued, subject to an annual cap equal to the amount specified for that year in Table 1 of the Toll Revenue Transfer Table dated 4/15/2022 as included in Exhibit B, as escalated per direction from SBCTA prior to June 15 of the preceding fiscal year. TCA shall provide evidence to SBCTA and RCTC of any payments made to the RCTC I-15 Trustee within 15 calendar days of each payment.

i. The term “SBCTA I-15 Express Lanes (Contract 1) gross toll revenue” shall mean and refer to (a) toll revenues, user fees, rents or other similar charges payable for use of the SBCTA I-15 Express Lanes (Contract 1) including receipts from the sale or rental of transponders, as well as fines and penalties and interest thereon collected as a result of a failure to pay any such amounts, (b) proceeds of insurance payable to or received by SBCTA with respect to the SBCTA I-15 Express Lanes (Contract 1) (whether by way of claims, return of premiums, ex gratia settlements or otherwise), including proceeds from business interruption insurance and loss of advance profits insurance, except for proceeds of fire and other casualty insurance, (c) proceeds of any condemnation awards with respect to the SBCTA I-15 Express Lanes (Contract 1) except to the extent actually applied or reserved for application to replacement of the SBCTA I-15 Express Lanes (Contract 1), and (d) any other incidental or related fees or charges; but excluding therefrom cash advances representing deposits against future toll payments from users or potential users of the SBCTA I-15 Express Lanes (Contract 1). Notwithstanding the forgoing, SBCTA and TCA acknowledge that the revenues identified in subsections (b) and (c) of the definition of SBCTA I-15 Express Lanes (Contract 1) gross toll revenue would be paid to or received directly by SBCTA and are not collected or received by TCA pursuant to this Agreement.

ii. SBCTA will notify TCA upon the retirement of the RCTC I-15 Express Lanes RCTC I-15 TIFIA loan agreement. SBCTA acknowledges and agrees that after SBCTA notifies TCA of the retirement of the RCTC I-15 TIFIA loan agreement, TCA shall have no obligation, duty, or liability associated with any past or future deposit requirement of gross toll revenues pursuant to subdivision (a) of this Section 10.7.1.

b) Upon satisfaction of the annual toll revenue transfer amount as defined in Exhibit B to the RCTC I-15 Trustee, transfer of revenue to SBCTA shall occur as outlined in Section 10.1.6.
11. CONFLICT RESOLUTION

SBCTA and TCA agree to work cooperatively to resolve any concerns of either Party. Should a disagreement arise under this Agreement the Parties agree, in the first instance, to attempt to resolve the claim or dispute within a reasonable period of time through good faith negotiation between each Parties’ director of toll operations. Either Party may elevate the dispute to or for negotiation and decision by the executive officer of each Party. Each Party shall prepare and provide to the executive officers a written statement of the dispute, and supporting documents with respect to the dispute. In no event shall work be stopped in the event of a claim or dispute, except for reasons of public health or safety or where it is absolutely necessary to first resolve the dispute in order to be able to continue performance of a Party’s obligations under this Agreement. If the executive officers are unable to agree, the matter shall be decided by the Chief Executive Officer of TCA (“TCA CEO”) and SBCTA shall comply with such decision within 30 days following its issuance.

Notwithstanding the foregoing, if SBCTA does not agree with the TCA CEO’s decision, SBCTA may, within 10 days following receipt of such decision, demand that the issue be submitted to mediation for resolution. If SBCTA fails to comply with the TCA CEO’s decision within 30 days following SBCTA’s receipt of the written decision, then TCA may, within 10 days following expiration of said 30-day period, demand that the issue be submitted to mediation for resolution. The mediator for any mediation under this Section 11 shall be selected by mutual agreement of the parties, provided that if the parties are unable to agree within fourteen days following demand by either party for mediation, then each party shall select a mediator and the two mediators shall select the final mediator. The parties shall share equally in the cost of any mediation, and said mediation shall be completed within 90 days following demand by SBCTA or TCA. If the matter cannot be settled by mediation within said 90 days, then SBCTA or TCA may pursue any appropriate judicial remedies, and SBCTA may provide notice and specify a termination date per Section 12.5 of this Agreement that provides SBCTA with a reasonable amount of time to procure alternative Toll Services. Neither SBCTA nor TCA may initiate any judicial proceeding or provide notice of termination unless and until said party has exhausted its obligation to mediate pursuant to this Section 11, unless injunctive, provisional or other equitable judicial relief is necessary to prevent irreparable injury.

12. GENERAL MATTERS

12.1 Indemnification and Liability.

12.1.1 Subject to the limitation in Section 10.1.8 it is understood and agreed that, pursuant to Government Code Section 895.4, TCA shall fully defend, indemnify and save harmless SBCTA, its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) (“Claims”) (i) occurring exclusively with respect to Transactions on the TCA’s Toll Facilities or toll processing and collection activities with respect to such Transactions, and/or (ii) occurring by reason of TCA’s gross negligence or willful misconduct, or the gross negligence or willful misconduct of TCA’s officers, directors,
member agencies, and employees, under or in connection with any work, authority or jurisdiction delegated to TCA under this Agreement, but excluding any Claims with respect to which SBCTA is obligated to indemnify TCA pursuant to Section 12.1.2(ii), and (iii) by reason of TCA’s negligence, or the negligence of TCA’s officers, directors, employees, agents or contractors (excluding SBCTA), that results in a violation of Streets and Highways Code Section 31490 with respect to the PII of Customers regarding their use of the SBCTA Toll Facilities.

12.1.2 It is understood and agreed that, pursuant to Government Code Section 895.4, SBCTA shall fully defend, indemnify and save harmless TCA, its officers, directors, member agencies, employees or agents from all Claims (i) occurring exclusively with respect to Transactions on SBCTA’s Toll Facilities or toll processing and collection activities with respect to such Transactions, or (ii) occurring by reason of SBCTA’s gross negligence or willful misconduct, or the gross negligence or willful misconduct of its officers, directors and employees, under or in connection with this Agreement, or (iii) occurring by reason of SBCTA’s negligence, or the negligence of SBCTA’s officers, directors, employees, agents or contractors (excluding TCA), that results in a violation of Streets and Highways Code Section 31490 with respect to the PII of Customers regarding their use of the TCA Toll Facilities, or occurring with respect to Transactions on SBCTA’s Toll Facilities.

12.1.3 In the event of any Claim involving Transactions on both TCA Toll Facilities and SBCTA Toll Facilities (including Claims alleging that the collection, use, storage or disclosure of Customer PII or other information collected by the Toll Facilities of other aspects of the Toll Services are conducted in a manner that violates applicable Law), the Parties will confer and determine which Party shall be the lead for such litigation with counsel of its choosing, subject to the reasonable approval of the other Party. Each Party shall be entitled to settle on its own behalf such Claims as they pertain to Transactions on its respective Toll Facility. Joint settlement shall require the approval of both Parties. The cost of any such joint settlement, including the cost of the litigation shall be allocated between the Parties based on their respective proportionate shares of the Transactions involved in such Claim.

12.1.4 Neither Party shall be liable to the other Party for any consequential, special, incidental or indirect damages, except to the extent a Claim asserted against either TCA or SBCTA by a third-party seeks an award of any such damages, and TCA or SBCTA (as the case may be) is entitled to indemnity from the other Party for such Claim.

12.1.5 The obligations under this Section 12.1 shall survive the termination or expiration of this Agreement.

12.2 Insurance.
12.2.1 **Toll Services Contracts.** TCA shall cause the Toll Services Contractors to add SBCTA as an additional insured on insurance policies that the Toll Services Contractors are required to provide under their respective Toll Services Contracts. If TCA is unable to amend the Toll Services Contracts to require the Toll Services Contractors to add SBCTA as an additional insured prior to the commencement of Toll Services for SBCTA, then at SBCTA’s option, SBCTA may terminate this Agreement, or in writing waive or modify one or more of the requirements in this Paragraph 12.2. SBCTA shall require any SBCTA contractor provided with access to PII to provide cyber liability insurance in an amount reasonably acceptable to TCA, and to name TCA as an additional insured. Each party shall provide the other with certificates and endorsements evidencing such additional insured status as required hereunder.

12.2.2 **TCA and SBCTA Insurance Requirements.** TCA and SBCTA shall each procure and maintain during the term of this Agreement insurance compliant with at least the following minimum scope and amount of coverage:

   a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

   b. **Cyber Liability Insurance:** Each entity shall maintain limits not less than $2,000,000 per occurrence or claim, $2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Entity in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

12.2.3 **Other Insurance Provisions.** The insurance policies required in Section 12.2.2 shall contain, or be endorsed to contain, the following provisions:

   a. **Additional Insured Status.** Each of TCA and SBCTA and their respective officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the insured’s negligence. General liability coverage can be provided in the form of an endorsement (at least as broad as ISO Form CG 20 10
b. **Primary Coverage.** For any claims related to insured’s negligence, insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the insured, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the other party, its officers, officials, employees, or volunteers shall be excess of the insured’s insurance and shall not contribute with it.

c. **Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the other party.

d. **Waiver of Subrogation.** TCA and SBCTA each grant the other Party a waiver of any right to subrogation which any insurer of such Party may acquire against the other Party by virtue of payment of any loss under such insurance related to its own employees.

12.2.4 **Acceptability of Insurers.** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A:VII.

12.2.5 **Claims Made Policies.** If any of the required policies provide claims-made coverage:

a. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of the Start-Up Period.

b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after termination of this Agreement.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the beginning of the Start-Up Period, the Party who was responsible to provide the policy must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.

12.2.6 **Verification of Coverage.** Each Party shall furnish the other Party with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the other Party before Toll Services commence on the Express Lanes.

12.3 **Termination.** The Parties may terminate this Agreement in whole or in part as follows:

12.3.1 **Termination for Convenience.** Unless expressly provided herein, neither Party shall have the right to terminate this Agreement for convenience for the first three (3) years following the Opening Day. Following such period, either Party shall have the right to terminate this Agreement, in whole or in part, for convenience of the terminating Party, after providing one (1) year’s prior written notice of termination to the other Party.
12.3.2 Termination for Cause.

a. **Default.** Failure or delay by either Party to perform any material term or provision of this Agreement shall constitute a default.

b. **Notice of Default.** The non-defaulting Party shall give written notice of default to the Party in default, specifying the default complained of by the non-defaulting Party. Except as otherwise expressly provided in this Agreement, any failures or delays by either Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either Party in asserting any of its rights and remedies shall not deprive either Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

c. **Failure to Cure.** In the event that the defaulting Party fails to commence to cure, correct or remedy a default within thirty (30) calendar days following receipt of written notice, or thereafter fails to diligently complete such cure, correction or remedy, the non-defaulting Party may exercise all rights and remedies available at law or in equity, including the right to seek damages, seek specific performance or other injunctive or equitable relief and/or terminate this Agreement through a written notice of termination, the effective date of which shall be no less than ninety (90) days from the date of the notice. Disputes regarding the existence of a default (but not the remedies that the non-defaulting Party may exercise as a result of such default) that may give rise to termination under this section shall be subject to the dispute resolution provisions set forth in Section 11 of this Agreement. The exercise of a Party’s rights and remedies shall be cumulative with the exercise of other rights and remedies. Notwithstanding anything contained in this paragraph, neither Party shall have the right to terminate this Agreement while the subject of such termination is in the process of review pursuant to the dispute resolution procedures contained in this Agreement.

d. Notwithstanding the foregoing, no opportunity to cure shall be required, and SBCTA may immediately terminate this Agreement and exercise any other remedies set forth in (c) above under the following circumstances:

(i) In the case of any fraud or willful misconduct by TCA, its officials, officers, employees, agents, Toll Services Contractors, or any other contractors, provided, that if the acts or omissions constituting such fraud or willful misconduct were committed by any employee(s) (other than management) or contractor(s), and within fifteen (15) business days after receiving notice of such acts or omissions TCA removes the employee(s) and/or contractor(s) in question and pays in full restitution to SBCTA, then such action shall not be deemed a default subject to immediate termination; or
(ii) If any material impairment of Toll Services with respect to this Agreement for twenty (20) days occurs (whether consecutive or nonconsecutive) in any six (6) calendar month period due to the act or omission of TCA, its officials, officers, employees, agents, Toll Services Contractors, or any other contractors, unless the impairment shall have been expressly authorized or directed by SBCTA.

12.4 Cooperation Prior to Termination. Prior to the effective date of a termination either for cause or for convenience, the Parties shall cooperate in good faith to facilitate the transfer of services, agreements, materials, software, equipment and information, as necessary for the continued successful operation by each Party of its respective Toll Facilities.

12.5 Term. This Agreement shall commence on the date it is executed by both Parties and shall remain in full force and effect, unless otherwise terminated as provided herein.

12.6 Force majeure. The failure of performance by either Party (except for payment obligations) hereunder shall not be deemed to be a default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, railroad, or suppliers; acts of the other Party; acts or failure to act of any other public or governmental agency or entity (other than the acts or failure to act of the Parties); or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform or relief from default, provided that the same materially and directly impacts such Party’s ability to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by mutual agreement between the Parties.

12.7 Amendments. This Agreement may be amended at any time by the mutual consent of the Parties, or their respective successors or assigns, by an instrument in writing; however, no amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors or assigns.

12.8 Assignment of Agreement. Neither Party may assign or transfer its respective rights or obligations under this Agreement without the express written consent of the other Party. Any purported assignment or transfer by one Party without the express written consent of the other Party shall be null and void and of no force or effect.

12.9 Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of either Party shall be deemed to waive or render unnecessary such Party’s consent.
to or approval of any subsequent act of the other Party. Any waiver by either Party of any
default must be in writing and shall not be a waiver of any other default concerning the same
or any other provision of this Agreement.

12.10 General Interpretation.

12.10.1 As used in this Agreement, unless otherwise specified, the term “including” shall mean
including, but not limited to, or without limitation.

12.10.2 As used in this Agreement, unless otherwise specified, the terms “shall” and “will” shall
have the same meaning.

12.11 Entire Agreement. This Agreement, including the attached exhibits, constitutes the entire
agreement between the Parties with respect to the subject matter contained herein, and
supersedes any prior term sheet and/or agreement, whether written or verbal, with respect
to the subject matter herein.

12.12 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs,
or sections contained in this Agreement shall be declared invalid or unenforceable by valid
judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability
shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of
this Agreement, which shall be interpreted to carry out the intent of the Parties hereunder.

12.13 Confidentiality

12.13.1 “Confidential Information” includes:

12.13.1.1 All information (i) marked as “Confidential” or for which a similar notice has been
provided to the receiving Party by the disclosing Party before, during, or promptly
after disclosure of the information; or (ii) disclosed in a manner in which the
disclosing Party reasonably communicated that the disclosure should be treated
as confidential, whether or not the specific designation “Confidential” or any
similar designation is used.

12.13.2 Confidential Information may be proprietary to TCA, SBCTA or a third-party contractor
not Party to the Agreement.

12.13.3 “Confidential Information” does not include information that:

12.13.3.1 Is publicly known at the time of disclosure or later becomes publicly known
through no breach of this Agreement by the receiving Party, provided that
Confidential Information shall not be deemed to be publicly known merely
because any part of said information is embodied in general disclosures or
because individual features, components or combinations thereof are now
known or may become known to the public; or
12.13.3.2 Was, as between the receiving Party and the disclosing Party, lawfully in the receiving Party’s possession prior to receipt from the disclosing party without obligation of confidentiality or is lawfully obtained by the receiving Party from third parties whom the receiving Party reasonably believes obtained it lawfully; or

12.13.3.3 Is disclosed in response to a valid order of a court or other governmental body of the United States or any political subdivisions thereof, or a public records request under the Public Records Act if the Confidential Information is not determined exempt from disclosure under the Act by the disclosing Party (“Process”), to the extent of and for the purposes of such Process; provided that (i) the receiving Party immediately notifies the disclosing Party of such Process; and (ii) the receiving Party shall not produce or disclose Confidential Information in response to the Process unless the disclosing Party has: (a) requested protection from the legal or governmental authority requiring the Process and such request has been denied, (b) consented in writing to the production or disclosure of the Confidential Information in response to the Process, or (c) taken no action to protect its interest in the Confidential Information within 14 business days after receipt of notice from the receiving Party of its obligation to produce or disclose Confidential Information in response to the Process.

12.13.4 During the term of this Agreement, it may be necessary for one Party to this Agreement to disclose or make Confidential Information available to the other Party. The receiving Party agrees to use all such Confidential Information solely in connection with the Agreement and to hold all such information in confidence and not to disclose, publish, or disseminate the same to any third party, other than those of its directors, commissioners, officers, employees, or agents with a need to know, without the prior written consent of the disclosing Party, except as required by a court of competent jurisdiction, or as otherwise required by law. The Parties agree to take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of such Confidential Information.

12.13.5 The Parties agree to require any agents or third parties to whom Confidential Information must be disclosed to execute a nondisclosure agreement that incorporates the substantive requirements of this Section 12.13, the terms of which will be provided in advance to the other party for review and comment. This Section 12.13 shall not apply to PII, which shall be governed in accordance with applicable law and the terms of this Agreement.

12.14 Governing Law. This Agreement shall be governed by the laws of the State of California.
12.15 **Limitation of Each Agency’s Liability.** SBCTA acknowledges that the respective liabilities of the Foothill/Eastern Transportation Corridor Agency and the San Joaquin Hills Transportation Corridor Agency shall be several only and not joint, and SBCTA specifically waives the benefit of California Civil Code Section 1431. A default by either agency with respect to payment of any obligation hereunder shall constitute a default only with respect to such Agency.

12.16 **Third Party Beneficiaries.** No third-party beneficiaries are created by this Agreement, except that RCTC shall be an express third party beneficiary for the limited purpose of pursuing the remedy of specific performance against SBCTA or TCA with respect to the rights and obligations related to the toll revenue transfer payments to be made to the RCTC I-15 Trustee as described in Section 10.7 of this Agreement. RCTC shall otherwise have no rights or obligations under Section 10.7 or any other section of this Agreement, and none of the other provisions of this Agreement shall inure to the benefit of RCTC.

[Signatures in the following page]
IN WITNESS WHEREOF, the Agreement has been executed as of the last date set forth next to the signatures of the parties, below.

FOOTHILL EASTERN TRANSPORTATION CORRIDOR AGENCY

By: ________________________________
Title: ________________________________
Date: ________________________________

SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

By: ________________________________
Title: ________________________________
Date: ________________________________

APPROVED AS TO FORM:

Nossaman, LLP, General Counsel, Foothill/Eastern Transportation Corridor Agency and San Joaquin Hills Transportation Corridor Agency

By: ________________________________

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: ________________________________
   Raymond W. Wolfe, Executive Director
Date: ________________________________

APPROVED AS TO FORM:

By: ________________________________
   Juanda Daniel, Assistant General Counsel
Date: ________________________________
ACKNOWLEDGED AND AGREED:

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: ____________________________________________
    Commission President

Date: __________________________________________

APPROVED AS TO FORM:

By: ____________________________________________
    ________________________________
    ________________________________

Title: ________________________________

Date: ________________________________

SBCTA AGREEMENT No. 18-1001854-01
TCA AGREEMENT No. K001238
61319865.v9
EXHIBIT A

COST MODEL FOR TOLL OPERATIONS SERVICES

1. Cost Model Approach:

A Cost Model is an efficient tool to ensure that the reimbursement of costs from SBCTA for Toll Services provided by TCA, as outlined in the Agreement, are reliably calculated and financially comprehensive. The Cost Model provides a consistent methodology and approach to identify all cost components associated with providing Toll Services. The Cost Model will be used annually, as part of TCA’s and SBCTA’s budget development process, to establish costs and fees that will be charged to SBCTA in the subsequent fiscal year by the end of March of each fiscal year. It should be noted that the costs noted in Exhibit A refer to development of transaction costs to be applied to I-10 Contract 1. The costs to be incorporated into the Cost Model for I-15 Contract 1 will be developed prior to March 31st of the year prior to revenue service commencement for that facility.

The Cost Model approach utilizes estimated toll and Violation Transaction volumes as they are the largest influencers of costs related to customer service operations. A further approach in the Cost Model is the inclusion of a portion of TCA’s indirect costs, to yield a more complete accounting of the total costs.

To demonstrate the process and cost methodology, the Demonstration Data/Costs, presented in Tables 1 through 3, are based upon TCA’s Projected Transactions and budgeted costs for its fiscal year (FY) ending June 30, 2024 (FY24) and SBCTA’s Projected Transactions for the Express Lanes’ first year of operations, which is expected to be FY24. It is anticipated that these Projected Transactions and budgeted costs will be updated to recalculate and adjust, based upon input into the Cost Model of then-current data, the Trip Transaction-Based Fee, Violation Processing Fee, Transponder Costs, and Credit Card Processing Fees that would be applicable when the Toll Services contemplated by the Agreement are first provided, and for each ensuing year thereafter. This Demonstration Data/Costs are not meant to be all-inclusive of budgetary line items which may fall into a certain category.

TCA and SBCTA will meet periodically to review costs associated with TCA providing Toll Services to SBCTA and determine if adjustments to TCA’s reimbursement are required to remain within the Parties’ mutual expectations under this Agreement. Costs and fees for the period of inception of the Express Lanes’ operations through June 30 of TCA’s fiscal year will be based on a prorated FY budget and prorated Projected Transactions for TCA and SBCTA, subject to the Minimum Compensation. Costs and fees for subsequent fiscal years are to be established prior to the start of the fiscal year using the subsequent fiscal years’ budgets and Projected Transactions for TCA and SBCTA, subject to adjustments made to the Cost Model as a result of the periodic meetings between TCA and SBCTA.
Five reimbursement costs are addressed in the Cost Model.

1.) Trip Transaction-Based Fee; Section 2
2.) Violation Processing Fee; Section 3
3.) Transponder Costs; Section 4
4.) Credit Card Processing Fee; Section 5
5.) Account Unsuspension Fee Revenue Credit; Section 6

DEMONSTRATION DATA/COSTS:

A. Annual Toll Transactions:

Table 1: Annual Toll Transactions

<table>
<thead>
<tr>
<th>ANNUAL TOLL TRANSACTIONS</th>
<th>NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>TCA FY24 Projected Transactions</td>
<td>89,432,000</td>
</tr>
<tr>
<td>SBCTA FY24 Projected Transactions</td>
<td>12,155,000</td>
</tr>
</tbody>
</table>

B. Customer Service Operating Costs:

Costs for providing and/or producing materials and services directly related to handling Customer inquiries, performing account management and processing Transactions. These costs fluctuate based on the volume of Transactions and the number of Customer Service Positions (“CSP”).

Table 2: TCA FY24 Budgeted Customer Service Costs

<table>
<thead>
<tr>
<th>COST DESCRIPTION</th>
<th>TRANSACTION RELATED</th>
<th>CSP-RELATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank Charges</td>
<td>$ 4,410</td>
<td></td>
</tr>
<tr>
<td>Outgoing Correspondence Postage</td>
<td>$ 521,037</td>
<td></td>
</tr>
<tr>
<td>Customer Mail Courier Service</td>
<td>$ 4,611</td>
<td></td>
</tr>
<tr>
<td>Account/Customer Collateral Materials</td>
<td>$ 169,224</td>
<td></td>
</tr>
<tr>
<td>Armored Truck Service</td>
<td>$ 3,000</td>
<td></td>
</tr>
<tr>
<td>Interpretation Services</td>
<td>$ 12,055</td>
<td></td>
</tr>
<tr>
<td>Printing Services</td>
<td>$ 47,767</td>
<td></td>
</tr>
<tr>
<td>Customer Service Supplies</td>
<td></td>
<td>$ 50,474</td>
</tr>
<tr>
<td>Software License &amp; Maintenance</td>
<td>$ 34,866</td>
<td>$ 243,596</td>
</tr>
<tr>
<td>Total</td>
<td>$ 796,970</td>
<td>$ 294,070</td>
</tr>
</tbody>
</table>

C. Violation Processing Costs

Costs for processing, noticing and managing Violations Transactions.

Table 3: TCA FY24 Budgeted Violation Processing Costs

<table>
<thead>
<tr>
<th>COST DESCRIPTION</th>
<th>Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toll Compliance Staffing Efforts</td>
<td>$ 5,430,737</td>
</tr>
</tbody>
</table>
2. Trip Transaction-Based Fee Structure

The Trip Transaction-Based Fee for each Accepted SBCTA Transaction processed by TCA is summarized in Table 4 and detailed in the following sections.

Table 4: Trip Transaction-Based Fee Structure

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COST COMPONENTS</th>
<th>SBCTA PROJECTED ANNUAL COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Customer Service Center Staffing</td>
<td>$1,376,369</td>
</tr>
<tr>
<td>B.</td>
<td>Operating Costs (Transaction-related costs)</td>
<td>$108,319</td>
</tr>
<tr>
<td>C.</td>
<td>Operating Costs (CSP-related costs)</td>
<td>$51,661</td>
</tr>
<tr>
<td>D.</td>
<td>Operations Management &amp; Finance Overhead</td>
<td>$339,798</td>
</tr>
<tr>
<td>E.</td>
<td>Customer Service Center Facility Overhead</td>
<td>$187,200</td>
</tr>
<tr>
<td>F.</td>
<td>Insurance</td>
<td>$146,891</td>
</tr>
<tr>
<td>G.</td>
<td>TTEC Key Position Allocation</td>
<td>$137,067</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$2,347,305</td>
</tr>
<tr>
<td></td>
<td>SBCTA Projected Transactions</td>
<td>12,155,000</td>
</tr>
<tr>
<td></td>
<td>Trip Transaction-Based Fee</td>
<td>$0.1931</td>
</tr>
</tbody>
</table>

**ITEM DESCRIPTIONS AND CALCULATION STRUCTURES:**

A. Customer Service Center Staffing

A *Customer Service Staffing and Cost Model* ("Staffing Model") will be used to project the number of staffing hours and costs required to operate the CSC on an annual basis. The CSC staffing cost allocated to SBCTA will be calculated using the same Staffing Model to forecast customer service staffing requirements and associated labor costs for the Toll Services.

The Staffing Model projects the staffing levels and costs from the combined estimated workload inputs of 1.) daily average customer service calls; and 2.) labor hours per week for customer service work tasks. These workload inputs are estimated based on SBCTA’s projected Transaction volumes.
1.) SBCTA’s daily average calls are calculated using TCA’s estimated Transactions per call factor and SBCTA’s Projected Toll Transactions of 12,155,000 (Table 1).

Transactions per Call: The Transactions per call factor is derived using TCA FY projected annual calls, 969,903 in FY24, and TCA’s Projected Transactions, 89,432,000 in FY24 (Table 1), resulting in a projection of 92.21 Transactions per call. Applying SBCTA’s Projected Transactions, SBCTA’s projected annual calls are 131,823, equating to 38,304 annual hours. This average will be recalculated prior to starting the Toll Services and as part of the annual budgeting process using TCA/SBCTA actual calls received and TCA/SBCTA’s combined actual Transactions, compared against SBCTA’s Projected Transactions for the upcoming fiscal year.

2.) SBCTA’s weekly labor hours for customer service tasks are calculated using the Transactions per hour factor and SBCTA’s Projected Transactions of 12,155,000 (Table 1).

Transactions per Hour: The Transactions per hour factor will be derived using TCA’s annual projected aggregate hours required for customer service work tasks; as determined by the Staffing Model is 108,398 in FY24; and Projected Transactions, 89,432,000 in FY24, resulting in 825.03 Transactions per hour. SBCTA’s projected annual hours associated with customer service tasks are 14,622. These weekly hours will be allocated across the various customer service tasks using the most recent annual ratios based on actual work performed. This factor and the allocation will be recalculated prior to starting the Toll Services and as part of the annual budgeting process using TCA/SBCTA’s actuals and TCA/SBCTA’s combined actual Transactions, compared against SBCTA’s Projected Transactions for the upcoming fiscal year.

The cost allocation to SBCTA will be derived from the Staffing Model by applying Transactions per call and the allocation of the Transactions per hour factor as described above.

TCA utilizes the projected transactions for SBCTA and TCA to estimate the projected calls and projected task hours for input into the Staffing Model to estimate the staffing requirements of the CSC. The Staffing Model then produces customer service center staffing cost estimates for the fiscal year, which will be used to allocate costs to SBCTA for the number of estimated CSR’s needed for SBCTA activity. Using the FY24 data presented above as an example, SBCTA’s projected CSP allocation equates to 26 full time equivalents (FTE).

SBCTA’s cost allocation will be recalculated prior to starting the Toll Services and as part of the annual budgeting process using budgeted CSC staffing costs and TCA and SBCTA Projected Transactions for the upcoming fiscal year.
B. Operating Costs (Transaction-related Costs)

SBCTA’s cost per transaction will be calculated on an annual basis prior to March 31st of each year for use the following fiscal year using the cost per transaction factor and SBCTA’s Projected Transactions.

Cost per Transaction: TCA identified Customer Service Operating Costs that fluctuate based on the volume of Transactions. The FY24 budget for these costs totaled $796,970 (Table 2). TCA’s Transaction volume is 89,432,000, resulting in an estimated $ 0.0089 cost per transaction. SBCTA’s cost allocation will be calculated using the cost per transaction multiplied by SBCTA’s Projected Transactions.

<table>
<thead>
<tr>
<th>Table 5: Transaction-related Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>TCA Customer Service Operating Costs (Total Transaction-related Costs (Table 2))</td>
</tr>
<tr>
<td>TCA Transactions (Table 1)</td>
</tr>
<tr>
<td>TCA Cost per Transaction</td>
</tr>
<tr>
<td>SBCTA Projected Transactions</td>
</tr>
<tr>
<td>SBCTA Projected Transaction Related Operating Costs</td>
</tr>
</tbody>
</table>

C. Operating Costs (CSP-related Costs)

SBCTA’s cost per CSP will be calculated on an annual basis using the cost per CSP factor and SBCTA’s projected CSPs, as projected by the Staffing Model, inclusive of leads, supervisors plus other designated classifications/positions.

Cost per CSP: TCA identified Customer Service Operating costs that fluctuate per the number of customer service positions. The cost per CSP factor is derived by using TCA’s projected 148 FTEs in FY24 and the aggregate of Customer Service Operating costs that support a customer service position, $294,070 (Table 2); resulting in a $1,986.96 cost per CSP.

<table>
<thead>
<tr>
<th>Table 6: CSP-related Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>TCA Customer Service Operating Costs (CSP-related Costs) (Table 2)</td>
</tr>
<tr>
<td>TCA CSP</td>
</tr>
<tr>
<td>TCA Allocated Cost per CSP</td>
</tr>
<tr>
<td>SBCTA Projected CSPs</td>
</tr>
<tr>
<td>SBCTA Projected CSP-related Operating Costs</td>
</tr>
</tbody>
</table>
D. Operations Management and Finance Overhead
TCA and SBCTA identified TCA staff positions within Operations Management, Finance, and Marketing, whose efforts will be impacted by and mutually beneficial to the management and administrative-related requirements specified within the Agreement. SBCTA’s allocated overhead expense associated with these staff positions is calculated on an annual basis using the *overhead per Transaction* factor and SBCTA’s Projected Transactions (12,155,000).

**Overhead Cost per Transaction:** The *overhead cost per Transaction* factor is derived by using TCA’s fully burdened cost for TCA staff positions (FY24 - $2,500,111), and TCA’s Toll Transactions, (FY24 – 89,432,000, Table 1); resulting in **$0.027** per Transaction and SBCTA’s allocated cost of $339,798.

SBCTA’s cost allocation will be recalculated prior to starting the Toll Services using TCA’s budgeted costs for the staff positions, and TCA’s and SBCTA’s projected Transactions to allocate TCA’s budgeted costs on a per transaction basis.

E. Customer Service Center Facility Overhead
TCA and SBCTA agree that SBCTA’s customer service center facility overhead expense will be calculated on an annual basis using an estimated rate of $3.00 per square foot and an assumed average of 200 square feet per CSP, inclusive of utilities, equipment, and other infrastructure. Prior to and after the start of Toll Services to incorporate the then most recent market rates and consideration for the other elements included in this cost allocation.

**Facility Overhead Allocation:** $3.00 square foot at 200 square feet per CSP with 26 projected CSPs equates to $7,200/CSP annually, or $187,200 total annually.

F. Insurance
SBCTA’s allocation for insurance cost will be determined on an annual basis using TCA’s budgeted costs for insurance coverages unrelated to its on-road infrastructure, to determine the per Transaction insurance cost. SBCTA’s cost allocation will be recalculated prior to starting the Toll Services and as part of the annual budgeting process using TCA’s budgeted costs and TCA’s and SBCTA’s Projected Transactions.

**Insurance Allocation:** SBCTA’s allocation of insurance cost is calculated as TCA budgeted costs (FY24 - $1,080,769) divided by TCA Projected Transactions (89,432,000) multiplied by SBCTA Projected Transactions (12,155,000) which equates to $146,891.

G. TTEC Key Position Allocation
SBCTA’s allocation for key TTEC (formerly Faneuil) will be determined on an annual basis by using TCA’s budgeted cost for TTEC key positions to determine the per Transaction TTEC key position cost. SBCTA’s cost allocation will be recalculated prior to starting the Toll Services.
and as part of the annual budgeting process using TCA’s budgeted costs and TCA’s and SBCTA’s Projected Transactions.

**TTEC Key Position Allocation:** SBCTA’s allocation of TTEC key position cost is calculated as TCA budgeted costs (FY24 - $1,008,488) divided by TCA Projected Transactions (89,432,000) multiplied by SBCTA Projected Transactions (12,155,000) which equates to $137,067.

3. **Violation Processing Fee**

Fee for each SBCTA Transaction that is processed as a Violation.

**Table 7: Violation Processing Fee Structure**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COST COMPONENTS</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>FY24 Budgeted Violation Processing Costs (Table 3)</td>
<td>$7,845,861</td>
</tr>
<tr>
<td></td>
<td>TCA FY24 Violation Transactions</td>
<td>4,036,813</td>
</tr>
<tr>
<td></td>
<td>Violation Transaction-Based Fee</td>
<td>$1.94</td>
</tr>
</tbody>
</table>

**ITEM DESCRIPTIONS AND CALCULATION STRUCTURES:**

A. The Violation processing fee is determined using TCA’s estimated cost per Violation Transaction.

**Cost per Violation Transaction:** The cost per Violation Transaction will be calculated using TCA’s budgeted Violation Processing costs, (FY24 - $7,845,861, Table 3) and TCA’s Violation Transactions, (FY24 - 4,036,813); resulting in $1.94 per Violation Transaction.

Prior to the start of the Toll Services, this fee will be recalculated using TCA’s projected Violation Transactions and budgeted costs. After the Toll Services have started, this fee will be recalculated as part of TCA annual budget process using TCA/SBCTA’s budget for Violation processing; and TCA’s and SBCTA’s combined projection for Violation Transactions.
4. Transponder Costs

SBCTA’s Transponder cost is a direct pass-through cost. SBCTA shall reimburse TCA for the applicable costs, depending on the Transponder type, of newly assigned Transponders. The Parties will determine and agree upon the appropriate allocation method prior to the Start-up Period. SBCTA shall not reimburse TCA for Transponder Costs for transponders that are sold to a customer.

5. Credit Card Processing Fee

SBCTA shall be invoiced for credit card processing fees on a monthly basis. The amount allocated to SBCTA shall be calculated within 30 days following the end of each month as the total revenue transferred to SBCTA for the month (gross tolls, fees, and penalties) multiplied by TCA’s average credit card processing rate. TCA shall calculate the average credit card processing rate on an annual basis using the reports provided by TCA’s credit card processors, and this rate will be used for the subsequent fiscal year and adjusted for any changes in rates for the subsequent fiscal year.

6. Account Unsuspension Fee Revenue Credit

SBCTA’s portion of Account Unsuspension Fee revenue will be determined as the total amount of Account Unsuspension Fees collected from FasTrak® account holders that is proportional to the amount of tolls due on the suspended account that is attributable to SBCTA toll transactions at the time the Account Unsuspension Fee is collected. Within 30 days following the end of each month, TCA will reconcile SBCTA’s portion of the Account Unsuspension Fees collected for the month. TCA will then issue a credit to SBCTA for all funds attributable to SBCTA. The credit will appear as a reduction of the Credit Card Processing Fees on the monthly invoice submitted to SBCTA by TCA.

7. TCA CSC Contractor Incentive/Disincentive Sharing

In the event TCA is assessed disincentive deductions or incentive costs related to TCA’s CSC Contractor’s performance targets, SBCTA will be assessed a portion of the net deduction/cost proportional to the volume of SBCTA’s transactions as a percentage of total transactions processed by TCA’s Toll Services Contractors. Within 30 days following the end of each Agreement year during the term, TCA shall reconcile the performance incentive costs incurred by TCA and any disincentive deductions assessed and recouped by TCA in conjunction with work performed by the CSC Contractor. The amount allocated to SBCTA shall be calculated as the total net incentive amount or net disincentive amount multiplied by SBCTA’s portion of the total transactions processed for the fiscal year. The net incentive amount shall be invoiced to SBCTA or
the net disincentive amount shall be remitted to SBCTA within 30 days of reconciliation. Notwithstanding the foregoing, TCA shall have no obligation to remit a net disincentive amount to SBCTA to the extent that TCA’s compensation (after accounting for the disincentive amount) is less than the minimum compensation set forth in Section 10.3. For purposes of this calculation, the first Agreement year will start on the first July 1 after the end of SBCTA’s Start-up Period and will end on the following June 30.

________________________
Note 1: Calculations in this Exhibit A for FY 2024 shall be recalculated for each fiscal year during the Term in accordance with the methodology set forth in this Exhibit A.
### EXHIBIT B

**TOLL REVENUE TRANSFER TABLE (2021 $)**

**Fiscal Year** | **TABLE 1 - T&R Modelled approach (2021$)** | **Fiscal Year** | **TABLE 1 - T&R Modelled approach (2021$)**
--- | --- | --- | ---
2026 | $954,986 | 2051 | $1,279,321
2027 | $993,275 | 2052 | $1,292,834
2028 | $1,036,069 | 2053 | $1,305,222
2029 | $1,046,205 | 2054 | $1,317,610
2030 | $993,275 | 2055 | $1,331,124
2031 | $935,841 | 2056 | $1,344,638
2032 | $926,832 | 2057 | $1,358,152
2033 | $908,813 | 2058 | $1,371,666
2034 | $884,037 | 2059 | $1,385,180
2035 | $917,822 | 2060 | $1,399,820
2036 | $976,383 | 2061 | $1,413,334
2037 | $994,401 | 2062 | $1,426,848
2038 | $1,012,420 | 2063 | $1,442,614
2039 | $1,031,565 | 2064 | $1,456,128
2040 | $1,050,710 | 2065 | $1,470,768
2041 | $1,069,854 | 2066 | $1,485,408
2042 | $1,090,125 | 2067 | $1,500,048
2043 | $1,110,396 | 2068 | $1,514,688
2044 | $1,130,667 | 2069 | $1,530,455
2045 | $1,150,938 | 2070 | $1,547,347
2046 | $1,172,335 | 2047 | $1,193,732
2048 | $1,215,129 | 2049 | $1,238,779
2050 | $1,261,302 | 2051 | $1,279,321

---

**Note 1:** Fiscal year is defined from July 1 through June 30. For example, FY 2027 is defined as July 1, 2026, through June 30, 2027.

**Note 2:** SBCTA will provide TCA with escalation that will be applied to the values above in Table 1 to obtain the fiscal year revenue transfer payment prior to June 15 of the preceding fiscal year.
EXHIBIT C
FORM OF INVOICE FOR START-UP COSTS

Transportation Corridor Agencies

<table>
<thead>
<tr>
<th>Description</th>
<th>Line Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>BRC ICC development and discussions *</td>
<td>-</td>
</tr>
<tr>
<td>BRC connectivity testing *</td>
<td>-</td>
</tr>
<tr>
<td>BRC connectivity re-testing *</td>
<td>-</td>
</tr>
<tr>
<td>BRC test files *</td>
<td>-</td>
</tr>
<tr>
<td>SBCTA meeting support /20 to /20 /20 ( meetings total)</td>
<td>-</td>
</tr>
<tr>
<td>- includes TCA internal meetings and meetings with SBCTA</td>
<td>-</td>
</tr>
<tr>
<td>- TCA staff includes _ Executives, _ Directors, and _ Managers</td>
<td>-</td>
</tr>
<tr>
<td>- Other: _</td>
<td>-</td>
</tr>
</tbody>
</table>

* Note: Invoice submitted by BRC-TPG LLC is enclosed

Remittance Instructions: Total Amount Due $ - 

Make all checks payable to: Transportation Corridor Agencies

Please remit to the following:
Transportation Corridor Agencies
125 Pacifica, Suite 100
Irvine, CA 92619
Attn: Accounts Receivable
Contact Tony Hoang, Assistant Controller, TonyH@TheTollroads.com with any questions:

Please visit us at www.thetollroads.com
Minute Action

AGENDA ITEM: 12

Date: August 10, 2023

Subject:
Amendment No. 1 to the Capital Project Needs Analysis Project List for Valley Major Street Program/Arterial Sub-Program for Fiscal Year 2023/2024

Recommendation:
That the following be reviewed and recommended for final approval by the Board of Directors, acting as the San Bernardino County Transportation Authority, at a regularly scheduled Board meeting:

Approve the Amended Project List for the Measure I Valley Major Street Program/Arterial Sub-Program for Fiscal Year 2023/2024, as referenced in Attachment A.

Background:
The County of San Bernardino has requested an amendment to their Capital Project Needs Analysis (CPNA) Project List for Fiscal Years 2023/2024 through 2027/2028 as they expect to request reimbursement in the current fiscal year for the State Street widening project in the San Bernardino Sphere.

As background, per Measure I Policy No. 40006, the Valley jurisdictions must prepare, adopt, and annually submit to the San Bernardino County Transportation Authority (SBCTA) by September 30th their CPNA, a list of projects for which they plan to request reimbursement of the public share in the next five years (Attachment A). Projects listed in the first two years and any unreimbursed expenditures from prior years are eligible for reimbursement in Fiscal Year 2023/2024. Besides identifying the need for Measure I funds by project phase, the complete submittal also lists other anticipated funding sources, including the required development mitigation fair share funds.

The Arterial Sub-Program current year funding allocations were presented to the SBCTA Board of Directors on April 5, 2023, as part of the Fiscal Year 2023/2024 budget planning process and the original project list was approved on July 5, 2023.

Financial Impact:
This item is consistent with the Fiscal Year 2023/2024 Budget.

Reviewed By:
This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:
Marc Lucius, Management Analyst II

Entity: San Bernardino County Transportation Authority
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Project Description</th>
<th>Estimated Cost</th>
<th>MI FY 23/24</th>
<th>MI FY 24/25</th>
<th>MI FY 25/26</th>
<th>MI FY 26/27</th>
<th>MI FY 27/28</th>
<th>MI Future</th>
<th>MI Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chino</td>
<td>widening of SR-71 to Chino Creek (north side only)</td>
<td>$4,201,000</td>
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<td>0</td>
<td>2,789,884</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,789,884</td>
</tr>
<tr>
<td>Chino Hills</td>
<td>widening of SR-71 to SR-71 from Chino Creek</td>
<td>$4,201,000</td>
<td>0</td>
<td>0</td>
<td>2,789,884</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,789,884</td>
</tr>
<tr>
<td>Colton</td>
<td>Improvements of La Cadena Dr from Rancho Ave to Littlon Ave including bridge replacement at Santa Ana River</td>
<td>$4,866,000</td>
<td>26,173,958</td>
<td>627,240</td>
<td>785,486</td>
<td>1,281,087</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>widening of SR-71 to SR-71 from S. Crystal Ridge to Riverside County Line from 2 to 4 lanes</td>
<td>$5,652,000</td>
<td>5,669,970</td>
<td>1,973,129</td>
<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>widening of Airport Dr from Kettering to Woodview Rd</td>
<td>$16,000,000</td>
<td>16,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Fontana</td>
<td>widening of Street Ave from Sunn Palm Ave to 1-15</td>
<td>$10,759,000</td>
<td>132,654</td>
<td>0</td>
<td>0</td>
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<tr>
<td></td>
<td>widening of Fruit Hill Blvd from Hemlock to Almeria from 4 to 6 lanes</td>
<td>$13,826,000</td>
<td>1,078,301</td>
<td>0</td>
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<td>widening of Street Ave from Fruit Hill Blvd to Baseline Ave from 4 to 6 lanes</td>
<td>$12,031,000</td>
<td>15,122,464</td>
<td>10,268,153</td>
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<td>widening of Airport Dr from Etiwanda Ave to 0.70 to Etiwanda from 2 to 4 lanes</td>
<td>$8,069,000</td>
<td>11,329,298</td>
<td>5,556,191</td>
<td>0</td>
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<td>Fontana Sphere</td>
<td>widening of Cherry Ave bridge from Merrill Ave to Whitram from 4 to 6 lanes</td>
<td>$5,400,000</td>
<td>10,957,067</td>
<td>554,205</td>
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<td>widening of Kentwood Ave to Fontana City Limits from 2 to 4 lanes</td>
<td>$2,031,000</td>
<td>15,599,600</td>
<td>83,204</td>
<td>1,065,633</td>
<td>391,018</td>
<td>1,620,517</td>
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<td>Grand Terrace</td>
<td>Extend Commerce Wy from 900' to SR-90</td>
<td>$5,000,000</td>
<td>236,552</td>
<td>624,000</td>
<td>907,077</td>
<td>205,500</td>
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<td>Highland</td>
<td>SR-210/ Baseline interchange - term loan; cash flow estimated by SBCTA</td>
<td>$13,260,000</td>
<td>31,730,814</td>
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<td>3,499,301</td>
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<td>Victoria Avenue Improvements Project</td>
<td>$4,975,000</td>
<td>11,265,000</td>
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<td>Loma Linda</td>
<td>Intersection Improvements at Mason St and Anderson St</td>
<td>$1,000,000</td>
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<td>318,240</td>
<td>612,000</td>
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<td>widening of California St from Barton St to Reillands Blvd from 2 to 4 lanes</td>
<td>$4,100,000</td>
<td>109,355</td>
<td>391,680</td>
<td>1,077,861</td>
<td>1,522,078</td>
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<td>install traffic signal at Barton Rd &amp; Benton St</td>
<td>$235,652</td>
<td>0</td>
<td>0</td>
<td>146,342</td>
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<td>widening of Airport Dr from Sunn Palm Ave to 1-15</td>
<td>$5,850,000</td>
<td>32,258,960</td>
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<td>1,990,241</td>
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<td>Montclair</td>
<td>I-10/ Monte Vista Ave interchange - term loan; cash flow estimated by SBCTA</td>
<td>$1,860,000</td>
<td>32,258,960</td>
<td>0</td>
<td>1,990,241</td>
<td>0</td>
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<td>Ontario</td>
<td>Spot Wider Airport Dr from Kettering to Etiwanda Ave from 2 to 4 lanes, including intersection at Etiwanda/Silver</td>
<td>$5,270,000</td>
<td>1,634,972</td>
<td>225,625</td>
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<td>widening of Airport Dr from Benson Ave to Vineyard Ave from 4 to 6 lanes</td>
<td>$48,817,215</td>
<td>2,400,000</td>
<td>251,601</td>
<td>293,375</td>
<td>729,750</td>
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<td>replace 400-st structure between 1-10 westbound ramps and I-10 eastbound ramps and widen to 5 lanes - cashflow estimated by SBCTA</td>
<td>$21,567,000</td>
<td>21,567,000</td>
<td>692,644</td>
<td>2,364,522</td>
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**CAPITAL PROJECT NEEDS ANALYSIS**

**VALLEY ARTERIAL SUB-PROGRAM - FY2023 to FY2027/2028**

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Project Description</th>
<th>3-YR Estimate (FY27/28)</th>
<th>FY 23/24</th>
<th>MI FY 24/25</th>
<th>MI FY 25/26</th>
<th>MI FY 26/27</th>
<th>MI FY 27/28</th>
<th>MI Future</th>
<th>MI Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rancho Cucamonga</td>
<td>Widen Wilkins Ave from East Ave to Waterman/Baldock from 0 to 4 lanes Construct a Traffic Signal at the intersection of Milliken and 5th Construct a Traffic Signal at the intersection of Rochester and Jersey Widen Victoria Ave from EHS to I-15 Construct a Traffic Signal at the intersection of 6th and Rochester Construct a Traffic Signal at the intersection of Camellian and Banyan Construct a Traffic Signal at the intersection of 4th and Hellman Construct a Traffic Signal at the intersection of 6th and Utica</td>
<td>7,572,000 7,434,218</td>
<td>3,199,080</td>
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<td>0</td>
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<td>0</td>
<td>3,199,080</td>
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<tr>
<td>Redlands</td>
<td>Construct a Traffic Signal at the intersection of Foothill and Redlands Ave Construct a Traffic Signal at the intersection of Foothill and I-10 Improvement intersections at University and Colton Construct a Traffic Signal at the intersection of Wabash Ave and citrus Ave Construct a Traffic Signal at the intersection of Dearborn St and citrus Ave</td>
<td>464,000 812,000</td>
<td>163,028 461,400</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>624,428</td>
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<tr>
<td>San Bernardino City of</td>
<td>Reconstruct Mt Vernon Bridge to 4 lanes (local match)</td>
<td>Yes</td>
<td>17,664,000</td>
<td>2,637,391</td>
<td>614,138</td>
<td>1,453,735</td>
<td>1,832,118</td>
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**Attachment A**

Attachment A - ADM-2024-003 (0023) Amendment No. 1 to the OMA Project List for Valley Major Street Program Sub-Program
### Capital Project Needs Analysis

**Valley Arterial Sub-Program - FY2023/2024 to FY2027/2028**

#### Jurisdiction: San Bernardino

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Advance</th>
<th>5-Yr Loan?</th>
<th>Current Cost</th>
<th>Est. MI FY 23/24</th>
<th>MI FY 24/25</th>
<th>MI FY 25/26</th>
<th>MI FY 26/27</th>
<th>MI FY 27/28</th>
<th>Future MI</th>
<th>Total MI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Widen &quot;H&quot; St from Kendall Dr to 40th St from 2 to 4 lanes</td>
<td>Yes</td>
<td>2,145,000</td>
<td>1,025,980</td>
<td>797,680</td>
<td>2,704,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>4,527,660</td>
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<td>Widen State St from 16th St to Baseline from 0 to 4 lanes</td>
<td>Yes</td>
<td>6,038,062</td>
<td>0</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>6,038,062</td>
</tr>
<tr>
<td>Widen 5th St from Sterling to Victoria from 2 to 6 lanes</td>
<td>Yes</td>
<td>967,000</td>
<td>0</td>
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<td>0</td>
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<td>Widen 40th St from Acre Ln to Electric Ave from 2 to 4 lanes</td>
<td>Yes</td>
<td>5,421,000</td>
<td>1,795,675</td>
<td>716,560</td>
<td>3,380,000</td>
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<td>5,892,235</td>
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#### Jurisdiction: Upland

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<tr>
<th>Project Description</th>
<th>Advance</th>
<th>5-Yr Loan?</th>
<th>Current Cost</th>
<th>Est. MI FY 23/24</th>
<th>MI FY 24/25</th>
<th>MI FY 25/26</th>
<th>MI FY 26/27</th>
<th>MI FY 27/28</th>
<th>Future MI</th>
<th>Total MI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Widen Arrow Hwy from County Line to Central Ave from 2 to 4 lanes</td>
<td>Yes</td>
<td>2,874,000</td>
<td>1,870,690</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<td>913,220</td>
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<tr>
<td>Widen Foothill Blvd from County Line to Central Ave from 2 to 4 lanes</td>
<td>Yes</td>
<td>5,900,000</td>
<td>432,543</td>
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<td>432,543</td>
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<tr>
<td>I-10 &amp; Monez Vista Ave - term loan fully drawn</td>
<td>Yes Yes</td>
<td>2,107,992</td>
<td>33,144,900</td>
<td>0</td>
<td>0</td>
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<tr>
<td>I-10 &amp; Euclid Ave - term loan fully drawn</td>
<td>Yes</td>
<td>8,974,000</td>
<td>936,885</td>
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#### Jurisdiction: Yucaipa

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<th>Project Description</th>
<th>Advance</th>
<th>5-Yr Loan?</th>
<th>Current Cost</th>
<th>Est. MI FY 23/24</th>
<th>MI FY 24/25</th>
<th>MI FY 25/26</th>
<th>MI FY 26/27</th>
<th>MI FY 27/28</th>
<th>Future MI</th>
<th>Total MI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Widen 5th St from Yucaipa Bl to County Line Rd from 2 to 4 lanes</td>
<td>Yes</td>
<td>7,032,000</td>
<td>1,109,000</td>
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<td>1,109,000</td>
</tr>
<tr>
<td>Widen Ave E from 14th St to Bryant St from 2 lanes to 4 lanes</td>
<td>Yes</td>
<td>23,532,000</td>
<td>3,799,000</td>
<td>1,295,000</td>
<td>509,000</td>
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<td>6,257,000</td>
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<tr>
<td>Widen Calimesa Bl from Oak Glen Rd to County Line Rd from 2 to 4 lanes</td>
<td>Yes</td>
<td>4,192,000</td>
<td>8,010,500</td>
<td>1,740,000</td>
<td>750,000</td>
<td>1,743,000</td>
<td>1,758,000</td>
<td>1,783,000</td>
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**Total**

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<th>Current Cost</th>
<th>MI FY 23/24</th>
<th>MI FY 24/25</th>
<th>MI FY 25/26</th>
<th>MI FY 26/27</th>
<th>MI FY 27/28</th>
<th>Future MI</th>
<th>Total MI</th>
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<tr>
<td>90,820,989</td>
<td>29,231,024</td>
<td>33,267,672</td>
<td>18,028,443</td>
<td>4,585,242</td>
<td>3,396,519</td>
<td>6,716,985</td>
<td>186,047,175</td>
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Additional Information
### BOARD OF DIRECTORS METRO VALLEY STUDY SESSION ATTENDANCE - 2023

#### VALLEY BOARD MEMBER ATTENDANCE

<table>
<thead>
<tr>
<th>Name</th>
<th>City</th>
<th>Jan</th>
<th>Feb</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eunice Ulloa</td>
<td>City of Chino</td>
<td>X</td>
<td>X</td>
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<td>Ray Marquez</td>
<td>City of Chino Hills</td>
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<tr>
<td>Frank Navarro</td>
<td>City of Colton</td>
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<tr>
<td>Aquanetta Warren</td>
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<td>Sylvia Robles</td>
<td>City of Grand Terrace</td>
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<td>Larry McCallon</td>
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<td>Rhodes ‘Dusty’ Rigsby</td>
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<td>L. Dennis Michael</td>
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<td>Paul Barich</td>
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<td>Deborah Robertson</td>
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<tr>
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</tbody>
</table>

X = member attended meeting.  * = alternate member attended meeting. Empty box = Did not attend meeting. Crossed out box = not a Board Member at the time.  Shaded box = No meeting.
<table>
<thead>
<tr>
<th>Name</th>
<th>Jan</th>
<th>Feb</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
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<td>Dawn Rowe</td>
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### MOUNTAIN/DESERT BOARD MEMBER ATTENDANCE

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X = member attended meeting.  * = alternate member attended meeting.  Empty box = Did not attend meeting  Crossed out box = not a Board Member at the time.

MVSSat23  Shaded box = No meeting
This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist Board Members and partners as they participate in deliberations at Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. Staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
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<td>Assembly Bill</td>
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<td>ADA</td>
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<td>ADT</td>
<td>Average Daily Traffic</td>
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<td>American Public Transportation Association</td>
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<td>AQMP</td>
<td>Air Quality Management Plan</td>
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<td>ARRA</td>
<td>American Recovery and Reinvestment Act</td>
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<tr>
<td>CMAQ</td>
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<td>CMP</td>
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<td>Comprehensive Transportation Plan</td>
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<td>Inland Valley Development Agency</td>
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<td>Job Access Reverse Commute</td>
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### Acronym List

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<tr>
<th>Acronym</th>
<th>Description</th>
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<td>MAGLEV</td>
<td>Magnetic Levitation</td>
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<td>Morongo Basin Transit Authority</td>
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<td>MDAB</td>
<td>Mojave Desert Air Basin</td>
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<td>MDAQMD</td>
<td>Mojave Desert Air Quality Management District</td>
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<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
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<td>PA&amp;ED</td>
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<td>Projects of National and Regional Significance</td>
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<td>PPM</td>
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<td>PSE</td>
<td>Plans, Specifications and Estimates</td>
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MISSION STATEMENT

Our mission is to improve the quality of life and mobility in San Bernardino County. Safety is the cornerstone of all we do. We achieve this by:

- Making all transportation modes as efficient, economical, and environmentally responsible as possible.
- Envisioning the future, embracing emerging technology, and innovating to ensure our transportation options are successful and sustainable.
- Promoting collaboration among all levels of government.
- Optimizing our impact in regional, state, and federal policy and funding decisions.
- Using all revenue sources in the most responsible and transparent way.

Approved December 4, 2019