Agreement No. 23-72-102-00

AGREEMENT FOR THE FUNDING OF MEASURE A REGIONAL ARTERIAL IMPROVEMENTS WITH THE CITY OF RIVERSIDE

1. Parties and Date.

1.1 This Agreement is executed and entered into this ___ day of _____, 2023, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("RCTC") and CITY OF RIVERSIDE ("City"). RCTC and City are sometimes collectively referred to herein as the "Parties".

2. Recitals.

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

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

2.3 The Plan establishes funding for any improved Regional Arterial System to be funded by a mix of measure A and Transportation Uniform Mitigation Fees (TUMF) revenues.

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

2.5 RCTC intends, by this Agreement, to distribute Measure A Regional Arterial ("MARA") Funds, subject to the conditions provided herein, and to participate in the joint development of the Project, as defined herein.

3. Terms.

3.1 Description of Work. This Agreement is intended to distribute MARA Funds to the City for the Third Street Grade Separation Project, ("the Work"). The Work, including a timetable and a detailed scope of work, is more fully described in Exhibit "A" attached hereto and, pursuant to Section 3.15 below, is subject to modification as requested by the City and approved by RCTC. The Work shall be consistent with one or more of the defined RCTC Call for Projects phases detailed herein as follows:

1) CONS – Construction

The Work phase(s) funded pursuant to this Agreement shall be consistent with the City's Call for Projects Nomination Form submitted to RCTC ("the Project"). The Project is more fully described in Exhibit "B" attached hereto. It is understood and agreed that the City shall expend MARA Funds only as set forth in this Agreement and only for the Work. To this end, any use of funds provided pursuant to this Agreement shall be subject to the review and approval of RCTC.

3.2 RCTC Funding Amount. RCTC hereby agrees to distribute to the City, on the terms and conditions set forth herein, a sum not to exceed Twelve Million Dollars ($12,000,000), to be used exclusively for reimbursing the City for eligible Work expenses as described herein ("Funding Amount"). The City acknowledges and agrees that the Funding Amount may be less than the actual cost of the Work, and that RCTC shall not contribute MARA Funds in excess of the maximum authorized in this section.

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

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

3.2.3 Increases in Work Funding. The Funding Amount may, in RCTC's sole discretion, be augmented with additional MARA Funds. Any such increase in the Funding Amount must be approved in writing by RCTC's Executive Director. No such increased funding shall be expended to pay for any Work already completed. For purposes of this Agreement, the Work or any portion thereof shall be deemed complete upon its acceptance by RCTC's Executive Director.

3.2.4 Cost Savings. In the event that bids for the Work are lower than anticipated, or there are cost savings for any other reason, the Funding Amount shall be reduced as follows: cost savings shall be applied proportionately to each funding source listed in Exhibit "A" for the Work. The City shall inform RCTC of any cost savings and the Parties shall amend this Agreement to reflect the revised Funding Amount. RCTC's Executive Director and the City Manager shall be authorized to execute any such amendment.

3.2.5 No Funding for Temporary Improvements. Only segments or components of the Work that are intended to form part of or be integrated into the Work may be funded by MARA Funds. No improvement which is temporary in nature, including but not limited to temporary roads, curbs, or drainage facilities, shall be funded with MARA Funds except as needed for staged construction of the Work.

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

3.3.1 City's Obligation to Repay MARA Funds to RCTC. In the event that: (i) the City, for any reason, determines not to proceed with or complete the Work; or (ii) the Work is not timely completed, subject to any extension of time granted by RCTC pursuant to Section 3.15; the City agrees that any MARA Funds that were distributed to the City for the Work shall be repaid in full to RCTC. The Parties shall enter into good faith negotiations to establish a reasonable repayment schedule and repayment mechanism which may include, but is not limited to, withholding of Measure A Local Streets and Roads revenues. The City acknowledges and agrees that RCTC shall have the right to withhold any Measure A Local Streets and Roads revenues due the City, in an amount not to exceed the total of the funds distributed to the City, and/or initiate legal action to compel repayment, if the City fails to repay RCTC within a reasonable time period not to exceed 180 days from receipt of written notification from RCTC that repayment is required.

3.3.2 City's Local Match Contribution. The City shall provide at least Forty Million Dollars ($40,000,000) of funding toward the Work, as shown in Exhibit "A" and as called out in the City's Project Nomination Form submitted to RCTC in response to its Call for Projects. These other funds shall be drawn down in full before MARA Funds are invoiced.

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

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

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

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

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

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

3.9.1 Termination for Convenience.

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

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

3.9.2 Termination for Cause.

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

3.9.2.2 Effect of Termination for Cause. In the event that the City terminates this Agreement in response to RCTC's uncured material breach hereof, RCTC shall, within 90 days, distribute to the City MARA Funds in an amount equal to the aggregate total of all unpaid invoices which have been received from the City regarding the Work at the time of the notice of termination. In the event that RCTC terminates this Agreement in response to the City's uncured material breach hereof, the City shall, within 180 days, repay to RCTC in full all MARA Funds provided to the City under this Agreement. Notwithstanding termination of this Agreement by RCTC pursuant to this

Section 3.9.2.2, RCTC shall be entitled to exercise its rights under Section 3.14.2, including but not limited to conducting a review of the invoices and requesting additional information. This Agreement shall terminate upon receipt by the terminating party of the amounts due it under this Section 3.9.2.2.

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

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

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

3.12 Indemnification.

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

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

3.13 Insurance. The City shall require, at a minimum, all persons or entities hired to perform the Work to obtain, and require their subcontractors to obtain, insurance of the types and in the amounts described below and satisfactory to the City and RCTC. Such insurance shall be

maintained throughout the term of this Agreement, or until completion of the Work, whichever occurs last.

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

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

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

3.13.1.3 Contain standard separation of insured provisions.

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

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

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

3.14 Procedures for Distribution of MARA Funds to City.

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

3.14.2 Review and Reimbursement by RCTC. Upon receipt of an invoice from the City, RCTC may request additional documentation or explanation of the Work costs for which reimbursement is sought. Undisputed amounts shall be paid by RCTC to the City within thirty (30) days. In the event that RCTC disputes the eligibility of the City for reimbursement of all or a portion of an invoiced amount, the Parties shall meet and confer in an attempt to resolve the dispute. If the meet and confer process is unsuccessful in resolving the dispute, the City may appeal RCTC's

decision as to the eligibility of one or more invoices to RCTC's Executive Director. The City may appeal the decision of the Executive Director to the full RCTC Board, the decision of which shall be final. Additional details concerning the procedure for the City's submittal of invoices to RCTC and RCTC's consideration and payment of submitted invoices are set forth in Exhibit "C", attached hereto.

3.14.3 Funding Amount/Adjustment. If a post Work audit or review indicates that RCTC has provided reimbursement to the City in an amount in excess of the maximum MARA Funds provided for in section 3.2 of this Agreement, or has provided reimbursement of ineligible Work costs, the City shall reimburse RCTC for the excess or ineligible payments within 30 days of notification by RCTC.

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

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

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

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

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

reemployment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

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

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

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

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

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

CITY OF RIVERSIDE
3900 Main Street
Riverside, CA 92522

ATTN: Public Works Director

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

ATTN: Executive Director

Any notice so given shall be considered served on the other party three (3) days after deposit in the U.S. mail, first class postage prepaid, return receipt requested, and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred regardless of the method of service.

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE.]

SIGNATURE PAGE
TO
AGREEMENT FOR THE FUNDING OF
MEASURE A REGIONAL ARTERIAL IMPROVEMENTS

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: _____
Anne Mayer, Executive Director

APPROVED AS TO FORM:

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

CITY OF RIVERSIDE

By: _____

City Manager

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM:

By: _____
Tarren Torres

Deputy City Attorney

Certified as to Availability of Funds:

By: _____
Kristie Thomas

Finance Director

23-1060 TAT 8/15/23

EXHIBIT "A"

SCOPE OF WORK,
FUNDING AND TIMETABLE

SCOPE OF WORK: Construct new four-lane underpass to replace at-grade crossing at BNSF triple tracks near the Third Street intersection with Commerce Street. Realign the rail easterly to avoid significant property impacts and eliminate the need for a shoofly. Improvements include a new raised median, Class II bike lanes, sidewalks, retaining walls, drainage enhancements, and utility relocations.

FUNDING:

PHASE	MARA Fund	LOCAL	TOTAL
CONSTRUCTION	$12,000,000	$35,000,000	$47,000,000
TOTAL	$12,000,000	$35,000,000	$47,000,000

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

PHASE	START DATE	END DATE	COMMENTS
Construction	10/2025	10/2027	500 Working Days

EXHIBIT "B"

PROJECT LOCATION MAP

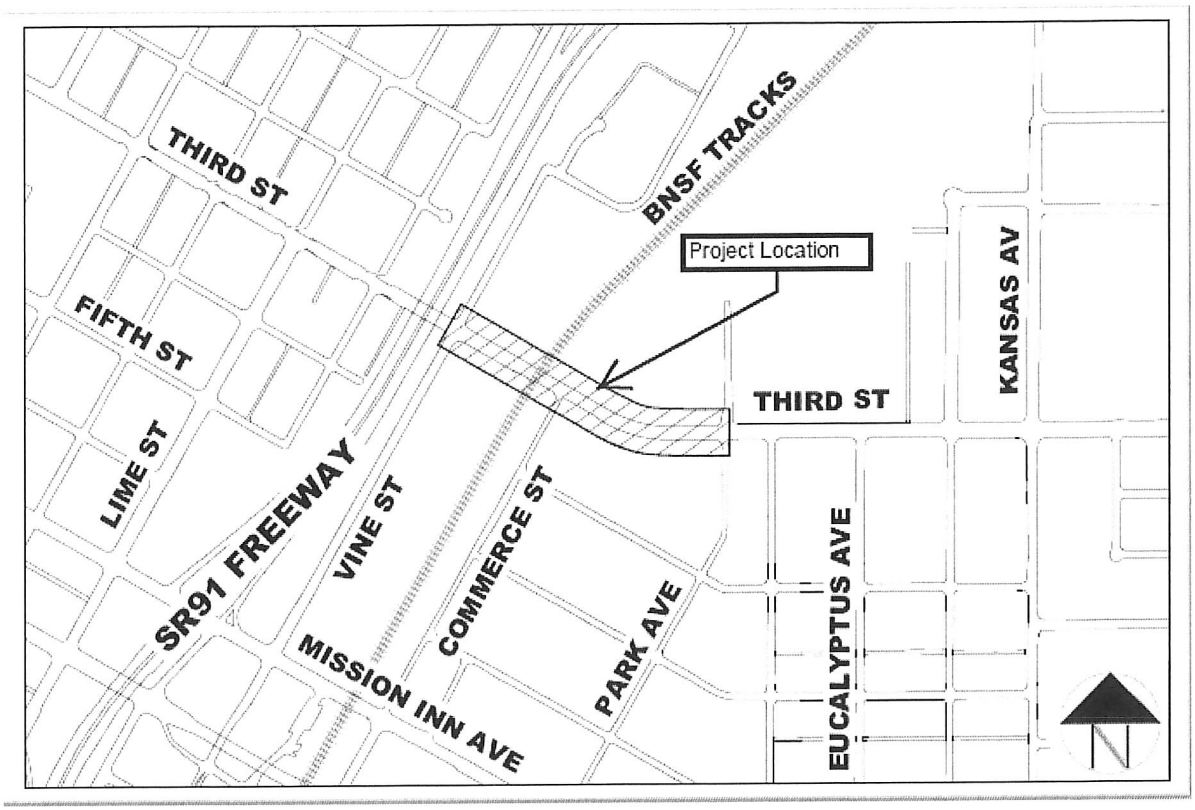

EXHIBIT "C"

PROCEDURES FOR SUBMITTAL, CONSIDERATION AND PAYMENT OF INVOICES

1. RCTC recommends that the City incorporate Exhibit "C-1" into its contracts with any subcontractors to establish a standard method for preparation of invoices by contractors to the City and ultimately to RCTC for reimbursement of City contractor costs.

2. Each month the City shall submit an invoice for eligible Work costs incurred during the preceding month. The original invoice shall be submitted to RCTC's Executive Director with a copy to RCTC's Project Coordinator. Each invoice shall be accompanied by a cover letter in a format substantially similar to that of Exhibit "C-2".

3. Each invoice shall include documentation from each contractor used by the City for the Work, listing labor costs, subcontractor costs, and other expenses. Each invoice shall also include a monthly progress report and spreadsheets showing the hours or amounts expended by each contractor or consultant for the month and for the entire Work to date. A sample progress report is attached as Exhibits "C-4". All documentation from the City's contractors should be accompanied by a cover letter in a format substantially similar to that of Exhibit "C-3".

4. If the City is seeking reimbursement for direct expenses incurred by City staff for eligible Work costs, the City shall detail the same level of information for its labor and any expenses in the same level of detail as required of contractors pursuant to Exhibit "C" and its attachments.

5. Charges for each task and milestone listed in Exhibit "A" shall be listed separately in the invoice.

6. Each invoice shall include a certification signed by the City Representative or his or her designee which reads as follows:

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

   Signed _____

   Title _____

   Date _____

   Invoice No. _____

7. RCTC will pay the City within 30 days after receipt by the Commission of an invoice. If RCTC disputes any portion of an invoice, payment for that portion will be withheld, without interest, pending resolution of the dispute, but the uncontested balance will be paid.

8. The final payment under this Agreement will be made only after: (i) the City has obtained a Release and Certificate of Final Payment from each contractor or consultant used on the Work; (ii) the City has executed a Release and Certificate of Final Payment; and (iii) the City has provided copies of each such Release to RCTC.

EXHIBIT "C-1"

ELEMENTS OF COMPENSATION

For the satisfactory performance and completion of the Work under this Agreement, City will pay the Consultant compensation as set forth herein. The total compensation for this service shall not exceed (_____INSERT WRITTEN DOLLAR AMOUNT___) ($___INSERT NUMERICAL DOLLAR AMOUNT___) without written approval of City's City Engineer ("Total Compensation").

1. ELEMENTS OF COMPENSATION.

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

1.1 DIRECT LABOR COSTS.

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

1.1.1 DIRECT SALARY COSTS

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

1.1.2 MULTIPLIER

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

1.1.2.1 Direct Salary Costs _____

1.1.2.2 Payroll Additives _____

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

1.1.2.3 Overhead Costs _____

The Decimal ratio of Allowable Overhead Costs to the Consultant Firm's Total Direct Salary Costs. Allowable Overhead Costs include general, administrative and overhead costs of maintaining and operating established offices, and consistent with established firm policies, and as defined in the Federal Acquisitions Regulations, Part 31.2.

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

1.2 FIXED FEE.

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

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

1.3 ADDITIONAL DIRECT COSTS.

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

Rates for identified Additional Direct Costs are as follows:

ITEM	REIMBURSEMENT RATE
	[___insert charges___]
Per Diem	$ /day
Car mileage	$ /mile
Travel	$ /trip
Computer Charges	$ /hour
Photocopies	$ /copy
Blueline	$ /sheet
LD Telephone	$ /call
Fax	$ /sheet
Photographs	$ /sheet

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

2. DIRECT SALARY RATES

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

2.1 Direct Salary Rates shall be applicable to both straight time and overtime work, unless payment of a premium for overtime work is required by law, regulation or craft agreement, or is otherwise specified in this Agreement. In such event, the premium portion of Direct Salary Costs will not be subject to the Multiplier defined in Paragraph 1.1.2 above.

2.2 Direct Salary Rates shown herein are in effect for one year following the effective date of the Agreement. Thereafter, they may be adjusted annually to reflect the Consultant's adjustments to individual compensation. The Consultant shall notify City in writing prior to a change in the range of rates included herein, and prior to each subsequent change.

POSITION OR CLASSIFICATION	RANGE OF HOURLY RATES
[___sample___]	
Principal	$ .00 - $ .00/hour
Project Manager	$ .00 - $ .00/hour
Sr. Engineer/Planner	$ .00 - $ .00/hour
Project Engineer/Planner	$ .00 - $ .00/hour
Assoc. Engineer/Planner	$ .00 - $ .00/hour
Technician	$ .00 - $ .00/hour
Drafter/CADD Operator	$ .00 - $ .00/hour
Word Processor	$ .00 - $ .00/hour

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

3. INVOICING.

3.1 Each month the Consultant shall submit an invoice for Work performed during the preceding month. The original invoice shall be submitted to City's City Engineer with two (2) copies to City's Project Coordinator.

3.2 Charges shall be billed in accordance with the terms and rates included herein, unless otherwise agreed in writing by City's Representative.

3.3 Base Work and Extra Work shall be charged separately, and the charges for each task and Milestone listed in the Scope of Work, shall be listed separately. The charges for each individual assigned by the Consultant under this Agreement shall be listed separately on an attachment to the invoice.

3.4 A charge of $500 or more for any one item of Additional Direct Costs shall be accompanied by substantiating documentation satisfactory to City such as invoices, telephone logs, etc.

3.5 Each copy of each invoice shall be accompanied by a Monthly Progress Report and spreadsheets showing hours expended by task for each month and total project to date.

3.6 Each invoice shall indicate payments to DBE subconsultants or supplies by dollar amount and as a percentage of the total invoice.

3.7 Each invoice shall include a certification signed by the Consultant's Representative or an officer of the firm which reads as follows:

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

Signed _____

Title _____

Date _____

Invoice No. _____

4. PAYMENT

4.1 City shall pay the Consultant within four to six weeks after receipt by City of an original invoice. Should City contest any portion of an invoice, that portion shall be held for resolution, without interest, but the uncontested balance shall be paid.

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

EXHIBIT "C-2"

SAMPLE COVER LETTER TO RCTC

Date

Ms. Anne Mayer
Executive Director
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
ATTN: Accounts Payable

Re: Project Title - Invoice #__

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

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

Total Authorized Agreement Amount:	$0,000,000.00
Total Invoiced to Date:	$0,000,000.00
Total Previously Invoiced:	$0,000,000.00
Balance Remaining:	$0,000,000.00
Amount due this Invoice:	**$0,000,000.00**

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

By: _____
Name
Title

cc:

EXHIBIT "C-3"

SAMPLE LETTER FROM CONTRACTOR TO CITY/COUNTY

Month/Date/Year

_____
_____
_____
Attn: Accounts Payable

Invoice #_____

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

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

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

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

By: _____
Name
Title

EXHIBIT "C-4"

SAMPLE PROGRESS REPORT

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

A. Activities and Work Completed during Current Work Periods

TASK 01 – 100% PS&E SUBMITTAL

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

B. Current/Potential Problems Encountered & Corrective Action

Problems	Corrective Action
None	None

C. Work Planned Next Period

TASK 01 – 100% PS&E SUBMITTAL

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