



**Imperial County Transportation
Commission (ICTC)**

Request For Proposal

Drug and Alcohol Compliance Audit

Mark Baza, Executive Director
ICTC
1503 N. Imperial Ave. Suite 104
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760-592-4494
760-592-4410 fax

I. BACKGROUND

The Imperial County Transportation Commission (ICTC) is requesting proposals for a drug and alcohol program compliance audit. This compliance audit is to be performed by a consultant and will be conducted on the public transit operations within the County. Qualified entities are invited to submit written proposals for consideration in accordance with this request.

These services will be conducted under a contract with ICTC. The consultant entity is hereinafter referred to as "Consultant". The public transit operators are hereinafter referred to as "Contractors". The contract will be regulated according to the provisions of the Federal Transit Administration's and Federal Highway Administration's Drug and Alcohol policy and program requirements.

ICTC is the sub-regional transportation planning and programming agency for the Imperial Valley region. The ICTC was created in 2010 pursuant to State SB 607. Planning and programming services had been previously provided under the Imperial Valley Association of Governments and the County of Imperial. ICTC also administers the regional public transit services in the region.

ICTC is an independent agency governed by a Commission composed of City council members and County supervisors from each of the region's eight (8) local governments and the Imperial Irrigation District (IID). Membership includes the cities of Brawley, Calipatria, Calexico, El Centro, Holtville, Imperial, Westmorland, the County of Imperial and the IID.

II. PROJECT DESCRIPTION

ICTC desires to enter into a contractual relationship with a qualified Consultant who will conduct compliance audits of ICTC's regional transit Contractors. First Transit currently provide transit operations services for four (4) types of public transit: fixed-route transit bus service, ADA Paratransit service, non-emergency medical transportation service from the Imperial County to San Diego and intracity Dial-A-Ride services in various communities within the County.

ICTC wants to sign a five (5) year contract. The successful Consultant will conduct several tasks once yearly to meet the program deadlines established by the FTA. This includes a site visit, interviews, review of documentation, development of the MIS reports and providing recommendations and guidance to Contractors. In addition, Consultant shall submit an annual management report to ICTC on the status of compliance with federal drug and alcohol testing policies.

Consultant will be responsible for meeting all the requirements as outlined in this RFP including but not limited to: indicating what deficiencies, if any, exist, as well as making recommendations to bring the Contractor(s) into compliance.

Proposed Schedule of Events

Issue Request For Proposal	October 1, 2021
Non-Mandatory Pre-Bid Meeting (teleconference available)	October 14, 2021
Proposal Due	November 1, 2021
Consultant Selection	November 2021
Awarding of Contract	November 2021
Draft Deliverables due to ICTC	January 2022
Final Deliverables due ICTC	February 2022

III. SCOPE OF WORK

Objectives

Imperial County Transportation Commission is seeking a qualified consultant to provide monitoring and oversight to Imperial Valley Transit (IVT) Services (IVT Fixed Route, IVT Access, IVT Ride and IVT Medtrans) to ensure compliance with DOT and FTA Drug use and Alcohol use prevention program. This Request for Proposal solicits Statement of Qualifications from consultants to provide the services described below.

Introduction

Under FTA 49 CFR Part 655 (“Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations”) contracts that perform any safety-sensitive function of behalf of ICTC (grantee) are required to comply with provisions of Part 655 and follow the procedures prescribed for drug and alcohol testing under DOT 49 CFR Part 40 (“Procedures for Transportation Workplace Drug and Alcohol Testing Programs”). The rule specifically requires the grantee to provide monitoring and oversight to its converted contractors to ensure that the program they are implementing on behalf of ICTC is consistent with the DOT and FTA rules. ICTC is required to annually certify compliance to the applicable FTA Regional office.

Monitoring and Compliance

The consultant shall develop and provide a comprehensive monitoring program to ensure that Imperial Valley Transit Services are in compliance with 49 CFR Part 40 and Part 655. At a minimum, the program must include an annual on-site audit of IVT Services is seeking a qualified consultant to the following, but is not limited to:

- Drug & Alcohol Policy, Drug Free Workplace Act (DFWA) Policy and administrative forms and procedures, including acknowledgement of employee receipt of Drug & Alcohol and DFWA policy
- Safety-sensitive employee lists
- Interview with the Drug & Alcohol Program Manager (DAPM) and/or Designated Employer Representative (DER)
- Employee and supervisor/company officials training records
- Pre-employment drug & alcohol background checks from previous Department of Transportation (DOT) regulated employers (Sec.40.25)
- Pre-employment testing (relative to date safety-sensitive work was first performed)
- Documentation of random selection and actual random tests conducted
- Compliance with current FTA minimum random testing rates
- Scientific validity of the random testing selection process
- Post-accident testing records (criteria, timeliness)
- Documentation supporting reasonable suspicion tests
- Return-to-duty testing (if applicable)
- Follow-up testing (if applicable)
- Consequences following policy violation, including Substance Abuse Professional (SAP) referrals
- Tests conducted under the employer's own authority (if applicable)
- Use of proper Custody and Control Forms (CCF) and Alcohol Testing Forms (ATF)
- Verified Medical Review Officer's (MRO) drug test results
- On-site audit of collection sites, mock collections and interviews with DOT collector and Breath Alcohol Technician (BAT)
- Review of the laboratory, MRO and SAP qualifications and performance; knowledge of Part 40 requirements as demonstrated by their work products and responses to audit requirements.
- Semi-annual laboratory statistical summaries (if applicable)
- Collect and review Monthly Drug & Alcohol Reports
- Collect and review Quarterly Drug & Alcohol Reports
- Compile and submit Drug and Alcohol Management Information System (DAMIS) annual reports to FTA
- General record keeping practices and procedures (including security and confidentiality issues)

- If applicable, compliance of the Consortium/Third Party Administrator (C/TPA) with part 40 requirements.

On-Site Audits

The Consultant shall conduct, and complete annual on-site audits as listed below for IVT Services

The following is a listing of the Consultant's specific responsibilities:

1. At least 30 days prior to the on-site visit, the Consultant will send an audit notification letter to the contractor with a copy to designated ICTC staff. The letter will state the scheduled date and time of the visit and outline all the information and documentation that the contractor will be asked to provide to the Consultant prior to the on-site visit.
2. On the schedule date, the Consultant will conduct the on-site audit using a proprietary assessment tool, including mock urine specimen collection and breath alcohol testing and the contractor's designated collection site. Utilizing data from the contractor's previous annual DAMIs reports, Consultant will verify the information provided and determine whether or not the tests were conducted in accordance with the regulations. The on-site audit also will assess the adequacy of the security and confidentiality measures observed by the contractor. While on-site, and on as-needed basis, the Consultant will provide information and technical assistance to the contractor and their service agents to assist them in their compliance efforts.
3. Within five (5) calendar days of the on-site audit, the Consultant will analyze the data and information gathered, prepare a comprehensive report of findings and send it to the contractor with a copy to designated ICTC staff.
4. The contractor will be given 45 calendar days from the date of the report (or sooner depending on the seriousness of the violation) to take and document corrective actions taken to remedy any and all non-compliance issues. The contractor will be asked to send its responses to the Consultant.
5. The Consultant will review/analyze the contractor's initial response. If it is satisfactory, a written determination indicating their compliance with the DOT-FTA rules will be sent to the contractor, with a copy to designated ICTC staff. If not, the contractor will be given an additional 15 calendar days to resolve any continuing concerns. If the contractor fails to bring their program into compliance within this

period of time, the matter will be referred to ICTC for any follow-up administrative action the agency deems appropriate.

6. The consultant also will conduct on-going monitoring of the contactor's drug and alcohol testing program through monthly and quarterly DAMIS reports. Contractors will be required to immediately correct any errors or inconsistencies that have been identified as necessary. The Consultant will make phone calls and send e-mails messages to contractors on behalf of ICTC and provide technical assistance in resolving any problems.
7. SAP's and MRO's
The Consultant will conduct interviews with the SAP and MRO for the contractor. Unless they are located in the same facility as the collection site, the interviews with those service agents will be conducted by telephone or electronic meeting format. During the interviews, the Consultant will evaluate the SAP's and MRO's qualifications, knowledge and compliance with DOT and FTA requirements. The Consultant will then submit a written evaluation summary to the contractor with a copy to designated ICTC staff, as part of the comprehensive write report of audit findings. The SAP and/or MRO interview may be waived if they can provide documentation that within the previous 12 months they were interviewed by FTA substance abuse program auditors with no findings of non-compliance.
8. Drug and Alcohol Management Information System (DAMIS)
FTA also requires ICTC and the Contractor to file annual drug and alcohol testing data using the Drug and Alcohol Management Information System (DAMIS). The Consultant will be responsible for reporting to the FTA the required data electronically for ICTC and its contractor. The contractor will be asked to enter their data into DAMIS, with instructions and assistance from the Consultant. The Consultant will review and "accept" their entries on behalf of ICTC and ensure that all required DAMIS reports are submitted to the FTA on a timely basis.

Additional Tasks

Additional tasks include but are not limited to the following:

1. On an as needed basis, the Consultant will be available for consultation either in person, electronic meeting format, by telephone, or e-mail to provide analysis, technical assistance, interpretations, or assistance during FTA substance abuse program audits and or Triennial Reviews.

2. The Consultant may be requested to assist the ICTC DAPM with reviewing the Drug & Alcohol Policy and Program of bidders and proposers to confirm general compliance prior to contract award. Consultant will obtain detailed information about the contractor program through a Drug & Alcohol Program Checklist completed by the contractor, any deficiencies will be expected to be corrected within specified time frame. The Consultant will work with the contractor to bring their policy and/or program into compliance.
3. The Consultant will draft special reports (e.g. Board Reports) and undertake any special projects related to 49 CFR Part 40 and Part 655, if necessary.
4. On an as-needed basis, the Consultant will conduct education and training classes for drug and alcohol program managers, including training of safety-sensitive employees and supervisors.
5. The Consultant may be asked to provide compliance monitoring and oversight services to other additional contractors and/or back up service providers.

IV. PROPOSAL CONTENT AND INFORMATION

A. GENERAL

1. The proposal should be concise, well organized and demonstrate the proposer's qualifications and experience applicable to the project. The proposal shall be limited to 100 pages (8.5 inches x 11 inches), inclusive of resumes, graphics, forms, pictures, photographs, dividers, front and back covers, cover letter, etc., but not of letters of commitment from subcontractors. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing.
2. The written proposal must include a discussion of the proposer's approach to the project, a breakdown and explanation of project tasks, a proposed project schedule, an estimate of costs and documentation of the firm and team's qualifications for the scope of work. The cost estimate should be submitted in a separate sealed envelope clearly labeled as the pricing proposal.
3. The proposer will be evaluated based upon the information submitted in accordance with the evaluation criteria, and compliance with all requirements of this RFP.

B. Contents

Proposals submitted in response to this RFP shall be in the following order and shall include:

1. *Executive Summary*

Include a 1-2 page overview of the entire proposal describing the most important elements of the proposal.

2. *Identification of the Proposer and Establishment of Proposer's Fiscal Responsibility*

Please provide the following information:

- a. Legal name and address of the proposer's company.
- b. The number of years' proposer's company has been in business.
- c. The legal form of company (partnership, corporation, joint venture, etc.). If a joint venture, identify the members of the joint venture and provide all information required within the section for each member. If a corporation, certify that the corporation is in good standing with the Secretary of State.
- d. If a company is a wholly-owned subsidiary of a "parent company," provide the legal name and form of the parent company.
- e. Address(es) of primary office(s) that will work on this project.
- f. Name, title, address, email address and telephone number of the person to contact concerning the proposal.
- g. State whether the proposer has filed bankruptcy in the last ten (10) years and provide any other relevant information concerning whether the proposer is financially capable of completing this project.
- h. Provide all applicable license numbers for only license relevant to or required for this project, the names of the holders of those licenses, and the names of the agencies issuing those licenses.

3. *Experience and Technical Competence*

Describe the proposer's experience in completing similar consulting efforts. List three (3) successfully completed projects of a similar nature. For each completed project, provide the name of the company and project manager the proposer performed work for, telephone numbers, type of work performed, and dollar value of the contracts. A project currently being performed may be submitted for consideration as one of these references.

4. *Proposed Method to Accomplish the Work*

Describe the proposer's technical and management approach to the project and how the proposer will plan for and accommodate each into the project effort. Provide a proposed project schedule. Discuss how and what lines of communication will be implemented to maintain the project schedule.

5. *Knowledge and Understanding of Local Environment and Relevant Laws*

Describe the proposer's experience working in the local environment and proposed local presence for interfacing with ICTC's Project Coordinator. The environment includes, but is not limited to: cities, county, and other local agencies' regulations and policies. Describe the proposer's experience with and knowledge of relevant State and Federal laws.

6. *Project Organization and Key Personnel*

- a. Describe the proposed project organization, including the identification and responsibilities of key personnel. Indicate the role and responsibility of all project team members and all sub-consultants if any. Indicate how firms are being utilized to ensure a strong understanding of federal, State and local laws, ordinances, regulations, policies, and requirements. Indicate the extent of the commitment of key personnel for the duration of the project and furnish the resumes of key personnel. Provide an indication of the staffing level for the project. ICTC's evaluation of the proposal will consider the proposer's entire team; therefore, no changes in the team composition will be allowed without the prior written approval of ICTC. Subconsultant letters of commitment are required.
- b. Describe the experience of the proposer's project team in detail, including the team's project manager, and other key staff members,

on projects of similar size, capacity, and dollar value. For each similar project, including the client's name and telephone number. It is ICTC's policy to interview the proposer's references.

7. *Previous Contracts with ICTC*

The proposer shall submit a list that indicates all prime contracts and/or amendments awarded to the proposer by ICTC for the last three (3) years. The list shall include a short description of the project, the project scope of work, award date, completion date, name of ICTC's assigned project manager, and contract value.

8. *Exceptions to this Request for Proposals*

The proposer shall certify whether it takes no exception(s) to this RFP, including but not limited to a sample Standard Agreement for Services (Attachment A). If the proposer does take exception(s) to any portion(s) of the RFP or contract, the specific portion(s) to which exception(s) is taken must be identified and explained. Failure to make exceptions to the RFP or contract will be deemed a waiver of any objection. Exceptions may be considered during the proposal evaluation process, but the ICTC is not obligated to accept or approve any exceptions.

9. *Addenda to this Request for Proposals*

The proposer shall confirm in its proposal the receipt of all addenda (if any) issued to this RFP.

10. *Statement of Impartiality*

The nature of this project requires an impartial unbiased approach on the part of the consultant's team. This proposal shall include a statement declaring that the consultant and sub-consultants are not currently, and will not, during the performance of these services, participate in any other similar work involving a third party with interests currently in conflict or likely to be in conflict with ICTC's interests.

11. *Detailed Cost Estimate*

In a separate sealed envelope, provide an estimate of the total direct and indirect costs to complete all tasks identified in the scope of work with a detailed cost breakdown. The format or appearance of the price proposal is left to the discretion of the Proposer, but must identify:

- a. the number of staff hours and hourly rates for each professional and

administrative staff person who will be committed to this project, including fringe and overhead costs

b. an estimate of all other direct and indirect costs, such as material and reproduction costs.

V. SUBMITTAL REQUIREMENTS

- A. Five copies of the proposal and one sealed copy of the cost estimate shall be submitted. Proposals submitted by facsimile or email are not acceptable and will not be considered. Proposers are encouraged to use double-sided pages.
- B. The proposal transmittal letter and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.
- C. The proposal must be addressed to and received no later than 3 P.M., local time, on November 1st, 2021 at the office of:

Mark Baza, Executive Director
Imperial County Transportation Commission
1503 N. Imperial Ave. Suite 104
El Centro, CA. 92243

Postmarks will not be accepted in lieu of this requirement.

- D. Proposals are to be submitted in sealed packages with the following information clearly marked on the outside of each package.
 - 1. Name of proposer
 - 2. Project title
 - 3. Package Number (e.g., 1 of 2)
- E. Failure to comply with requirements of the RFP may result in disqualification. ICTC is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. ICTC reserves the right to disqualify a proposed detailed cost estimate with mathematical or clerical errors, inconsistencies

or missing information which prevent ICTC from fully evaluating the proposal. ICTC may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of ICTC.

- F. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.

VI. PRE-SUBMITTAL ACTIVITIES

A. Questions Concerning Request for Proposals

A pre-bid meeting is scheduled for 9:00 AM on October 14, 2021. Attendance is not mandatory. All questions relating to the RFP must be received in writing via mail, e-mail or hand delivery no later than 3 P.M. local time, on October 11, 2021, addressed to:

David Aguirre, Project Manager
Imperial County Transportation Commission
1503 N. Imperial Ave. Suite 104
El Centro, CA 92243
760-592-4494
E-mail: Davidaguirre@imperialctc.org

Call in Number: 1-800-920-7487 Participant Code: 5514367#

B. Revision/Addendum to the Request for Proposals

ICTC reserves the right to revise the RFP or issue addendum prior to the date that proposals are due. Revisions to the RFP shall be posted on the ICTC website www.imperialctc.org. It is the responsibility of the proposer to contact the project coordinator and/or check the web site for any addendums or revisions related to this RFP.

VII. RESPONSIBILITIES OF THE ICTC

- A. The ICTC will direct the development of the project, provide management oversight, coordinate communications, and introductions, and conduct administrative arrangements.
- B. The ICTC will pay an agreed upon amount within 30 days after submittal of an invoice(s). The ICTC will retain 10% of each invoice until the

- completion of the project annually.
- C. The ICTC will not be able to provide dedicated workspace facilities i.e. office space. However, arrangements can be made to utilize conference room space.

VIII. EVALUATION AND SELECTION PROCESS

- A. ICTC will establish a project evaluation committee (“Committee”) for this project that will include representatives from ICTC and its member agencies with experience and expertise in the related discipline(s).
- B. Based upon the proposals submitted, the Committee may select a short-list of qualified firms for this project. ICTC reserves the right to make final selection based solely upon evaluation of the written proposals, without short-listing firms or conducting oral interviews, should it find it to be in its best interest to do so. The Committee may interview the short-listed firms. Based on the written proposal, interview, and reference scores, and other appropriate evaluation factors, the Committee will rank the qualified finalists.
- C. The Committee will recommend the top-ranked proposer to ICTC’s Executive Director who will request Commission authority to award a contract. The Commission has final authority for selection. The proposer selected will be sent a Notice of Award/Notice to Proceed.

IX. EVALUATION CRITERIA

Proposers will be evaluated on the following criteria according to the weights assigned below. If oral interviews are conducted, they will be worth 25 points. ICTC reserves the right to add the proposers’ interview scores into the evaluation criteria or to select proposers based solely upon their written proposal.

Proposers will be evaluated on the following criteria according to the weights assigned below.

A. Project Experience [25 Points]

Proposals should demonstrate a variety of experience in performing similar services for transit providers.

B. Proposed Methodology and Approach to Work [20 Points]

Proposers must demonstrate the ability to carry out the project by meeting

the proposal requirements identified. Describe the procedures and knowledge of any relevant codes and regulations pertaining to the various sources of funds. Demonstrate the proposer's understanding of the project and a list of anticipated documentation needed from the ICTC.

C. Staff Qualifications [25 Points]

Project staff qualifications include a combination of licensing, experience, education and background, etc.

D. Price or Cost [20 Points]

Proposals will be evaluated for providing the best methodology and service at the lowest cost. Provide hourly rates for each level of staff in this project.

E. Completeness of the Proposal and References [10 Points]

References in the proposals will be evaluated.

X. SPECIAL CONDITIONS

A. Reservations

This RFP does not commit ICTC to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. ICTC may reject bids without providing the reason(s) underlying the declination. A failure to award a contract to the lowest bidder will not result in a cause of action against ICTC.

B. Public Records

All proposals submitted in response to this RFP become the property of ICTC and public records and, as such, may be subject to public review.

C. Right to Cancel

ICTC reserves the right to cancel or revise, for any reason, in part or in its entirety, this RFP. If ICTC cancels the RFP prior to the deadline for proposals or revises the RFP, a notification will be placed on ICTC's Web site. www.imperialctc.org

D. Additional Information

ICTC reserves the right to request additional information and/or clarification from any or all proposers to this RFP but is under no obligation to do so.

E. Conflict of Interest

ICTC has established a policy concerning a potential conflict of interest for all programs, services, management, design and construction. This policy applies to all proposers and their proposed sub-consultants. See Standard Sample Agreement for Services (Attachment A) for any additional information and any required certifications by consultants and their sub-consultants.

F. Public Information

Consultants who wish to release information to the public regarding selection, contract award or data provided by ICTC must receive prior written approval from ICTC before disclosing such information to the public.

G. Data Collection

Upon completion of this project, the accumulated documentation becomes the property of the ICTC. The selected consultant will turn over all data, documents, reports, graphs, maps, etc. to the ICTC staff upon the delivery of the final report.

H. Contract for Services

The selected consultants will be required to sign a customized version of the attached "Standard Sample Agreement for Services" (Attachment A) and to provide the insurance certificates and all other required documentation within fifteen (15) calendar days of issuance of the Notice of Intent to Award.

I. Insurance Requirements

The Consultant agrees to maintain in full force and effect during the term

of the Agreement liability insurance policy with limits noted in the draft agreement.

1. The insurance certificates shall name ICTC, its employees, officers and agents as an additional insured under the terms of the policy; and material changes in policies, coverage and limitations must be submitted 30 days prior to their effective date of change.
2. The Consultant shall also maintain Workers Compensation Insurance covering any and all of consultant's eligible employees and shall file a Certificate of Insurance, therefore, with ICTC. The Consultant shall also notify ICTC in writing, of any changes to or cancellation of this coverage within a minimum of 30 days prior to the effective date of change. The aforementioned certificate of insurance shall also contain contractual liability endorsement referring to this minimum 30 days notification of change period.

XI. PROTESTS

ICTC will consider all protests regarding the contracting process or the award of a contract submitted by 4:00 P.M. on the deadlines discussed below. ICTC will only review protests submitted by an actual or prospective proposer or someone else whose direct economic interest would be affected by the award of a contract or by failure to award a contract. A protest by any adversely affected person must be made in writing and must be mailed or hand-delivered to ICTC. A protest which does not strictly comply with ICTC's protest procedures will be rejected.

Protests relating to the content of the RFP package must be filed within ten (10) business days after the date the RFP is made available to the public by ICTC. Protests relating to the intent to make an award solicited by an RFP must be filed within ten (10) business days of the decision to award. The date of filing shall be the date of receipt of protests by ICTC. Untimely protests will be rejected.

If deemed necessary, ICTC shall notify all proposers of record that a protest has been filed and that the award has been postponed until further notice. If necessary, proposers will be asked to extend the time for acceptance of their proposal in order to avoid the need for re-advertisement of the solicitation.

A. Protest Contents

A letter of protest must set forth detailed grounds for the protest and be

fully supported with technical data, documentary evidence, names of witnesses and other pertinent information related to the subject being protested. The protest must also state the law, rule, regulation or practice on which the protest is based. The protestor must demonstrate or establish a clear violation of a specific law or regulation, e.g., a violation of the Buy America requirements.

If the protestor considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest document, and alleged proprietary information shall be so identified wherever it appears.

Protests shall be addressed to:

David Aguirre, Project Manager
Imperial County Transportation Commission
1503 N. Imperial Ave., Suite 104
El Centro, CA 92243

B. Reply to Protest

An ICTC Protest Committee appointed by the Executive Director will review all protests in a timely manner and reply to the protest, in writing, within ten (10) business days. All material submitted by the protestor will be considered. Such material will not be withheld from any interested party outside of ICTC or any agency which may be involved with the contract except to the extent that the withholding of information is permitted or required by law or regulation.

C. Request for Protest Reconsideration

Upon receipt of an adverse decision by ICTC, the protestor may file a request for a protest reconsideration. A request for protest reconsideration must be directed to the Executive Director in writing and received within ten (10) full business days from the postmark date of the reply from ICTC. The Executive Director will respond to the request for protest reconsideration within ten (10) full business days.

The decision of the Executive Director will be in writing and final. No further protests will be heard by ICTC.

Attachments:

- A. Sample Agreement
- B. Proposal Evaluation Form Sample

ATTACHMENT A- STANDARD SAMPLE
AGREEMENT FOR SERVICES

1 **AGREEMENT FOR SERVICES**

2
3 THIS AGREEMENT FOR SERVICES (“Agreement”), made and entered into this _____ day
4 of _____, 2020, is by and between the **IMPERIAL COUNTY TRANSPORTATION**
5 **COMMISSION** (“ICTC”) and [business name] [business type] (“CONSULTANT”) (individually,
6 “Party;” collectively, “Parties”).

7 **W I T N E S S E T H**

8 **WHEREAS**, ICTC desires to retain a qualified individual, firm or business entity to provide
9 professional services for [specify services] (“the Project”); and

10 **WHEREAS**, ICTC desires to engage CONSULTANT to provide services by reason of its
11 qualifications and experience for performing such services, and CONSULTANT has offered to provide the
12 required services for the Project on the terms and in the manner set forth herein.

13 **NOW, THEREFORE**, ICTC and CONSULTANT have and hereby agree to the following:

14 1. **DEFINITIONS.**

15 1.1. “RFP” shall mean ICTC’s request for proposals entitled “Imperial County Transportation
16 Commission (ICTC) [name of RFP]” dated [date]. The RFP is attached as **Exhibit “A”** and incorporated
17 herein by this reference.

18 1.2. “Proposal” shall mean CONSULTANT’s proposal entitled “Proposal to Provide: [name of
19 proposal]” dated [date]. The Proposal is attached as **Exhibit “B”** and incorporated herein by this reference.

20 2. **CONTRACT COORDINATION.**

21 CONSULTANT shall assign a single Contract Manager to have overall responsibility for the
22 progress and execution of this Agreement. [name of manager] is hereby designated as the Contract
23 Manager for CONSULTANT. Should circumstances or conditions subsequent to the execution of this
24 Agreement require a substitute Contract Manager for any reason, the Contract Manager’s designee shall be
25 subject to the prior written acceptance and approval of ICTC.

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1 3. DESCRIPTION OF WORK.

2 3.1. CONSULTANT shall provide all materials and labor to perform this Agreement. In the
3 event of a conflict among this Agreement, the RFP and the Proposal, the RFP shall take precedence over the
4 Proposal and this Agreement shall take precedence over both.

5 3.2. CONSULTANT shall perform additional or extra work if required, utilizing the per hour
6 rate set forth in Exhibit "B".

7 4. WORK TO BE PERFORMED BY CONSULTANT.

8 4.1. CONSULTANT shall comply with all terms, conditions and requirements of the RFP,
9 Proposal and this Agreement.

10 4.2. CONSULTANT shall perform such other tasks as necessary and proper for the full
11 performance of the obligations assumed by CONSULTANT hereunder.

12 4.3. CONSULTANT shall:

13 4.3.1. Procure all permits and licenses, pay all charges and fees, and give all notices that
14 may be necessary and incidental to the due and lawful prosecution of the services to be performed
15 by CONSULTANT pursuant to this Agreement;

16 4.3.2. Use the standard of care usual to CONSULTANT's profession to keep itself fully
17 informed of all applicable existing and proposed federal, state and local laws, ordinances,
18 regulations, orders and decrees which may affect those engaged or employed under this Agreement,
19 any materials used in CONSULTANT's performance under this Agreement or the conduct of the
20 services under this Agreement;

21 4.3.3. At all times observe and comply with, and cause all of its employees to observe and
22 comply with all of said laws, ordinances, regulations, orders and decrees mentioned above; and

23 4.3.4. Immediately report to ICTC in writing any discrepancy or inconsistency it discovers
24 in said laws, ordinances, regulations, orders and decrees mentioned above in relation to any plans,
25 drawings, specifications or provisions of this Agreement.

26 4.4. Any videotape, reports, information, data or other material given to, or prepared or
27 assembled by, CONSULTANT pursuant to this Agreement shall be the property of ICTC and shall not be
28 made available to any individual or organization by CONSULTANT without the prior written approval of

1 ICTC. The preceding restriction shall not apply to information which is in the public domain, was
2 previously known to CONSULTANT, was acquired by CONSULTANT from others who have no
3 confidential relationship to ICTC with respect to same, or which through no fault of CONSULTANT
4 comes into the public domain. CONSULTANT shall not be restricted from releasing information,
5 including confidential information, in response to a subpoena, court order, or other legal process.
6 CONSULTANT shall not be required to resist such subpoena, court order, or legal process, but shall
7 promptly notify ICTC in writing of the demand for information before responding to such demand.

8 5. REPRESENTATIONS BY CONSULTANT.

9 5.1. CONSULTANT understands and agrees that ICTC has limited knowledge in the multiple
10 areas specified in the Proposal. CONSULTANT has represented itself to have experience in these fields
11 and understands that ICTC is relying upon such representation.

12 5.2. Subject to 5.2.1, CONSULTANT represents and warrants that it is a lawful entity
13 possessing all required licenses and authorities to do business in the State of California and perform all
14 aspects of this Agreement.

15 5.2.1. CONSULTANT shall not commence any work pursuant to this Agreement or
16 provide any other services, or materials, in connection therewith until CONSULTANT has received
17 written authorization from ICTC to do so.

18 5.3. CONSULTANT represents and warrants that the people executing this Agreement on behalf
19 of CONSULTANT have the authority of CONSULTANT to sign this Agreement and bind
20 CONSULTANT to the performance of all duties and obligations assumed by CONSULTANT herein.

21 5.4. CONSULTANT represents and warrants that any employee, contractor and/or agent who
22 will be performing any of the duties and obligations of CONSULTANT herein possess all required licenses
23 and authorities, as well as the experience and training, to perform such tasks.

24 5.5. CONSULTANT represents and warrants that the allegations contained in the Proposal are
25 true and correct.

26 5.6. CONSULTANT understands that ICTC considers the representations made herein to be
27 material and would not enter into this Agreement with CONSULTANT if such representations were not
28 made.

1 6. COMPENSATION.

2 The total compensation payable under this Agreement shall not exceed [] dollars (\$[]) unless
3 otherwise previously agreed to by ICTC.

4 7. PAYMENT.

5 CONSULTANT will bill ICTC on a time and material basis upon completion of the project or as set
6 forth in the cost schedule attached hereto as **Exhibit "C"**. ICTC shall pay CONSULTANT for completed
7 and approved services upon presentation of its itemized billing. Notwithstanding the foregoing, ICTC shall
8 retain 10% of the total compensation until the work to be performed has been completed in accordance with
9 this Agreement, as determined by ICTC, and payment in full of all subcontractors of CONSULTANT.

10 8. METHOD OF PAYMENT.

11 8.1 CONSULTANT shall at any time prior to the 15th day of any month, submit to ICTC a
12 written claim for compensation for services performed. The claim shall be in a format approved by ICTC.
13 CONSULTANT may expect to receive payment within a reasonable time thereafter and in any event in the
14 normal course of business within thirty (30) days after the claim is submitted.

15 9. TERM AND TIME FOR COMPLETION OF THE WORK.

16 9.1. This Agreement shall commence on the date first written above and shall remain in effect
17 through completion of the Project unless otherwise terminated as provided herein.

18 9.2. Program scheduling shall be as described in Exhibit "A" unless revisions to Exhibit "A" are
19 approved by both ICTC and CONSULTANT's Contract Manager. Time extensions may be allowed for
20 delays caused by ICTC, other governmental agencies, or factors not directly brought about by the
21 negligence or lack of due care on the part of CONSULTANT.

22 10. SUSPENSION OF AGREEMENT.

23 ICTC shall have the authority to suspend this Agreement, wholly or in part, for such period as
24 deemed necessary due to unfavorable conditions or to the failure on the part of CONSULTANT to perform
25 any provision of this Agreement. CONSULTANT will be paid the compensation due and payable to the
26 date of suspension.

27 11. SUSPENSION AND/OR TERMINATION.

28 11.1. ICTC retains the right to terminate this Agreement for any reason by notifying

1 CONSULTANT in writing seven (7) days prior to termination and by paying the compensation due and
2 payable to the date of termination; provided, however, if this Agreement is terminated for fault of
3 CONSULTANT, ICTC shall be obligated to compensate CONSULTANT only for that portion of
4 CONSULTANT's services which have been performed in accordance with the terms and conditions of this
5 Agreement. Said compensation is to be arrived at by mutual agreement between ICTC and
6 CONSULTANT; should the Parties fail to agree on said compensation, an independent arbitrator shall be
7 appointed and the decision of the arbitrator shall be binding upon the Parties.

8 11.2. Upon such termination, CONSULTANT shall immediately turn over to ICTC any and all
9 copies of videotapes, studies, sketches, drawings, computations and other data, whether or not completed,
10 prepared by CONSULTANT in connection with this Agreement. Such materials shall become the
11 permanent property of ICTC.

12 12. INSPECTION.

13 CONSULTANT shall furnish ICTC with every reasonable opportunity for ICTC to ascertain that
14 the services of CONSULTANT are being performed in accordance with the requirements and intentions of
15 this Agreement. All work done and materials furnished, if any, shall be subject to ICTC's inspection and
16 approval. The inspection of such work shall not relieve CONSULTANT of any of its obligations to fulfill
17 its Agreement as prescribed.

18 13. OWNERSHIP OF MATERIALS.

19 All original drawings, videotapes and other materials prepared by or in possession of
20 CONSULTANT pursuant to this Agreement shall become the permanent property of ICTC and shall be
21 delivered to ICTC upon demand.

22 14. INTEREST OF CONSULTANT.

23 14.1. CONSULTANT covenants that it presently has no interest, and shall not acquire any
24 interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the
25 performance of the services hereunder.

26 14.2. CONSULTANT covenants that, in the performance of this Agreement, no sub-contractor or
27 person having such an interest shall be employed.

28

1 14.3. CONSULTANT certifies that no one who has or will have any financial interest pursuant to
2 this Agreement is an officer or employee of ICTC.

3 15. INDEMNIFICATION.

4 A. Indemnity for Professional Services. To the furthest extent allowed by law, Consultant
5 shall indemnify, hold harmless and defend ICTC and its members, board members, officers, officials,
6 employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and
7 damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at
8 any time and property damage), and from any and all claims, demands and actions in law or equity
9 (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the
10 negligence, recklessness or willful misconduct of Consultant, its principals, officers, employees, agents
11 or volunteers in the performance of professional services under this Agreement.

12 B. Other Indemnities. Other than in the performance of professional services, and to the
13 fullest extent allowed by law, Consultant shall indemnify, hold harmless and defend ICTC and its
14 members, board members, officers, officials, employees, agents and volunteers from any and all loss,
15 liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability,
16 including but not limited to personal injury, death at any time and property damage), and from any and
17 all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation
18 expenses) arising or alleged to have arisen directly or indirectly out of performance of this Agreement.
19 Consultant's obligations under the preceding sentence shall apply regardless of whether ICTC or any of
20 its members, board members, officers, officials, employees, agents or volunteers are negligent, but shall
21 not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross
22 negligence, or caused by the willful misconduct, of ICTC, or any of its members, board members,
23 officers, officials, employees, agents or volunteers.

24 C. If Consultant should subcontract all or any portion of the services to be performed under
25 this Agreement, Consultant shall require each subcontractor to indemnify, hold harmless and defend
26 ICTC and its members, board members, officers, officials, employees, agents and volunteers in
27 accordance with the terms of the preceding paragraphs.

28 D. This section shall survive termination or expiration of this Agreement.

1 16. INDEPENDENT CONTRACTOR.

2 In all situations and circumstances arising out of the terms and conditions of this Agreement,
3 CONSULTANT is an independent contractor, and as an independent contractor, the following shall
4 apply:

5 16.1. CONSULTANT is not an employee or agent of ICTC and is only responsible for the
6 requirements and results specified by this Agreement or any other agreement.

7 16.2. CONSULTANT shall be responsible to ICTC only for the requirements and results
8 specified by this Agreement and except as specifically provided in this Agreement, shall not be subject
9 to ICTC's control with respect to the physical actions or activities of CONSULTANT in fulfillment of
10 the requirements of this Agreement.

11 16.3. CONSULTANT is not, and shall not be, entitled to receive from, or through, ICTC, and
12 ICTC shall not provide, or be obligated to provide, CONSULTANT with Worker's Compensation
13 coverage or any other type of employment or worker insurance or benefit coverage required or provided
14 by any Federal, State or local law or regulation for, or normally afforded to, an employee of ICTC.

15 16.4. CONSULTANT shall not be entitled to have ICTC withhold or pay, and ICTC shall not
16 withhold or pay, on behalf of CONSULTANT, any tax or money relating to the Social Security Old Age
17 Pension Program, Social Security Disability Program, or any other type of pension, annuity, or disability
18 program required or provided by any Federal, State or local law or regulation.

19 16.5. CONSULTANT shall not be entitled to participate in, or receive any benefit from, or
20 make any claim against any ICTC fringe program, including, but not limited to, ICTC's pension plan,
21 medical and health care plan, dental plan, life insurance plan, or any other type of benefit program, plan,
22 or coverage designated for, provided to, or offered to ICTC's employee.

23 16.6. ICTC shall not withhold or pay, on behalf of CONSULTANT, any Federal, State, or local
24 tax, including, but not limited to, any personal income tax, owed by CONSULTANT.

25 16.7. CONSULTANT is, and at all times during the term of this Agreement, shall represent
26 and conduct itself as an independent contractor, not as an employee of ICTC.

27 16.8. CONSULTANT shall not have the authority, express or implied, to act on behalf of, bind
28 or obligate ICTC in any way without the written consent of ICTC.

1 17. INSURANCE.

2 Throughout the life of this Agreement, Consultant shall pay for and maintain in full force and
3 effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by
4 the California Insurance Commissioner to do business in the State of California and rated not less than
5 "A- VII" in Best's Insurance Rating Guide, or (ii) as may be authorized in writing by ICTC's Executive
6 Director or his/her designee at any time and in his/her sole discretion. The following policies of
7 insurance are required:

8 (i) **COMMERCIAL GENERAL LIABILITY** insurance which shall be at least as broad as the
9 most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form
10 CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising
11 injury" with coverage for premises and operations (including the use of owned and non-owned
12 equipment), products and completed operations, and contractual liability (including, without limitation,
13 indemnity obligations under the Agreement) with limits of liability of not less than the following:

14 \$2,000,000 per occurrence for bodily injury and property damage

15 \$1,000,000 per occurrence for personal and advertising injury

16 \$4,000,000 aggregate for products and completed operations

17 \$4,000,000 general aggregate

18 (ii) **COMMERCIAL AUTOMOBILE LIABILITY** insurance which shall be at least as broad as
19 the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01,
20 and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code
21 1 - Any Auto) with limits of liability of not less than \$2,000,000 per accident for bodily injury and
22 property damage.

23 (iii) **WORKERS' COMPENSATION** insurance as required under the California Labor Code.

24 (iv) **EMPLOYERS' LIABILITY** insurance with limits of liability of not less than \$1,000,000
25 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

26 (v) **PROFESSIONAL LIABILITY (Errors and Omissions)** insurance appropriate to
27 Consultant's profession, with limits of liability of \$2,000,000 per claim/occurrence and \$2,000,000
28 policy aggregate.

1 In the event Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the
2 minimum limits of insurance set forth above, this insurance policy(ies) shall “follow form” and afford
3 no less coverage than the primary insurance policy(ies).

4 Consultant shall be responsible for payment of any deductibles contained in any insurance policies
5 required hereunder and Consultant shall also be responsible for payment of any self-insured retentions.
6 Any deductibles or self-insured retentions must be declared to, and approved by, the ICTC’s Executive
7 Director or his/her designee in his/her sole discretion. At the option of the ICTC’s Executive Director or
8 his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured
9 retentions as respects ICTC, its members, board members, officers, officials, employees and agents; or
10 (ii) Consultant shall provide a financial guarantee, satisfactory to the ICTC’s Executive Director or
11 his/her designee in his/her sole discretion, guaranteeing payment of losses and related investigations,
12 claim administration and defense expenses. At no time shall ICTC be responsible for the payment of
13 any deductibles or self-insured retentions.

14 All policies of insurance required hereunder shall be endorsed to provide that the coverage shall
15 not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written
16 notice has been given to ICTC. Upon issuance by the insurer, broker, or agent of a notice of
17 cancellation, non-renewal, or reduction in coverage or in limits, Consultant shall furnish ICTC with a
18 new certificate and applicable endorsements for such policy(ies). In the event any policy is due to
19 expire during the work to be performed for ICTC, Consultant shall provide a new certificate, and
20 applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the
21 expiration date of the expiring policy.

22 The General Liability and Automobile Liability insurance policies shall be written on an
23 occurrence form. The General Liability (including ongoing operations and completed operations) and
24 Automobile Liability insurance policies shall name ICTC, its members, board members, officers,
25 officials, employees and agents as an additional insured. All such policies of insurance shall be
26 endorsed so Consultant’s insurance shall be primary and no contribution shall be required of ICTC, its
27 members, board members, officers, officials, employees, agents or volunteers. The coverage(s) shall
28 contain no special limitations on the scope of protection afforded to ICTC, its members, board members,

1 officers, officials, employees and agents. The Workers' Compensation insurance policy shall contain a
2 waiver of subrogation as to ICTC, its members, board members, officers, employees, agents and
3 volunteers. Should Consultant maintain insurance with broader coverage and/or limits of liability
4 greater than those shown above, ICTC requires and shall be entitled to the broader coverage and/or the
5 higher limits of liability maintained by Consultant. Any available insurance proceeds in excess of the
6 specified minimum limits of insurance and coverage shall be available to ICTC.

7 If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made
8 coverage form:

9 (i) The retroactive date must be shown, and must be before the effective date of this Agreement
10 or the commencement of work by Consultant.

11 (ii) Insurance must be maintained and evidence of insurance must be provided for at least 5
12 years after completion of the work or termination of the Agreement, whichever first occurs.

13 (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy
14 form with a retroactive date prior to the effective date of the Agreement, or work commencement date,
15 Consultant must purchase extended reporting period coverage for a minimum of 5 years after
16 completion of the work or termination of the Agreement, whichever first occurs.

17 (iv) A copy of the claims reporting requirements must be submitted to ICTC for review.

18 (v) These requirements shall survive expiration or termination of the Agreement.

19 Consultant shall furnish ICTC with all certificate(s) and applicable endorsements effecting
20 coverage required hereunder. **All certificates and applicable endorsements are to be received and**
21 **approved by ICTC's Executive Director or his/her designee in his/her sole discretion prior to**
22 **ICTC's execution of the AGREEMENT and before work commences.** Upon request of ICTC,
23 Consultant shall immediately furnish ICTC with a complete copy of any insurance policy required under
24 this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and
25 correct copy of the original policy. This requirement shall survive expiration or termination of this
26 Agreement.

27 If at any time during the life of the Agreement or any extension, Consultant or any of its sub-
28 Consultants fail to maintain any required insurance in full force and effect, all work under this

1 Agreement shall be discontinued immediately, until notice is received by ICTC that the required
2 insurance has been restored to full force and effect and that the premiums therefore have been paid for a
3 period satisfactory to ICTC. Any failure to maintain the required insurance shall be sufficient cause for
4 ICTC to terminate this Agreement. No action taken by ICTC hereunder shall in any way relieve
5 Consultant of its responsibilities under this Agreement.

6 The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the
7 liability of Consultant, including, without limitation, liability under the indemnity provisions of this
8 Agreement. The duty to indemnify ICTC shall apply to all claims and liability regardless of whether any
9 insurance policies are applicable. The policy limits do not act as a limitation upon the policy limits do
10 not act as a limitation upon the amount of indemnification to be provided by Consultant. Approval or
11 purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the
12 liability of Consultant, its principals, officers, agents, employees, persons under the supervision of
13 Consultant, vendors, suppliers, invitees, sub-Consultants, or anyone employed directly or indirectly by
14 any of them.

15 If Consultant should subcontract all or any portion of the services to be performed under this
16 Agreement, Consultant shall require each sub-Consultant to provide insurance protection in favor of
17 ICTC, its members, board members, officers, officials, employees, agents and volunteers in accordance
18 with the terms of each of the preceding paragraphs, except that the sub-Consultant's certificates and
19 endorsements shall be on file with Consultant and ICTC prior to the commencement of any work by the
20 sub-Consultant.

21 18. ASSIGNMENT.

22 Neither this Agreement nor any duties or obligations hereunder shall be assignable by
23 CONSULTANT without the prior written consent of ICTC. CONSULTANT may employ other
24 specialists to perform services as required with prior approval by ICTC.

25 19. NON-DISCRIMINATION.

26 During the performance of this Agreement, CONSULTANT shall not unlawfully discriminate
27 against any employee or applicant for employment or employee of ICTC or member of the public
28 because of race, religion, color, national status, age, or sex. CONSULTANT shall ensure that the

1 evaluation and treatment of its employees and applicants for employment and employees and members
2 of the public are free of such discrimination. CONSULTANT shall comply with all provisions of the
3 Fair Employment and Housing Act (Government Code §12900, *et seq.*). The applicable regulations of
4 the Fair Employment Housing Commission implementing Government Code §12900 set forth in
5 Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this
6 Agreement by reference and made a part hereof as if set forth in full. CONSULTANT shall abide by the
7 Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and
8 regulations issued pursuant to said Act. CONSULTANT shall also abide by the American Disabilities
9 Act and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.
10 CONSULTANT shall give written notice of its obligations under this clause to labor organizations with
11 which it has a collective bargain or other agreement. CONSULTANT shall include the non-
12 discrimination and compliance provision of this paragraph in all subcontracts to perform work pursuant
13 to this Agreement.

14 20. NOTICES AND REPORTS.

15 20.1. All notices and reports pursuant to this Agreement shall be in writing and may be given
16 by personal delivery or by mailing by certified mail, addressed as follows:

17 **ICTC**

18 Attn: Executive Director
19 Imperial County Transportation Commission
20 1503 N. Imperial Ave., Ste 104
21 El Centro, CA 92243

CONSULTANT

Attn: Project Manager

22 20.2. All notices and reports pursuant to this Agreement may be given by personal delivery or
23 by mailing by certified mail at such other address as either Party may designate in a notice to the other
24 Party given in such manner.

25 20.3. Any notice given by mail shall be considered given when deposited in the United States
26 Mail, postage prepaid, addressed as provided herein.

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1 21. ENTIRE AGREEMENT.

2 This Agreement contains the entire agreement between ICTC and CONSULTANT relating to the
3 transactions contemplated hereby and supersedes all prior or contemporaneous agreements,
4 understandings, provisions, negotiations, representations, or statements, either written or oral.

5 22. MODIFICATION.

6 No modification, waiver, amendment, discharge, or change of this Agreement shall be valid
7 unless the same is in writing and signed by both parties.

8 23. PARTIAL INVALIDITY.

9 If any provision in this Agreement is held by a court of competent jurisdiction to be invalid,
10 void, or unenforceable, the remaining provisions will nevertheless continue in full force without being
11 impaired or invalidated in any way.

12 24. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.

13 As used in this Agreement and whenever required by the context thereof, each number, both
14 singular and plural, shall include all numbers, and each gender shall include a gender. CONSULTANT
15 as used in this Agreement or in any other document referred to in or made a part of this Agreement shall
16 likewise include both singular and the plural, a corporation, a partnership, individual, firm or person
17 acting in any fiduciary capacity as executor, administrator, trustee or in any other representative capacity
18 or any other entity. All covenants herein contained on the part of CONSULTANT shall be joint and
19 several if more than one person, firm or entity executes the Agreement.

20 25. WAIVER.

21 No waiver of any breach or of any of the covenants or conditions of this Agreement shall be
22 construed to be a waiver of any other breach or to be a consent to any further or succeeding breach of
23 the same or any other covenant or condition.

24 26. CHOICE OF LAW.

25 This Agreement shall be governed by the laws of the State of California. This Agreement is
26 made and entered into in Imperial County, California. Any action brought by either Party with respect
27 to this Agreement shall be brought in a court of competent jurisdiction within said County.

28 ///

1 27. ATTORNEY'S FEES.

2 If either Party herein brings an action to enforce the terms thereof or declare rights hereunder,
3 each Party in any such action, on trial or appeal, shall bear its own attorney's fees and costs.

4 28. AUTHORITY.

5 Each individual executing this Agreement on behalf of CONSULTANT represents and warrants
6 that:

7 28.1. He/She is duly authorized to execute and deliver this Agreement on behalf of
8 CONSULTANT;

9 28.2. Such execution and delivery is in accordance with the terms of the Articles of
10 Incorporation or Partnership, any by-laws or Resolutions of CONSULTANT and;

11 28.3. This Agreement is binding upon CONSULTANT accordance with its terms.

12 29. COUNTERPARTS.

13 This Agreement may be executed in counterparts.

14 30. REVIEW OF AGREEMENT TERMS.

15 This Agreement has been reviewed and revised by legal counsel for both ICTC and
16 CONSULTANT, and no presumption or rule that ambiguities shall be construed against the drafting
17 Party shall apply to the interpretation or enforcement of the same or any subsequent amendments
18 thereto.

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1 **IN WITNESS WHEREOF**, the Parties have executed this Agreement on the day and year first
2 above written.

3 **IMPERIAL COUNTY TRANSPORTATION COMMISSION:**

4
5 _____
6 Chair

7 **ATTEST:**

8
9 _____
10 Secretary to the Commission

11 **CONSULTANT:**

12
13 By: _____

14
15 **APPROVED AS TO FORM:**

16 **COUNTY COUNSEL**

17
18 By: _____
19 Deputy County Counsel

ATTACHMENT B- SAMPLE PROPOSAL
EVALUATION FORM

PROPOSAL EVALUATION FORM

Attachment B

DATE: _____

EVALUATOR: _____

RESPONDENT: _____

PROJECT: _____

CRITERIA	MAXIMUM POINTS	SCORE
A. Project Technical and Related Experience	25	
B. Proposed Methodology And Approach to Work	20	
C. Project Team / Staff Qualifications	25	
D. Cost or Best Value	20	
E. Completeness of Response and References	10	

TOTAL SCORE: _____

EVALUATOR'S COMMENTS: