

JULY 2023

# Imperial County Transportation Commission (ICTC)

## Request for Proposals for IVT Transit Services Maintenance Audit

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# THE IMPERIAL COUNTY TRANSPORTATION COMMISSION

## Request for Proposals For FY 2023 – 2025 Imperial Valley Transit (IVT) Transit Services Maintenance Audit

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### I. INTRODUCTION

The Imperial County Transportation Commission (ICTC) is seeking proposals from qualified consultant individuals or firms, for annual professional, maintenance inspections and audit reporting services. This Request for Proposal (RFP) describes the project, the required scope of services, the consultant selection process, and the minimum information that must be included in the consultant's response to the RFP. The Imperial County Transportation Commission shall hereinafter be referred to as "ICTC".

ICTC desires to acquire consultant services for a three-year contract. This contract is expected to cover the FY 2023-24, FY 2024-25 and FY 2025-26, fiscal years.

The contract will be regulated according to the provisions of the Federal Transportation Administration (FTA), the Americans with Disabilities Act (ADA), Transportation Development Act (TDA) as amended and other applicable Federal, State and local laws or regulations. This project is locally funded. No federal funds are anticipated to be used on this project; however, the consultant will be required to adhere to Federal, State and local operations, maintenance and administrative reporting requirements.

### II. GENERAL BACKGROUND

ICTC is the regional transportation planning and regional public transit agency for the Imperial Valley region. ICTC builds consensus, makes strategic plans, obtains and allocates resources, contracts for transit services and provides information on a broad range of topics pertinent to the Imperial Valley region's transportation services and infrastructure.

ICTC is an independent public 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.

The region of the Imperial Valley contains approximately 4,598 square miles. Agriculture through the use of irrigation is the second largest industry, behind employment in the government sector. Most of the area's geography is flat, at or below sea level. The climate is described as arid desert with summer temperatures reaching 115° Fahrenheit.

ICTC administers contracts with third parties for the operation of the inter-city regional and intra-city circulator public bus systems. In addition, ICTC administers third party contracts for intra-city paratransit systems.

The region has been declared to be under the *Urban Bus Fleet Rule* and the *Transit Fleet Rule* by the California Air Resources Board. In 2004, ICTC examined the use of alternative fuel for the transit systems. ICTC selected the ultra-low sulfur diesel fuel path for fixed route and paratransit service operations. ICTC recently completed its CARB ITC plan which proposed focusing on transitioning to hydrogen focused fleet. ICTC does not anticipate any hydrogen fueled vehicles being assessed during this contract.

The Executive Director of the ICTC will make a recommendation to the Commission for award of contract. All responsive proposals will be considered and evaluated, however, the ICTC is not guaranteeing to accept any Consultant's proposal, recommendations or pricing.

### **III. ESTIMATED PROJECT SCHEDULE**

ICTC anticipates the process for nominating and selecting a consultant and awarding the contract will be according to the following tentative schedule:

A.	Advertise and Issue RFP	July 31, 2023
B.	Non mandatory Prebid meeting (teleconference available)	August 14, 2023
C.	Proposal Due Date	August 24, 2023
D.	Provider Ranking and Staff Recommendation (non-public opening)	Week of August 28, 2023
E.	Oral Interviews (if utilized)	Week of September 4, 2023
F.	Selection and Notification Award	September 2023 (estimate)
G.	Approval of Contract	September 2023 (estimate)
H.	Notice of Award/Notice to Proceed	September 2023 (estimate)
I.	Complete physical inspections of vehicles	October 2023 (estimate)
J.	Completed Initial Draft Report for Staff review	December 1, 2023
K.	Delivery of Final Report	January 4, 2024

#### **IV. PROJECT SUMMARY**

##### **A. Project Background/Project Description**

ICTC is distributing an RFP for annual inspections and maintenance audit of the inventory, equipment and maintenance services of the public fixed route, dial-a-ride, non-emergency medical and paratransit services operators. Day to day operation and maintenance is contracted. ICTC is accountable for maintaining a “state of good repair” and providing a quality level of transit services in an efficient and cost-effective manner.

ICTC staff are not subject matter experts in maintenance and asset management. Therefore, the following questions at a minimum should be addressed in this project:

1. Are contractors performing required maintenance of ICTC owned vehicles timely and in accordance with manufacturers’ recommendations? Provide any potential recommendations to further improve maintenance operations.
2. Are ICTC contracts appropriately worded to hold contractors accountable?
3. Are contractual definitions of maintenance terms consistent with industry practices and understood by ICTC staff and contractor staff? Should changes be made to contract language? i.e.roadcall.
4. Is the ICTC staff oversight effective? Does it identify, communicate, and resolve deficiencies in order to ensure the safety and reliability of the transit fleet?
5. Are pricing mechanisms in line with industry practices for parts and maintenance services?
6. Are contractor maintenance staffing requirements enough to ensure turnaround of maintenance of vehicles?

The specific contracts for operations and maintenance services are as follows:

1. Transdev

Mr. Cesar Sanchez, General Manager 760-482-2900

- a. Imperial Valley Transit (IVT)
- b. Imperial Valley Transit – IVT Blue, Green and Gold Lines
- c. IVT Access
- d. IVT RIDE
- e. IVT MedTrans

Therefore, the purpose of this project is threefold:

1. Provide information and guidance to ICTC staff relative to the asset management responsibilities for the contracted services
2. Conduct annual vehicle inspections and maintenance program audits of the entire Imperial Valley Transit (IVT, IVT Access, IVT Ride, IVT Medtrans and MV-1s) vehicle fleet operated and maintained by transit contractors.
3. It should be noted that ICTC, will be conducting a required operations and maintenance procurement for the previously noted services and the possibility of a contractor change is an item to be considered. All vehicles will continue to be owned by ICTC.

Additional or reasonable recommendations for additions, alterations, or changes in the scope of work made by a Consultant in a proposal shall be considered. However, ICTC is not required to accept any suggestions or recommendations for any proposed alterations or changes.

#### **B. Fee Estimate Range**

The anticipated budget for this project is \$18,000 on an annual basis. The final award value will be established upon contract award in the FY 2023-24 ICTC Overall Work Plan and Budget. Proposers should review the scope of work and provide their best pricing and hours that they determine to be required to accomplish this project.

#### **C. Payment**

The ICTC desires to sign a three-year contract, effective with an anticipated start date of September 2023, through June 30, 2025. The Final Audit is likely to take place near September 2025. An itemized price sheet is required from the Provider for the full period. However, in the event of service changes for any given year, the Provider and ICTC may negotiate a revised scope and pricing prior, to the start of each fiscal year.

The selected consultant will be paid by the fixed fee method, with itemized monthly invoices based on deliverables or portions of work completed. ICTC will retain 10% from each invoice to be settled annually.

### **V. SCOPE OF REQUIRED SERVICES**

The Consultant shall coordinate, manage, and control all activities necessary to perform the inspection and maintenance audit services as described in this Scope of Work and carry out its responsibilities under this Agreement. The Consultant shall be responsible for the costs of all equipment and supplies necessary for the performance of said services.

#### **Task I General Requirements**

##### **Task I.A Project Personnel**

The Consultant will assign staff to the project that shall be appropriately trained, certified and recognized in the transit industry as having the requisite knowledge of transit bus and paratransit vehicle maintenance requirements and inspection methods.

The Consultant shall ensure that its employees meet all applicable laws, codes and safety standards as set by Federal, State and local governments while performing any and all services.

### **Task I.B      Inspection Reporting**

The Consultant will readily produce any maintenance reports based on the inspection services provided to ICTC if required by different regulatory agencies, as well as other reports ICTC may from time to time, request related to vehicle inspections.

### **Task II      Transit Bus Pre and Post Delivery Inspections**

ICTC is seeking funding to complete the purchase of new buses in the upcoming years. ICTC is currently evaluating the timing associated with the acquisition of the new vehicles. These vehicles will be locally funded and require post-delivery inspections by the Consultant. There are no federally funded vehicle purchases planned during the life of this contract. However, if a federally funded purchase develops, a pre-and post-delivery inspection with an in-plant quality assurance inspection of these buses may be requested for an additional fee, as part of this contract.

#### **Task II.A.1    Post-Delivery Inspections**

The Consultant will physically inspect and confirm that the vehicles delivered meet established contractual and vehicle order specifications and that the vehicles are in proper working order to be placed into revenue service. Any post-delivery inspections will take place at the ICTC vehicle storage yard after delivery has taken place by ICTC.

### **Task III      Annual Fleet Inspections and Maintenance Audits**

ICTC currently has a fleet of sixty (62) ICTC owned vehicles. The fleet is comprised of twenty-seven (27) Fixed Route Buses and thirty-three (35) Dial-A-Ride, Paratransit Demand Response, Non-Emergency Medical Transportation vehicles, vans, and MV-1's. Most of the vehicles have security cameras and Wi-fi capability. Vehicle maintenance is provided by the transit services operator, TransDev.

The current fleet structure is as follows:

Imperial Valley Transit (IVT) – Fixed Route Service

1. Five (5) 2016 Starcraft Allstar Ford E450s Cutaway Vehicles
2. Five (5) 2018 Starcraft Allstar Ford E450 Cutaway Vehicles
3. Ten (10) 2012 Low Floor Gillig's
4. Six (6) 2015 Low Floor Gillig's,
5. One (1) MV-1 Vehicle

IVT Ride (Dial-a-Ride Service for Senior's and Persons with Disabilities)

1. Nine (9) 2015 Champion LF Transport Ford E450 Cutaway Vehicles
2. Five (5) 2016 Champion LF Transport Ford E450 Cutaway Vehicles
3. One (1) MV-1 Vehicle
4. One (1) Ford Transit Van
5. One (1) Dodge Caravan

IVT Access (ADA Paratransit Service)

1. Eleven (11) 2016 Starcraft Allstar Ford E450s Cutaway Vehicles
2. One (1) MV-1 Vehicle
3. One (1) Ford Transit Van

IVT Medtrans (Non-Emergency Transportation from the Imperial Valley to San Diego)

1. Four (4) 2016 Starcraft Allstar Ford E450 (one smaller sweeper model)
2. One (1) MV-1 Vehicle

During the 2<sup>nd</sup> year of the contract, nine (9) Starcraft Allstar Ford E450s cutaway vehicles and ten (10) 40ft low floor Gillig buses are expected to be part of the current fleet and will be required to be audited as well. It remains to be determined if older vehicles will be decommissioned.

**Task III.A.1 Maintenance Audit**

ICTC intends to provide vehicle maintenance oversight through these third-party annual fleet maintenance audits. The physical inspection and maintenance audit will review the Operator's (i.e., transit services contractor) maintenance performance and associated documentation including but not limited to preventative maintenance and inspection records. The Consultant will readily produce a variety of maintenance reports based on the following inspections:

1. All vehicle mechanical systems
2. Interior and exterior vehicle condition
3. All safety features
4. All ADA features

5. Drawing representative oil samples for fluids analysis testing (random samples for about one-third of the fleet)
6. Compliance with preventive maintenance inspection (PMI) schedule requirements and associated records
7. Compliance with applicable Federal, State (CHP), and local regulations
8. Compliance with maintenance warranties
9. Daily Operator Inspection Records
10. Road Call and Down Report Documentation

### **Task III.A.2 Inspection Scheduling**

Consultant will pre-schedule annual fleet inspections on dates approved by ICTC and conduct inspections to occur preferably on Saturdays and Sundays due to vehicle accessibility, or as otherwise coordinated with the transit services contractor. The transit services contractor will make vehicles available on a rotating basis if the vehicles are scheduled in service during the inspection. It is anticipated that the annual inspections and audits will occur beginning in November 2023.

### **Task III.A.3 Vehicle Quantity**

ICTC is also seeking to obtain funding to purchase new buses in the near future. It is unknown if the purchase may take place during FY 2024, but ICTC is looking to purchase 10 additional cutaway vehicles to replace addition IVT MedTrans and IVT Ride vehicles.

During each fiscal year of the agreement term, the Consultant will inspect and document conditions for at a minimum 100% of the entire ICTC fleet.

All vehicle inspections and audits should include and not be limited to observations in the following areas:

- Fleet appearance
- Cleanliness of the vehicle interior
- Work and lift space
- Safety issues
- Maintenance scheduling
- Work Order processing
- Parts issues

The Consultant's audit team shall have the experience and knowledge required to identify trends in repeat work and road calls that are a significant source of data used to evaluate the effectiveness of a maintenance program. If negative trends are discovered, recommendations and action plans can be developed, that if implemented and followed-up can lead to improvements in vehicle reliability. Better vehicle reliability can lead to improvements in operator morale, passenger



comfort, and most importantly public perception.

#### **Task III.A.4 Audit Report**

The Consultant shall prepare an annual Audit Report noting any and all inspections and audit findings, individual reports and support documentation completed. The report shall include an Executive Summary that shall include the following items:

- Introduction
- Audit Objectives
- General Conclusions
- Summary of findings and recommendations

The detailed report shall also include the following:

- Background Information
- Audit Scope and Methodology
- Vehicle condition reports, including body diagrams highlighting damage, and written narratives of defects found.
- Photographs of all significant discrepancies organized by vehicle with number
- Overview of findings with maintenance programs, and adherence to vehicle preventive maintenance program provision
- Comparison to other similar peer public transit programs
- Recommendations with action plans for program improvements

In addition to the written reports, it is important to ICTC that the Consultant follow-up with a question and answer session to ensure all elements of the report are understood. The Consultant's report must be presented in draft form and allow for comment by ICTC and the transit contractor prior to its final acceptance.

## **VI. LOCATION**

The fleet audits will take place at the Imperial Valley Transit Maintenance Yard, 792 E. Ross Road, El Centro, CA 92243. ICTC reserves the right to change the location of the maintenance audits. The Consultant would be given at least thirty (30) days' notice if a location change should occur.

## **VII. PROPOSAL REQUIREMENTS**

### **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, inclusive of resumes, graphics,

forms, pictures, artwork, photographs, 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 and should result in no more than five hundred (500) words per page.

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 consultant's qualifications for the scope of work. The cost estimate should be submitted in a separate sealed envelope.
3. The proposer will be evaluated based upon the information submitted in accordance with the evaluation criteria in **Section XI**, 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 proposer's company.
- b. Number of year's proposer's company has been in business.
- c. Legal form of company (partnership, corporation, joint venture, etc.). If 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 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. If DBE certified, identify certifying agency, as well as gender and ethnicity.
- g. Name, title, address, email address and telephone number of the person to contact concerning the proposal.
- h. 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.
- i. Provide all applicable license numbers for licenses 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 worked for, telephone numbers, type of work performed, and dollar value of the contracts. The proposer shall also provide information pertaining to the size of the fleet and a brief description of the services provided for the agency. The proposer should highlight any accomplishments in the implementation of each contractual agreement. 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.

Proposer should include a detailed description of procedures to accomplish any and all pre-delivery, post-delivery, inline inspections and quarterly vehicle inspections and maintenance audits. The proposer will provide the ICTC with written procedures and sample inspection checklists from a like project that are used to evaluate the pre-delivery, post-delivery, inline inspections and quarterly inspections processes and demonstrates the proposer's ability to complete the required inspections and audits. The proposer will describe the methodology for how the proposer will be

providing the inspection services including the number of days, amount of time, number of staff proposed, methods of review and analysis and any other pertinent information. The proposer should include any value-added strategies employed to enhance production quality, reducing opportunity for equipment malfunction. The proposer shall also provide a sample pre, post, inline inspection, fleet inspection and maintenance audit report for similar services that the proposer has completed for another agency.

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 proposer's experience with and knowledge of relevant State and Federal laws.

6. *Project Organization and Key Personnel*

a. Describe proposed project organization, including identification and responsibilities of key personnel. Indicate role and responsibility of prime consultants and all subconsultants, including DBE subconsultants. If applicable, indicate how local firms are being utilized to ensure a strong understanding of State and local laws, ordinances, regulations, policies, requirements and permitting. Indicate the extent of the commitment of key personnel for the duration of the project and furnish 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 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, include the client's name and telephone number. It is ICTC's policy to interview proposer's references.

7. *ICTC's Disadvantaged Business Enterprise (DBE) Program and Discrimination Policy*

a. Proposers are urged to obtain disadvantaged business enterprise (DBE) participation on this project, although there is no project goal for DBE participation. It is ICTC policy to provide disadvantaged, minority, small business and women-owned business enterprises, as

defined in Part 26, Title 49 CFR, an equitable opportunity to participate in all contracting opportunities. ICTC's DBE Program, which includes minority and women-owned business enterprises, is designed so that contract administration, consultant selection, and all related procurement activities are conducted without regard to race, color, religion, disability, political beliefs, age, national origin, gender, or cultural background. Accordingly, no firm or individual shall be denied the opportunity to compete for ICTC contracts by reasons so stated or implied.

- b. ICTC requires all potential ICTC consultants to comply with Title VI and Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act, as amended, and all other applicable discrimination laws. ICTC will not tolerate illegal discrimination or harassment by its consultants.
- c. Describe the proposer's overall plan to make contracting opportunities available to all interested and qualified firms. This includes a strategy to identify the available subcontracting resources and a willingness to make subcontracting opportunities available to such firms.
- d. Submit a subconsultant list, if applicable, which lists any subconsultants for this project, DBE status (if applicable), scope of work, and approximate percentage of the work performed by subconsultants (as a percentage of the total award to the prime consultant). In accordance with current federal regulations, DBEs and joint ventures involving DBEs must be certified for eligibility by Caltrans, by other qualified Department of Transportation recipients or by other certifying public agencies. Documentation verifying DBE status must be submitted in the proposal for all firms (prime consultant or subconsultant) claiming such status.

8. *Previous Contracts with ICTC*

The proposer shall submit a list which 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.

9. *Exceptions/Deviations to this Request for Proposal*

State any requested exceptions to or deviations from the requirements of this RFP, segregating “technical” exceptions from “contractual agreement” exceptions. Each exception must reference the particular section and page in the RFP, Scope of Work or a draft contractual agreement that refers to the ICTC’s requirements for easy reference.

If no exceptions or deviations are requested in the proposal, then ICTC will interpret this to mean that the proposer is fully satisfied, and no further exceptions or deviations will be allowed.

10. *Addenda to this Request for Proposals*

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

11. *Statement of Impartiality*

The nature of this project requires an impartial unbiased approach on the part of the consultant team. This proposal shall include a statement declaring that the consultants and subconsultants 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.

12. *Detailed Cost Estimate*

Provide an estimate of the total direct and indirect costs to complete all tasks identified in the scope of work. A detailed cost breakdown shall be provided for Pre and Post Delivery Inspections and Audits, Quarterly Fleet Inspections, Inline Inspections and Maintenance Audit Functions. The detailed cost breakdowns should identify: 1) 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; 2) an estimate of all other direct costs, such as material and reproduction costs; and 3) an estimate of subconsultant services, if needed.

13. *Confidential or Proprietary Information*

All proposals submitted in response to this RFP become the property of ICTC and are public records and, as such, may be subject to public review. Proposals and the documents constituting any contract entered into thereafter become the exclusive property of the ICTC and shall be subject to the California Public Records Act (Government Code Sections 6250 *et seq.*; “the Act”). The ICTC’s use and disclosure of its records are governed by the Act.

Those elements in each proposal which the Provider considers to be trade secrets, as that term is defined in Civil Code Section 3426.1(d), or otherwise exempt by law from disclosure, should be prominently marked as “CONFIDENTIAL” or “PROPRIETARY” by the Provider. The ICTC will use its best efforts to inform the Provider of any request for disclosure of any such document. The ICTC shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court.

In the event of litigation concerning disclosure of information the Provider considers exempt from disclosure, the ICTC will act as stakeholder only, holding the information until otherwise ordered by a court or other legal process. If the ICTC is required to defend an action arising out of a request pursuant to the Act for any of the contents of the Provider’s proposal marked “Confidential” or “Proprietary,” the Provider shall defend and indemnify the ICTC from all liability, damages, costs and expense, including attorneys’ fees, in any action or proceeding arising under the Act.

To ensure confidentiality, the Provider is instructed to enclose all “Confidential,” “Proprietary,” data in so marked sealed envelopes, which should then be included with the proposal. Because the proposal is available for review by any person after award of a contract resulting from an RFP, the ICTC shall not in any way be held responsible for disclosure of any “Confidential” or “Proprietary” documents that are not contained in envelopes and prominently marked.

## VIII. SUBMITTAL REQUIREMENTS

- A. Proposals shall be submitted in two (2) sealed packages. Each package shall be clearly marked and indicating which services the responses pertain to. The proposal shall be held in confidence until the award of the contract. At that time, it becomes a matter of public record. The individual price proposal sheet shall be retained as proprietary and confidential, if so, marked as “confidential.”
  1. Provider shall submit package No. 1 with one (1) original, four (4) copies and one (1) PDF copy on a thumb drive, each marked “***IVT Transit Maintenance Audit Technical Proposal***” The package shall bear the Provider’s name and address.
  2. Provider shall submit package No. 2 with one (1) original and four (4) copies in a sealed envelope marked “***IVT Transit Maintenance Audit Cost/Price Proposal.***” The envelope shall bear the Provider’s name and address.

- 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 August 24, 2023 at the office of:

David Aguirre, Executive Director  
Imperial County Transportation Commission  
1503 N. Imperial 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.

## **IX. PRE-SUBMITTAL ACTIVITIES**

### **A. Questions Concerning Request for Proposals**

A non-mandatory pre-bid meeting is scheduled for 9:00AM on August 14, 2023.

All questions relating to the RFP will be addressed as an addendum to the RFP, which will be posted on the [www.imperialctc.org](http://www.imperialctc.org) website. Questions must be



received from prospective bidders in writing via mail, facsimile, E-mail or hand delivery no later than 3 P.M. local time, on August 17, 2023 addressed to:

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

**B. Revision/Addendum/Cancellation to the Request for Proposals**

ICTC reserves the right to revise or cancel the RFP or issue addendum prior to the date that proposals are due. Revisions, cancellations or addendums to the RFP shall be posted on the ICTC website at [www.imperialctc.org](http://www.imperialctc.org) least one full business day prior to the deadline for proposals. It is the responsibility of the proposer to contact the ICTC project coordinator and check the Web site for any revisions related to this RFP.

**X. RESPONSIBILITIES OF 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 annually. (Accumulated retention will be issued to the Consultant upon the completion of the services on an annual basis)
- 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.

**XI. CONSULTANT EVALUATION AND SELECTION PROCESS**

- A. ICTC will establish an Evaluation Committee (“Committee”) for this project that may include representatives from ICTC and its member agencies with experience and expertise in the related discipline(s).
- B. Based upon the proposals deemed “responsive”, the Committee may select a short-list of qualified firms for this project. The short-listed firms will be invited for oral interviews. The consultant’s project lead or manager will then be expected to make a presentation to the Committee that summarizes the creative and bilingual public outreach and associated approach recommended for this project.

- C. ICTC reserves the right to make final consultant 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 upon the written proposal, interview, and reference scores, and other appropriate evaluation factors, the Committee will rank the qualified finalists.
- D. 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.

## **XII. 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.

### **A. Project Technical Experience [20 Points]**

Qualified consultants will have a variety of experience in performing similar projects with public, government, private, not-for-profit, and other agencies

### **B. Proposed Methodology and Approach to Work [30 Points]**

Proposers must demonstrate the ability to carry out the project by meeting the proposal requirements identified. High quality, creative, tactful, and complete proposals showing proposer's understanding of the project and willingness to comply with standard contract requirements will receive higher scores in this category. While proposers are required to meet the goals and deadlines for the project as described in this RFP, proposers may receive higher scores in this category if they demonstrate innovative, creative, unique and advanced and/or well-thought-out methodologies that ICTC may not have specifically identified in this RFP.

### **C. Project Team / Staff Qualifications / DBE [25 Points]**

Project staff qualifications include an appropriate level or combination of education, licensing, experience, education and background for the project, with additional points for documented experience in transit vehicle inspections and maintenance audit completion, etc.

**D. Cost/Price [15 Points]**

Proposals will be evaluated for providing the most responsive and thorough approach, at the lowest cost.

**E. Completeness of Response/ References [10 Points]**

References in the proposals will be evaluated. ICTC's inability to obtain positive feedback on a proposer during reference checks or to confirm a proposer's history of financial responsibility may reduce that proposer's score in this category.

**XIII. 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, notification will be placed on ICTC's Web site. [www.imperialctc.org](http://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 potential conflict of interest in program management, design and construction. This policy applies to all proposers and their proposed consultants/subconsultants. See Standard Sample Agreement for Services in the Attachments for any additional information and any required certifications by consultants and their subconsultants.

**F. Public Information**

Consultants who wish to release information to the public regarding consultant 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 ICTC staff.

**H. Contract for Services**

The selected consultants will be required to sign a customized version of the attached “Standard Sample Agreement for Services” in the Attachments 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.

**XIV. 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.

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, Executive Director  
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 the Executive Director of the ICTC, the protestor may file a request for 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 and schedule a review with the Commission. The decision of the Commission will be final. No further protests will be heard by ICTC.

**D. State Appeal Process**

Under certain limited circumstances, and after the protestor has exhausted all

administrative protest remedies made available at the local level, an interested party may protest to the California Department of Transportation (Department).

Department review of any protest will be limited to:

1. Local agency's failure to have or follow its own protest procedures or its failure to review a complaint or protest.
2. Violations of the Federal or State law or regulations.

The protest filed with Department shall include:

1. The name and address of the protester.
2. Clear identification of the local agency responsible for the RFP process.
3. A statement of the grounds for protest and any supporting documentation (the grounds for protest filed with Department must be fully supported to the extent feasible. Additional materials in support of an initial protest will only be considered if authorized by the FTA regulations).
4. A copy of the protest filed with the local agency, and a copy of local agency's decision, if any.
5. Indication of the desired ruling or relief from Department.

Such support should be sent to:

The California Department of Transportation  
Division of Rail and Mass Transportation  
P.O. Box 942874 - MS 39  
Sacramento, CA 94274-0001”

Attachments:

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

Attachment A: Proposal  
Evaluation Form

# PROPOSAL EVALUATION FORM

SAMPLE

DATE: \_\_\_\_\_

EVALUATOR: \_\_\_\_\_

RESPONDENT: \_\_\_\_\_

PROJECT: \_\_\_\_\_

<b>CRITERIA</b>	<b>MAXIMUM POINTS</b>	<b>SCORE</b>
A. Project Technical Experience	20 Points	
B. Proposed Methodology and Approach to Work	30 Points	
C. Project Team and Staff Qualifications	25 Points	
D. Price and Best Value	15 Points	
D. Completeness of the Response and References	10 Points	

**TOTAL SCORE:** \_\_\_\_\_

Comments:



Attachment B: Sample  
Consultant Agreement

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 **WITNESSETH**

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.

26 ///

27 ///

28 ///

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.

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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