



# **TRANSPORTATION AUTHORITY OF MARIN**

**REQUEST FOR PROPOSALS**

**DATE ISSUED: NOVEMBER 18TH, 2021**

## **Transportation Demand Management (TDM) Program Management and Public Outreach**

**PROPOSAL PACKAGES DUE: TUESDAY, JANUARY 4, 2022, BY 5:00 P.M.**

**Transportation Authority of Marin  
900 Fifth Avenue, Suite 100  
San Rafael, CA 94901**

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REQUEST FOR PROPOSALS**

**TDM Program Management and Public Outreach**

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# **TRANSPORTATION AUTHORITY OF MARIN REQUEST FOR PROPOSALS**

## **TDM Program Management and Public Outreach**

### **SECTION 1 – INFORMATION & BACKGROUND**

The Transportation Authority of Marin (TAM) is the Congestion Management Agency (CMA) for Marin County to fulfill the legislative requirements of Propositions 111 and 116, approved in June 1990, and the Transportation Sales Tax Authority established to address Marin's unique transportation issues. As the Transportation Sales Tax Authority, TAM administers the expenditure plans for Measure A, the ½ cent sales tax measure passed in 2004, renewed as Measure AA in 2018, and Measure B, the \$10 Vehicle Registration Fee (VRF) passed in 2010. The TAM Board includes representatives from each city and town in Marin County, plus the five members of the County Board of Supervisors. TAM is responsible for implementing various transportation programs and projects on and off the state highway system.

With the passage of Measure B, the \$10 VRF in 2010, TAM developed a Commute Alternatives Program for Transportation Demand Management (TDM) as designated in Element 3, Reduce Congestion and Pollution, of the VRF Expenditure Plan. With the passage of Measure AA in 2018, additional dedicated funding is provided to TDM Category 1.4, Commute Alternatives and Trip Reduction.

TAM is seeking qualified consultants for TDM Program Management and Public Outreach in Marin County. The main goal of TDM is to reduce single occupancy vehicle trips. TAM's TDM activities are implemented through education of alternative transportation modes, offering programs, incentives, and encouragement. Effective implementation of TDM programs should result in measurable reductions in vehicle miles traveled (VMT), single occupant vehicle (SOV) trips, and vehicle emissions.

In 2019, TAM launched 'Marin Commutes' as a comprehensive TDM program bringing together several individual activities and programs, including the following:

- Promotion of alternatives to driving alone targeted at commuting and other trips
- Shared ride coupons through the Connect2SMART Program
- Vanpool Incentive Program
- Car Share Promotion
- Marin Emergency Ride Home Program
- Resources to support employer commute programs, including telework guides and information

TAM has developed and maintains [Marincommutes.org](http://Marincommutes.org) as the program's information hub. Marin Commutes also provides a trip logging and rewards platform using RideAmigos software branded as 'My Marin Commute' to encourage commuters to use alternative modes of transportation, and for planning and logging trips to track progress and shift behavior toward more use of commute alternatives. The platform encourages people to try new modes of transportation and provides gamification through raffle prizes and incentives.

Proposers should be able to demonstrate a broad understanding of TAM's TDM Program activities through a proposal that can meet the following objectives:

## Key Program Objectives

- Increase public awareness of travel options
- Increase walking and biking, carpooling, transit, and other alternative modes
- Enhance programs designed to reduce single occupancy commuting
- Support employer and employee transportation needs
- Expand targeted outreach to equity priority communities and populations through translation of materials and coordination with community-based organizations
- Demonstrate reductions in greenhouse gas (GHG) emissions related to transportation
- Support innovative approaches to congestion reduction

## SECTION 2 – SCOPE OF SERVICES

TAM intends to retain a qualified firm or a team of firms to provide TDM Program Management and Public Outreach to meet TAM’s program objectives described in Section 1 of this RFP. TAM is seeking a comprehensive and creative proposal to conduct the work outlined in this section of the RFP.

The Consultant shall provide the following tasks within the scope of services:

1. Project Management - Provide project management and administrative support for activities associated with TAM’s Marin Commutes Program. Provide regular updates/monthly meeting with TAM staff on program implementation activities identified in tasks below. The project management tasks include all budget tracking, invoicing, meeting scheduling, reporting required, and other support activities related to the services listed below:
  - a. Conduct quarterly TDM Working Group meetings, and be responsible for all meeting materials, scheduling, agenda, presentations, meeting notes.
  - b. Support TAM’s Commute Alternatives & Reduction of Trips Ad-Hoc Committee meetings as needed.
  - c. Management/Outreach Plan – based on the proposed services, contractor will work with TAM to develop and update a Management/Outreach Plan to ensure effective outreach efforts.
  - d. Direct management of TAM contractors (as needed) to support the Marin Commutes TDM Program, such as IT, and software service providers.
2. Conduct Outreach Activities – the contractor will be responsible to conduct ongoing public outreach efforts, including to the public, employers/employees, and to equity priority communities or populations. The goal of this task is to increase awareness of and participation in Marin Commutes programs. Expected activities include:
  - a. Ongoing promotion of Marin Commutes, incentives and commute options at public events and various public information channels, including online and social media to reach a broad range of stakeholders among the public. Providing all necessary materials and advertisements to conduct outreach.
  - b. Ongoing employer outreach utilizing employer contacts, including groups like the chambers of commerce or individual meetings with employers.
  - c. Ongoing engagement to build participation in the Marin Commutes Program, including participation in mode shift/trip logging activities, growth in the contact list of individuals

- signed up to receive Marin Commutes newsletters, and employers' utilization of Marin Commutes employer resources.
- d. Seasonal and periodic campaigns to promote incentives through mode shift/trip platform (i.e. bike month, rideshare month, etc.)
  - e. Promote awareness and utilization of Marin Emergency Ride Home Program
  - f. Promote utilization of the Vanpool Incentive Program
  - g. Design and conduct advertising of Marin Commutes and program elements, including through the development of bus, newspaper and/or social media ads.
  - h. Update MarinCommutes.org website and other marketing materials including graphic design, flyers, public newsletters, employer newsletters, transit advertisements, testimonials, and other materials as needed.
  - i. Translation of public outreach materials into Spanish.
3. Manage and Administer Incentive Programs - Develop and implement innovative trip reduction programs and incentives, though the tasks below.
- a. Establish and administer an ongoing rewards program which will be offered through the trip logging software 'My Marin Commute' currently available on MarinCommutes.org.
  - b. Manage the Vanpool Incentive provided by TAM, in coordination with the Metropolitan Transportation Commission's Bay Area Vanpool Program.
  - c. Support data analysis of TAM Connect2Transit Public and Employer Voucher Program, including usage and data trends.
  - d. Identify and support new partnerships that support program goals and objectives, such as Connect2Transit employer partnerships.
4. Program Evaluation – Provide data on a wide variety of metrics related to program goals and objectives to demonstrate the effectiveness of Marin Commutes and program elements. These may include items such as program awareness, events attended, trips logged, website views, advertising reach, estimated VMT reduction, estimated GHG reduction, and mode shift as a result of program activities. The evaluation shall include the following tasks:
- a. Quarterly Reporting and Evaluation: Provide quarterly reports to TAM based on program activities and implementation, to include reports on engagement and participation.
  - b. Develop an annual program evaluation and present findings to TAM's Commute Alternatives & Reduction of Trips Ad-Hoc Committee, TAM Executive Committees, and the TAM Board.
  - c. Monitor and track/log outreach activities for quarterly and annual reports
  - d. Provide recommendations to TAM staff for consideration of future program development, including data, potential grants, areas of further refinement of program efforts.

### **SECTION 3 – RFP SUBMITTAL REQUIREMENTS**

Qualification/Proposal Statement: Submit one PDF file of your qualifications. The qualification package (excluding resumes and the transmittal letter) shall not exceed a total of 50 double-sided, 8.5" x 11" pages. Any 11x17 pages should be limited in use and will count as two pages to the page limit. The qualification statement will be of sufficient quality to show your basic approach to the work. Resumes should be included in an appendix that will not count towards the page limit.

**Transmittal Letter:** The qualification statement shall be transmitted with a cover letter describing the firm's/team's interest and commitment to the proposed project. The letter shall state that the qualification statement shall be valid for a 90-day period and should include the name, title, address, email, and telephone number of the individual to whom correspondence and other contacts should be directed during the consultant selection process. The person authorized by the firm/team to negotiate a contract with TAM shall sign the cover letter.

**Qualifications and Experience:** The qualification statement shall provide the qualifications and experience of the consultant(s). Please emphasize the specific qualifications and experience of key members of the team in providing the requested services. Identify the position or role key team members provided during the delivery process. Key Team Members are expected to be committed for the duration of the project. Replacement of Key Team Members will not be permitted without prior consultation with and approval of TAM.

**Project Understanding:** The qualification statement should describe your understanding of the scope of work and your approach to meeting the task objectives outlined in this RFP. Discuss how the services would be performed and what deliverables would be submitted.

**Management/Outreach Plan and Schedule:** This section of the qualification statement shall provide the firm's/team's management plan, including staff proposed and their availability to perform the work identified in this RFP. For the qualification statement, develop a proposed schedule, identifying major project milestones and the anticipated duration for each activity. **The contract will have a three-year term with two additional one-year extension options.**

**References:** The qualification statement should provide a minimum of three references (including contact names and current phone numbers) that indicate the ability of your firm to successfully deliver this project.

**Cost Proposal:** TAM is seeking cost competitive proposals. Please identify hourly rates through a proposed fee schedule. These rates will be in effect for the life of the contract, unless escalation rates are provided at the time of the proposal.

**Professional Services Contract:** Indicate your willingness to accept the terms and conditions in the attached sample contract, including your ability to comply with TAM's insurance requirements, any conflict of interest, or list those to which you take exception, and, as appropriate, provide proposed alternate wording. Note that it is not TAM's intent to make substantial changes to the attached sample contract.

### **Submittal Procedure**

The proposal packages shall be submitted in accordance with the following requirements:

1. The proposal packages shall be transmitted with a cover letter as described above.
2. The proposal packages shall be addressed to:

Scott McDonald at [smcdonald@tam.ca.gov](mailto:smcdonald@tam.ca.gov)

3. The proposal packages shall be dispatched in order to be received at the above email address no later than 5:00 p.m., Tuesday, January 4, 2022. Late proposal packages will not be accepted.
4. Questions pertaining to this RFP or the Scope of Services should be directed in writing via email to: Scott McDonald at [smcdonald@tam.ca.gov](mailto:smcdonald@tam.ca.gov), by Wednesday, December 8, 2021.

TAM will make every effort to provide individual responses to all written questions submitted and will not respond to questions posed by any means other than e-mail. Responses to technical questions may take up to two working days and all responses (with questions) will be posted on TAM’s website: [www.tam.ca.gov](http://www.tam.ca.gov) under the RFP section.

**SECTION 4 – METHOD/CRITERIA FOR SELECTION**

The following criteria will be used to evaluate qualification packages and to select a consultant team:

1. Qualifications and availability of the firm(s), the designated project manager and key staff.
2. Demonstrated understanding of current TAM Marin Commutes Program.
3. Demonstrated experience working with public agencies on TDM programs.
4. Overall approach to management of the work and demonstrated ability to meet the requirements of the RFP.
5. Qualifications and experience working on programs focused on equity initiatives and populations.
6. Demonstrated ability to deliver creative innovative solutions.
7. Cost effectiveness of the approach.

A panel will be convened to evaluate the proposals and develop a ranking of the most qualified consultants. The panel may include representatives from TAM and other participating public agencies. Members of the panel will not be revealed prior to interviews.

It is expected the top ranked firms will be invited to be interviewed by the panel. Interviews of the most qualified teams are anticipated to be scheduled during the week of January 17, 2022. The Project Manager and key team members are expected to attend the interview.

**SECTION 5 – SELECTION PROCESS DATES**

November 18, 2021	RFP released
December 8, 2021	Final day for Submittal of Questions
January 4, 2022	Proposal Packages Due
Week of January 17, 2022	Interviews (tentative)
January/February 2022	Finalize Contract Negotiations
February/March 2022	TAM Board Award Contract

**SECTION 6 - DISADVANTAGED BUSINESS ENTERPRISES (DBE) POLICY**

TAM is committed to and has adopted a Disadvantaged Business Enterprise (DBE) Policy to ensure non-discrimination in the award and administration of all contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to TAM's construction, procurement, and professional services activities. To this end, TAM has developed procedures to remove barriers to DBE participation in the bidding and award process and to assist DBEs to develop and compete successfully outside of the DBE Program. In connection with the performance of this contract, the Contractor will cooperate with TAM in meeting these commitments and objectives.

Pursuant to 49 CFR §26.13, and as a material term of any Agreement with TAM, the Contractor hereby makes the following assurance and agrees to include this assurance in any Agreements it makes with subcontractors in the performance of this contract: "The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the Contractor or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as TAM deems appropriate."

TAM implements the DBE policy in accordance with DOT regulations, **and no contract specific DBE participation goal has been established for this contract.** However, Proposers shall cooperate with TAM in meeting its commitments and objectives about ensuring nondiscrimination in the award and administration of Authority Contracts and shall use its best efforts to ensure that barriers to DBE's participation do not exist. By submitting a Proposal, a Proposer is deemed to have made the foregoing assurance and to be bound by its terms. For DBE questions and assistance, contact Bill Whitney, DBE Officer, at (415) 226-0823 or [bwhitney@tam.ca.gov](mailto:bwhitney@tam.ca.gov).

## **SECTION 7 - GENERAL TERMS AND CONDITIONS**

- 1. Conflicts of Interest.** The proposer shall disclose any currently known or potential conflicts of interest with TAM, the State Department of Transportation, the Metropolitan Transportation Commission, the County of Marin, and the Federal Highway Administration. The proposer's signature affixed to and dated on the cover letter shall constitute a certification, under penalty of perjury under the laws of the State of California, that the proposer declares that the proposer is not currently, and will not during the performance of any services for TAM, participate in any other work involving a third party with interests currently in conflict or likely to be in conflict with TAM's interests without TAM's approval.
- 2. Amendments to RFP.** TAM reserves the right to amend or cancel this RFP by addendum before the final submittal due date. Revisions to the RFP shall be posted on the TAM web page at least one full business day prior to the deadline for submittal of responses. It is the responsibility of each proposer to check the Web site for any revisions related to this RFP. The proposers shall each confirm in the transmittal letter of its response the receipt of all addenda issued to this RFP.
- 3. Non-commitment of TAM.** This RFP does not commit TAM to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure or contract for services.



4. **Confidentiality.** Before award of the contract, all responses to this RFP will be designated confidential to the extent permitted by the California Public Records Act. After award of the contract (or if not awarded, after rejection of all responses) all responses will be regarded as public records and will be subject to review by the public. Any language purporting to render all or portions of the responses confidential will be regarded as non-effective and will be disregarded.

**EXHIBIT A - TAM STANDARD CONTRACT**

Contract Log # \_\_\_\_\_

**CONTRACT BETWEEN  
TRANSPORTATION AUTHORITY OF MARIN  
AND  
\_\_\_\_\_CONSULTING**

**THE ABOVE-REFERENCED CONTRACT** (this “**Contract**”) is made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”) by and between the TRANSPORTATION AUTHORITY OF MARIN a Joint Powers Agency (hereinafter referred to as “**TAM**”), and \_\_\_\_\_ Consulting, a \_\_\_\_\_ (hereinafter referred to as “**Consultant**”). TAM and Consultant are sometimes hereinafter referred to collectively as the “**Parties**” or individually as a “**Party**.”

**RECITALS:**

**WHEREAS**, TAM manages a variety of transportation projects and programs in Marin County, California; and

**WHEREAS**, TAM and Consultant desire to enter into an independent contractor relationship whereby Consultant shall perform for TAM certain services as set forth in **Exhibit A** attached hereto and hereby incorporated herein (collectively, the “**Services**,” which shall include, without limitation, all services, materials and other work product provided by Consultant hereunder), subject to the terms and conditions of this Contract;

**NOW, THEREFORE**, for and in consideration of the foregoing and the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. SERVICES**

**Scope of Work.** Consultant agrees to provide the Services in a timely and professional manner, in accordance with the terms and conditions of this Contract. Subject to Sections 10 and 11, should Consultant retain the assistance of any other person or entity to perform the Services, Consultant agrees and warrants that each such assistant shall execute an agreement containing substantially identical terms as this Contract with regard to the obligations imposed on Consultant under this Contract. Consultant agrees that the scope of the Services may be modified by TAM at any time and for any reason. Consultant shall use its best professional skill and effort in performing the Services, which shall meet or exceed industry standards and Consultant shall complete each project, including any modifications by TAM thereto, on a timely basis.

**Business Conflicts.** Subject to Consultant’s compliance with the terms and conditions of this Contract, including without limitation Sections 14 and 15 below, Consultant may provide services for other parties, provided that the services provided by Consultant to third parties does not conflict with, and are not detrimental to, the interest of TAM. To ensure that Consultant does not provide services to third parties in a manner that conflicts with, or is detrimental to, the interests of TAM, Consultant shall fully and promptly disclose all possible conflicts to TAM.

**2. ACCESS TO LANDS AND DATA**

TAM guarantees access to and shall make provisions for Consultant to enter upon public and private lands as required to perform the Services. TAM shall make available all pertinent data and records for review by Consultant as required to perform the Services. TAM shall provide Consultant with general bid and contract forms and special provisions formats as necessary.

### **3. FEES AND PAYMENT SCHEDULE**

The fees (the “**Fees**”) and payment schedule for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as **Exhibit A**. The Fees shall remain in effect for the Term (as hereinafter defined) of the Contract. Consultant agrees that Consultant shall not be entitled to any compensation whatsoever other than the Fees for the performance of the Services under this Contract or from TAM’s use of any Work Product (as hereinafter defined) related to, based on or derived from the Services. Consultant shall provide TAM with Consultant’s Federal Tax I.D. number prior to submitting the first invoice.

TAM shall make payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. TAM shall pay Consultant all proper invoice charges within thirty (30) days of TAM’s receipt of an invoice that complies with **Exhibit A**. Consultant’s final invoice must be submitted within thirty (30) days of completion of the Services.

### **4. MAXIMUM COST TO TAM**

In no event will the Fees for the Services to be provided herein exceed the maximum sum of \_\_\_\_\_ dollars (\$\_\_\_\_,000.00) total, including direct non-salary expenses.

### **5. TERM OF CONTRACT**

This Contract shall commence on the Effective Date and shall terminate \_\_\_\_\_ (\_\_\_\_) months from that date (the “**Term**”).

### **6. INSURANCE**

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to TAM. The general liability policy shall be endorsed naming the TRANSPORTATION AUTHORITY OF MARIN as an additional insured. Each certificate of insurance must be current on the Effective Date and if scheduled to lapse prior to the end of the Term, must be automatically updated before final payment may be made to Consultant. Each certificate of insurance and required endorsement shall be furnished to TAM prior to Consultant’s commencement of the Services. Each certificate shall provide for thirty (30) days advance notice to TAM of any cancellation in coverage, except for cancellation due to non-payment of premium, in which case the certificate shall provide for ten (10) days advance notice to TAM. Said policies shall remain in force through the Term and shall be payable on a per occurrence basis only, except those required by Sections 6.4.a. and 6.4.b. which may be provided on a claims-made basis consistent with the criteria noted therein.

Failure to provide and maintain the insurance required by this Contract shall constitute a material breach of the Contract. In addition to any other available remedies, TAM may suspend payment to Consultant for any Services provided during any time that insurance was not in effect and until such time as Consultant provides adequate evidence that Consultant has obtained the required coverage.

A request for a waiver of any of the following insurance requirements must be set forth on **Exhibit B** attached hereto. A request for a waiver of the insurance requirements must specify whether Consultant is requesting reduced amounts of coverage or requesting to have a particular type of coverage waived entirely.

#### **6.1 GENERAL LIABILITY**

Consultant shall maintain a commercial general liability insurance policy in an amount of no less than One Million Dollars (\$1,000,000.00) per occurrence. TAM shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page.

Insurance Reduction or Waiver of Coverage Requested (Exhibit B)

**6.2 AUTO LIABILITY**

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Consultant in order to perform said services, Consultant shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of One Million Dollars (\$1,000,000.00) per occurrence.

Insurance Reduction or Waiver of Coverage Requested (Exhibit B)

**6.3 WORKERS' COMPENSATION**

Consultant acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work under this Contract. If Consultant has employees, a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to self-insure shall be provided to TAM prior to commencement of the Services.

Insurance Reduction or Waiver of Coverage Requested (Exhibit B)

**6.4 OTHER INSURANCE**

Consultant may be required to carry additional insurance based upon the nature of the work to be performed (the Services). For each additional required insurance, a corresponding certificate of insurance must be provided. Claims made policies must have a retroactive date either prior to the Effective Date or the beginning of the work in the Contract. Claims-made coverage must extend a minimum of twelve (12) months beyond completion of the work in the Contract or end of the Term, whichever is later. If coverage is cancelled or non-renewed, and not replaced with another claim made policy with a retroactive date prior to the Effective Date, Consultant must purchase extended reporting coverage for a minimum of twelve (12) months beyond completion of the work in the Contract. Consultant shall maintain a policy limit of not less than One Million Dollars (\$1,000,000) per incident, with a deductible or self-insured retention not to exceed \*Two Thousand Five Hundred Dollars (\$2,500) unless approved by TAM in writing.

6.4.a. Professional Liability Insurance.....  (check box if required)

\*Deductibles greater than Two Thousand Five Hundred Dollars (\$2,500) require Insurance Reduction/Waiver form (Exhibit B) to be completed.

6.4.b. Maritime Insurance.....  (check box if required)

Consultant's general liability and/or professional liability insurance may be provided, in part, by self-insurance as long as Consultant provides either (1) evidence to TAM that Consultant has segregated amounts in a special insurance reserve fund meeting the contract's insurance requirements and restricted specifically to this project or (2) Consultant's general insurance reserves are adequate to provide the necessary coverage and TAM may conclusively reply thereon, or (3) if Consultant has a deductible of One Hundred Thousand Dollars (\$100,000) or more, TAM shall have the same benefits and protections as if Consultant carried insurance with a third party insurance company, satisfying the insurance requirements within this Contract.

**7. REPRESENTATIONS AND WARRANTIES / INDEMNIFICATION**

**7.1 Representations and Warranties.** Consultant hereby represents or covenants, as applicable, and warrants that it, and each of its directors officers, employees, members, managers, partners, permitted consultants, contractors, agents, successors, heirs, representatives, beneficiaries, administrators,

executors, trustees, affiliates, permitted assigns and/or representatives (each and all, "Consultant" for the purposes of Section 7, 14 and 15): (i) is not a party to any agreement – and does not have any interest or obligation – that will limit, interfere, or otherwise conflict with any provision of this Contract, the performance of the Services or any of Consultant's obligations hereunder; (ii) shall not, during the Term and thereafter, make any commitment or obligation or engage in any activity that will limit, interfere or otherwise conflict with any provision of this Contract, the performance of the Services or any of Consultant's obligations hereunder, without obtaining TAM's express prior written approval; (iii) shall not infringe any and all right, title and interest, including, but not limited to, any and all patent rights, mask work rights, copyrights, moral rights, trade secret rights, trademark rights, including any and all supplements, enhancements, modifications, translations and derivative works thereto, whether now known or hereafter devised, industrial property rights, all other intellectual property rights and property rights of any nature whatsoever, and any and all renewals of the foregoing (separately and collectively, "**Proprietary Rights**") of TAM or any party in performing the Services or discharging any of Consultant's obligations hereunder; (iv) shall, at TAM's request, during the Term and thereafter, execute and/or verify any proper oath, assignment, application, specification or other document or instrument that TAM, its agents or attorneys (each a "**TAM Party**"), deems desirable or necessary to evidence or carry out this Contract's terms and conditions and/or compliance therewith; (v) shall use its best efforts to ensure that in performing the Services or fulfilling its obligations hereunder, Consultant does not in any way adversely impact TAM's reputation or goodwill; (vi) shall avoid deceptive, misleading, or unethical business practices; and (vii) shall comply with all applicable laws and governmental regulations in performing the Services and fulfilling its obligations hereunder.

**7.2 Indemnity.** Pursuant to CA Civil Code Section 2782.8, Consultant agrees to indemnify, defend and hold TAM, its employees, officers and agents harmless from all liabilities arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of Consultant.

## **8. NONDISCRIMINATORY EMPLOYMENT**

Consultant and/or any permitted sub-consultant shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Consultant and/or any permitted sub-consultant understands and agrees that Consultant and/or any permitted sub-consultant is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

## **9. DRUG-FREE WORKPLACE POLICY**

Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on TAM's premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns will be deemed a material breach of this Contract.

## **10. SUBCONTRACTING**

Consultant shall not subcontract nor assign any portion of the work required by this Contract without prior express written approval of TAM except for any subcontract work identified and expressly authorized by TAM herein. If Consultant hires a sub-consultant under this Contract, Consultant shall require sub-consultant to provide and maintain insurance coverage identical to what is required of Consultant under this Contract and shall require sub-consultant to name Consultant as additional insured under each policy in accordance with this Contract. It shall be Consultant's responsibility to collect and maintain current evidence of insurance provided by its sub-consultant and shall forward to TAM evidence of same.

## **11. ASSIGNMENT**

The rights, responsibilities and duties under this Contract are personal to Consultant and may not be transferred or assigned without the express prior written consent of TAM. Consultant shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to TAM, as is evidenced in writing. Subject to the

foregoing restrictions, this Contract shall be binding upon, and inure to the benefit of, the Parties and their respective, heirs, administrators, executors, trustees, successors and permitted assigns.

## **12. LICENSING AND PERMITS**

Consultant shall, at its sole expense, maintain all required government and other regulatory licenses throughout the Term of this Contract. Consultant shall also, at its sole expense, obtain any and all permits which might be required to perform the Services.

## **13. BOOKS OF RECORD AND AUDIT PROVISION**

Consultant shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be kept in accordance with generally accepted accounting practices. In addition, Consultant shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five (5) years from the end of the Term or earlier termination of this Contract. Consultant will permit TAM to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Consultant who participated in this Contract in any way. Consultant shall promptly refund to TAM any monies erroneously charged to TAM.

## **14. CONFIDENTIALITY**

**14.1 Confidential Information.** Consultant agrees that during the Term of this Contract, and thereafter, Consultant shall keep TAM's Confidential Information (as hereinafter defined) confidential and shall not, directly or indirectly, on behalf of Consultant or any third party, use divulge, publish or otherwise disclose or allow to be disclosed any aspect of Confidential Information, except as expressly provided herein solely for TAM's benefit. "**Confidential Information**" means any confidential, trade secret or other proprietary information (in whatever form or media, and whether or not marked as confidential) disclosed by TAM to Consultant under this Contract (including, without limitation, any reproductions or copies thereof), except information that the Consultant clearly proves to TAM: (a) is public knowledge at the time of disclosure, (b) was known by the Consultant before disclosure by TAM, or becomes public knowledge or otherwise known to the Consultant after such disclosure, other than by breach of a confidentiality obligation, or (c) is independently developed by the Consultant by persons without access to Confidential Information of TAM. Confidential Information shall include, without limitation, the following categories of information: any and all nonpublic information relating to TAM, methodologies, data, databases, know-how, procedures, techniques, tutorials and processes of TAM, services rendered or deliverables furnished by TAM, financial and operational information, and other matters relating to the operations or projects of TAM including traffic data and traffic studies, information relating to actual or potential clients and/or client lists, client requirements, forecasts and projections, accounting, finance or tax information, pricing information, and the terms of this Contract.

**14.2 Protection and Disclosure of Confidential Information.** The Consultant shall exercise at least the same degree of care and protection with respect to the Confidential Information of TAM that it exercises with respect to its own Confidential Information, but in no event shall the Consultant exercise less than a reasonable standard of care, and in addition shall not directly or indirectly disclose, copy, distribute, republish or allow any third party to have access to any Confidential Information of TAM except to the extent expressly permitted in writing by TAM. Notwithstanding the above, the Consultant may disclose Confidential Information of TAM to the employees and agents of the Consultant who have a bona fide need to know and to third parties if so required by law (including court order or subpoena), provided that such disclosure is made in accordance with the terms of Section 14.3. Consultant acknowledges that breach of this Section will cause irreparable harm to TAM entitling TAM to injunctive relief, among other remedies.

**14.3 Notification Obligation.** If the Consultant becomes aware of any unauthorized use or disclosure of the Confidential Information, the Consultant shall promptly and fully notify TAM of all facts known to it concerning such unauthorized use or disclosure. In addition, if the Consultant or any of its

employees or agents are requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any of the Confidential Information, the Consultant shall not disclose the Confidential Information without providing TAM at least twenty-four (24) hours prior written notice of any such request or requirement so that TAM may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Contract. Notwithstanding the foregoing, the Consultant shall exercise its best efforts to preserve the confidentiality of the Confidential Information including, without limitation, by cooperating with TAM to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information by such tribunal.

**14.4 Restricted Storage and Access.** Consultant shall access Confidential Information that is stored electronically only via TAM's computers, and shall access Confidential Information only while Consultant is at TAM's offices, unless otherwise expressly authorized by TAM in writing. If Consultant wishes to store Confidential Information electronically, Consultant may only store such Confidential Information on TAM's computers located at TAM's offices. Under no circumstances shall Consultant copy Confidential Information onto non-TAM computers or other equipment not owned by TAM without the express prior written consent of TAM. Consultant shall not remove any Confidential Information from TAM's offices without the express prior written consent of TAM. TAM reserves the right, in its sole discretion, to revoke any authorization or consent given hereunder.

**14.5 Mutual Cooperation.** Each Party shall notify and cooperate with the other Party in enforcing TAM's rights if such Party becomes aware of a threatened or actual violation of TAM's confidentiality requirements by a third party. Upon reasonable request by TAM, the Consultant shall provide copies of the confidentiality agreements entered into with its agents or independent contractors relating to this Contract.

**14.6 Return of Confidential Information.** Upon the termination or expiration and non-renewal of this Contract or upon the request of TAM, Consultant shall either promptly return the Confidential Information, and any and all reproductions and copies thereof, to TAM or destroy all such Confidential Information, and Consultant shall sign an affidavit certifying to TAM under penalty of perjury that all such Confidential Information in Consultant's possession has been returned or destroyed.

## **15. WORKS FOR HIRE**

**15.1 Work Product.** Consultant acknowledges and agrees that the Proprietary Rights in and to any and all studies, deliverables, inventions, ideas, improvements, know-how, designs and discoveries, whether or not patentable and whether or not reduced to practice, patents, trademarks, trade secrets, original works of authorship (including, but not limited to, all algorithms, HTML, Java files and associated data, graphic materials, illustrations, creative writings, written information, photographs, product documentation, flow charts, databases, developments, processes, techniques, formulae, technology, drawings, marketing, advertising, product plans, reports, specifications, technical data, any computer program (source code and object code), research, schematics, prototypes, models and products) made, conceived and/or created by Consultant, whether solely or jointly with others that: (i) is developed in whole or in part on TAM's time or using TAM's computers, equipment, supplies, facilities or Confidential Information; (ii) results from, or is suggested by, any task or project assigned to Consultant under this Contract, the Services or the fulfillment of Consultant's obligations under this Contract; or (iii) relates in any manner to the actual or reasonably anticipated project, work, research and/or operations of TAM (separately and collectively, "**Work Product**"), is solely owned by, and belongs to, TAM. Consultant expressly acknowledges and agrees that all such works of authorship are "works made for hire" as defined in the U.S. Copyright Act and belong exclusively to TAM to the fullest extent permitted under applicable law. Consultant hereby waives and shall not assert any and all moral rights Consultant may have to such works of authorship, which may inure to Consultant under the laws of any nation.

**15.2 Assignment of Work Product.** If Work Product, or any part thereof, is for any reason deemed not to constitute works made for hire owned by TAM, or if Consultant should, by operation of law or otherwise, be deemed to retain any rights thereto, for good and valuable consideration, including without



limitation the consideration recited herein, Consultant hereby grants, conveys, bargains, sells, assigns, transfers and delivers to TAM, its successors and assigns, any and all of Consultant's Proprietary Rights, in and to the Work Product. Consultant also expressly assigns to TAM all legal rights necessary for TAM to pursue any legal action against any third party arising out of or in connection with the Work Product assigned hereunder. Consultant shall cause Consultant's permitted successors and assigns to assign all Proprietary Rights in Work Product to TAM to the maximum extent permitted by law. Consultant covenants not to personally, or cause any third party to, infringe any of TAM's Proprietary Rights in or to the Work Product. Upon the request of TAM, its agents or attorneys (each a "**TAM Party**"), Consultant shall promptly execute further written assignments and any additional document a TAM Party, in its sole and absolute discretion, deems necessary to effect, record and/or perfect the transfer of rights, title and interest in and to the Work Product.

**15.3 Disclosure of Work Product.** Consultant agrees that in connection with any Work Product Consultant shall: (i) promptly disclose such Work Product in writing to TAM (which shall be received in confidence by TAM), to permit TAM to claim rights to which it may be entitled under this Contract, and (ii) if TAM requests, promptly execute any additional written assignment of title to TAM for any Work Product required to be assigned by this Section 15 and Consultant shall preserve any such Work Product as Confidential Information of TAM. If Consultant believes that Consultant is entitled to ownership, either in whole or in part, of any Work Product, Consultant shall immediately so notify TAM's Board in writing. Consultant shall preserve all Work Product as Confidential Information of TAM. Consultant expressly agrees and covenants to keep and maintain adequate and current written records of all Work Product. The records will be in the form of notes, sketches, drawings and any other format that may be specified by TAM and shall at all times be available to, and remain the sole property of, TAM.

**15.4 Termination of Proprietary Rights.** TAM and Consultant hereby acknowledge that certain Proprietary Rights in and to Work Product assigned to TAM hereunder may, under certain circumstances and after the assignment thereof to TAM, be terminated by Consultant in accordance with the provisions of the Copyright Act. The Parties further acknowledge that it is their intention that, if any such assignments are terminated by Consultant, TAM shall have the exclusive rights of first and last refusal with respect thereto, which right of first and last refusal shall be exercised as follows:

Until the expiration of a period of sixty (60) days following TAM's receipt of a valid notice of termination with respect to any such Proprietary Rights, Consultant shall not negotiate with any third party with respect to the grant, sale, assignment, license, or other transfer of the Work Product thereof. During said sixty (60) day period, Consultant shall negotiate in good faith and exert best efforts to reach an agreement with TAM for TAM's acquisition of such Proprietary Rights and/or Work Product. If TAM and Consultant fail to reach agreement by the end of said sixty (60) day period, Consultant shall be free to negotiate with third parties for the grant, sale, assignment, license, or other transfer of such Proprietary Rights and/or Work Product, only for terms and conditions more favorable to Consultant than those last offered by TAM.

If Consultant receives such a bona fide offer from a third party, which offer Consultant wishes to accept, Consultant shall notify TAM of the terms therein in writing and TAM shall have ten (10) days from its receipt thereof to notify Consultant that it desires to acquire the Proprietary Rights and/or Work Product subject to the terms of such offer. If TAM so notifies Consultant, such copyrights shall automatically vest in TAM and Consultant shall enter into a written agreement with TAM reflecting such terms and conditions promptly after Consultant's receipt of such notice. If TAM does not so notify Consultant and Consultant does not accept such third party offer, the foregoing procedures shall apply to any further offers which Consultant receives and wishes to accept, including any offer containing identical terms and conditions rejected by Consultant, whether received by Consultant from the same or from a different third party.

**15.5 Patent, Trademark and Copyright Registrations.** Consultant agrees to assist any TAM Party, at TAM's expense, to secure TAM's rights in the Work Product and any Proprietary Rights relating thereto in any and all countries, including the disclosure to TAM of all pertinent information, written records and data with respect thereto, the execution of all applications, specifications, oaths, assignments and other

instruments that a TAM Party, in its sole discretion, deems necessary to apply for and obtain such rights. Upon the request of a TAM Party, Consultant shall promptly execute any and all applications for U.S. or foreign patent, trademark or copyright registrations regarding Work Product and execute any additional documents and do all other lawfully permitted acts to further the prosecution and issuance letters of registration thereon. Consultant hereby irrevocably appoints each TAM Party as Consultant's attorney-in-fact for the purpose of executing such registration applications, assignments and additional documents in Consultant's name and stead and with the same legal force and effect as if executed by Consultant.

## **16. TERMINATION / FORCE MAJEURE**

- A. If Consultant fails to properly provide in any manner the Services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance hereunder, TAM may terminate this Contract by giving five (5) calendar days written notice to Consultant.
- B. Nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the nonperforming Party.
- C. Either Party may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other Party. Notice of termination shall be by written notice to the other Party and be sent in accordance with Section 30.
- D. In the event of termination not due to the fault of Consultant, Consultant shall be paid for Services properly performed to the date of termination in accordance with the terms of this Contract so long as proof of required insurance is provided for the periods covered in the Contract including any and all amendments thereto.
- E. Upon receipt of termination notice, Consultant shall commence and perform, with diligence, all actions necessary on the part of Consultant to effect the termination of this Contract on the date specified by TAM and to minimize the liability of Consultant and TAM to third parties as a result of termination. All such actions shall be subject to the prior approval of TAM. Such actions shall include, without limitation:
  - i. Halting the performance of the Services and other work under this Consultant on the date(s) and in the manner specified by TAM.
  - ii. Not placing any further orders or subcontracts for materials, services, equipment or other items.
  - iii. Terminating all existing orders and subcontracts.
  - iv. At TAM's direction, assigning to TAM any or all of Consultant's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, TAM shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
  - v. Subject to TAM's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
  - vi. Completing performance of any Services or work that TAM designates to be completed prior to the date of termination specified by TAM.
  - vii. Taking such action as may be necessary, or as TAM may direct, for the protection and preservation of any property related to this Contract which is in the possession of Consultant and in which TAM has or may acquire an interest.
- F. In no event shall TAM be liable for costs incurred by Consultant or any of its sub-consultants after the termination date specified by TAM, except for those costs associated in compliance with the immediately preceding subsection (E). Non-recoverable costs include, but are not limited to, anticipated profits on this Contract, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution

of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under subsection (E).

G. TAM's payment obligation under this Section shall survive termination of this Contract.

#### **17. RIGHTS AND DUTIES UPON TERMINATION OR EXPIRATION**

A. Sections 14, 15, 17, and each other provision of this Contract that may be reasonably construed to survive termination hereof, shall survive termination or expiration of this Contract for any reason.

B. Subject to the immediately preceding subsection (A), upon termination of this Contract prior to the expiration of the Term specified in Section 5, this Contract shall terminate and be of no further force or effect. Consultant shall transfer title to TAM, and deliver in the manner, at the times, and to the extent, if any, directed by TAM, any work in progress, completed work, supplies, equipment, and other materials produced as part of, or acquired in connection with the performance of this Contract, and any completed or partially completed work which, if this Contract had been completed, would have been required to be furnished to TAM. This subsection shall survive termination of this Contract.

#### **18. RELATIONSHIP BETWEEN THE PARTIES**

It is expressly understood that in the performances of the Services herein, Consultant, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of TAM. Consultant shall be solely responsible to pay all required taxes, including but not limited to, all payroll withholding taxes, social security, and worker's compensation arising from or relating to Services. Consultant or any agent or employee of Consultant is liable for the acts or omissions of itself, its employees and its agents. Nothing in this Contract shall be construed as creating an employment or agency relationship between TAM and Consultant or any agent or employee of Consultant.

Any terms in this Contract referring to direction from TAM shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained. TAM does not retain the right to control the means or the method by which Consultant performs work under this Contract.

#### **19. PAYMENT OF TAXES AND OTHER EXPENSES**

Should TAM, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Consultant is an employee for purposes of collection of any employment taxes, the amounts payable under this Contract shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Consultant which can be applied against this liability). TAM shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Consultant for TAM, upon notification of such fact by TAM, Consultant shall promptly remit such amount due or arrange with TAM to have the amount due withheld from future payments to Consultant under this Contract (again, offsetting any amounts already paid by Consultant which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Contract, Consultant shall not be considered an employee of TAM. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Consultant is an employee for any other purpose, then Consultant agrees to a reduction in TAM's financial liability so that TAM's total expenses under this Contract are not greater than they would have been had the court, arbitrator, or administrative authority determined that Consultant was not an employee.

## **20. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK**

The granting of any payment by TAM, or the receipt thereof by Consultant, shall in no way lessen the liability of Consultant to replace unsatisfactory work, equipment, or materials, and thereafter the unsatisfactory character of such work, equipment, components, or workmanship that do not conform to the requirements of this Contract may be rejected by TAM and in such case must be replaced by Consultant without delay.

## **21. SUBMITTING FALSE CLAIMS AND MONETARY PENALTIES**

Pursuant to Government Code sections 12650 et seq., any Consultant, sub-consultant or consultant who submits a false claim shall be liable to TAM for three times the amount of damages that TAM sustains because of the false claim. A Consultant, sub-consultant or consultant who submits a false claim shall also be liable to TAM for the costs of a civil action brought to recover any of those penalties or damages, and may be liable to TAM for a civil penalty for up to \$10,000 for each false claim. A Consultant, sub-consultant or consultant will be deemed to have submitted a false claim to TAM if the Consultant, sub-consultant or consultant: (a) knowingly presents or causes to be presented to an officer or employee of TAM, a false claim for payment or approval; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim paid or approved by TAM; (c) conspires to defraud TAM by getting a false claim allowed or paid by TAM; (d) has possession, custody, or control of public property or money used or to be used by TAM and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt; (e) is authorized to make or deliver a document certifying receipt of property used or to be used by TAM and knowingly makes or delivers a receipt that falsely represent the property used or to be used; (f) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to TAM; (g) is a beneficiary of an inadvertent submission of a false claim to TAM, subsequently discovers the falsity of the claim, and fails to disclose the false claim to TAM within a reasonable time after discovery of the false claim.

## **22. MODIFICATION OF CONTRACT**

This Contract may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by duly authorized officers or representatives of both Parties and approved in the same manner as this Contract.

## **23. ENTIRE AGREEMENT**

This Contract sets forth the entire agreement between the Parties, and supersedes all other oral or written agreements, understandings and provisions between them, concerning the subject matter hereof. This Contract may be modified only as provided in Section 22.

## **24. SEVERABILITY**

Should the application of any provision of this Contract to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Contract shall not be affected or impaired thereby, and (b) such invalid or unenforceable provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable.

## **25. JURISDICTION AND VENUE / LEGAL EXPENSES**

This Contract shall be construed in accordance with the laws of the State of California, without reference to its conflict of laws principles. The Parties agree that exclusive venue for any dispute arising hereunder shall be in a state court located in Marin County, California, or federal court located in San Francisco, California, and the Parties hereby consent to the exclusive jurisdiction of such courts. If TAM initiates legal action to enforce its rights under this Agreement, TAM shall be entitled, in addition to all other remedies available

under law, to recover its legal expenses incurred in connection therewith, including without limitation reasonable attorney's and expert witness fees.

## **26. LIABILITY OF TAM**

TAM's payment of obligations under this Contract shall be limited to the payment of the compensation provided for in Sections 3 and 4 of this Contract. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, IN NO EVENT SHALL TAM BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS CONTRACT, EVEN IF TAM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **27. COMPLIANCE WITH APPLICABLE LAWS**

Consultant shall comply with any and all Federal, State and local laws (including, but not limited to Covenant Against Contingent Fees, below) affecting services covered by this Contract. Copies of any of the above-referenced local laws and resolutions may be secured from TAM's contact person referenced in Section 30 (NOTICES) below.

## **28. COVENANT AGAINST CONTINGENCY FEES**

Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for Consultant; to solicit or secure this Contract; and that it has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this Contract. For breach or violation of this warranty, the local agency shall have the right to annul this Contract without liability, or at its discretion; to deduct from the Contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **29. ADMINISTRATIVE REMEDY FOR AGREEMENT INTERPRETATION / MISCELLANEOUS**

Should any question arise as to the meaning and intent of this Contract, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Executive Director of TAM, who shall decide the true meaning and intent of the Contract. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Headings used in this Contract are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section or in any way affect this Contract. This Contract shall be construed within its fair meaning and no inference shall be drawn against the drafting Party in interpreting this Contract. Whenever used in this Contract, the singular shall include the plural, the plural shall include the singular, and the neuter gender shall include the male and female as well as a trust, firm, corporation, or other legal entity all as the context and meaning of this Contract may require.

## **30. NOTICES**

All notices permitted or required under this Contract shall be in writing and shall be sent by registered or certified mail, or by FedEx or other similar overnight courier, to the Parties at their respective addresses below. A notice sent by registered or certified mail shall be deemed given five (5) business days after deposited in the mail, or one (1) business day after being sent by FedEx or similar over night courier for next day delivery. This Contract shall be managed and administered on TAM's behalf by the Contract Manager named below. All invoices shall be submitted and approved by this Contract Manager and all notices shall be given to TAM at the following location:

Contract Manager: \_\_\_\_\_  
Location: Transportation Authority of Marin  
900 Fifth Avenue, Suite 100  
San Rafael, CA 94901  
Contact: 415.226.08\_\_\_\_\_  
@tam.ca.gov

Notices shall be given to Consultant at the following address:

Consultant: \_\_\_\_\_  
Location: \_\_\_\_\_  
Contact: \_\_\_\_\_

**31. ACKNOWLEDGEMENT OF EXHIBITS**

**CONSULTANT'S INITIALS**

- EXHIBIT A.**        **Scope of Services and Budget**
- EXHIBIT B.**        **Insurance Reduction/Waiver**

**IN WITNESS WHEREOF**, the Parties have executed this Contract on the Effective Date.

**TRANSPORTATION AUTHORITY OF MARIN:**

**CONSULTANT:**

By: \_\_\_\_\_  
Anne Richman, Executive Director

By: \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Federal Employer ID Number or SSN