

Request for Proposals
For
Vehicle, Bicycle & Pedestrian Counts
at
Various Locations
in
Marin County

By the
Transportation Authority of Marin (TAM)

Date of Issuance: Wednesday, June 8, 2022

RESPONSES DUE:
4:00 PM, Thursday, June 30, 2022
to
Transportation Authority of Marin (TAM)
900 Fifth Avenue, Suite 100
San Rafael, CA 94901

**Request for Proposals
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SECTION 1 — INTRODUCTION

The Transportation Authority of Marin (TAM) serves as the Sales Tax Agency and Congestion Management Agency for Marin County and is responsible for delivering the Measure AA Program and for programming State and Federal funding for transportation projects within the County. As a sub-strategy to eliminate major barriers to using alternative modes to schools, the Transportation Authority of Marin (TAM) Crossing Guard Program was developed to provide trained crossing guards for critical intersections throughout Marin County. Additional guard locations have been added to the program through the use of the Vehicle Registration Fee that became effective in 2010.

As the agency responsible for the implementation and accountability of the program, TAM has provided oversight during implementation of the current contract that utilized trained crossing guards under contract with a professional company that specializes in crossing guard programs. To accomplish this, each potential site must be evaluated utilizing criteria specified by the Manual of Uniform Traffic Control Devices. This criterion requires traffic volumes, vehicle turning volumes and pedestrian/bicycle volumes. This Request for Proposals (RFP) stipulates the scope of services and proposal process for an agreement to provide services related to gathering video data for each location and compiling the vehicle volume data required for the evaluation of sites eligible for a crossing guard funded by the TAM Crossing Guard Program.

SECTION 2 — SERVICES TO BE PROVIDED

Under contract to TAM, the selected contractor will perform the vehicle, bicycle and pedestrian counts in accordance with the following:

Staffing/Personnel

The contractor shall provide capable and reliable personnel to prepare accurate, valid and reliable records of vehicle volumes, and bicycle, and pedestrian video at 161 locations throughout Marin County (actual number of locations to be determined at the time of contract execution); and shall identify a single staff member to manage the vehicle, bicycle and pedestrian counting program. This person will also act as the single point of contact with TAM for administration of all contractual and operational issues. It is expected that this person will be available within 30 minutes by telephone on days that counting is taking place.

Training

The contractor shall provide orientation and fully train each person responsible for performing counts.

Permits

The contractor shall be responsible for obtaining all necessary approvals and encroachment permits from the applicable local jurisdiction to perform the counts, including approvals required for the deployment of video collection devices.

Clothing and Equipment

The contractor shall supply all necessary equipment, including safety equipment, traffic vests, and traffic recording equipment. Counting should be accomplished using video equipment in good operating condition and capable of producing video files of sufficient quality to allow for the collection of the count data specified in this RFP, including the ability to differentiate between school-aged pedestrians and older or younger pedestrians as specified in this RFP.

Location Types and Video and Vehicle Count Data

161 locations are to be used for proposal comparisons. The actual number of locations will be determined by TAM. Locations will be assigned one of three designations. Each type of intersection may require a different level of effort by the contractor than the other types. Three designations will be assigned as follows:

Location Type A

Type A locations consist of a mid-block cross walk. Information required from the contractor includes counts of vehicles for each direction and movement crossing the crosswalk. Video data sufficient for TAM to compile pedestrian and bicycle counts shall also be collected and provided to TAM in accordance with the requirements of this RFP .

Location Type B

Type B locations consist of a standard four leg intersection. Information required from the contractor includes counts of vehicles for each direction and movement crossing the crosswalk. Vehicle counts shall be tallied for each movement, through and turning, for each leg of the intersection. Video data sufficient for TAM to compile pedestrian and bicycle counts shall also be collected and provided to TAM in accordance with the requirements of this RFP.

Location Type C

Type C locations contain multiple legs, or combinations of legs (up to six), and may have up to six crosswalks that require counting for school age bicyclists and pedestrians. Vehicle counts shall be tallied for each movement, through and turning, for each leg of the intersection. Video data sufficient for TAM to compile pedestrian and bicycle counts shall also be collected and provided to TAM in accordance with the requirements of this RFP.

TAM will determine the locations to be counted and approve the dates and times for the counts. Proposers should assume that the video data provided to TAM for each location shall consist of a minimum of two hours of data from 7:00 to 9:00 a.m. in the morning, and two hours of data from 2:00 and 4:00 p.m. in the afternoon for each of two days. The video data provided to TAM shall be the video used by the contractor to establish the vehicle count data as required by this RFP, and sufficient for TAM to compile bicycle and pedestrian volumes. The vehicle count data shall be compiled and segregated into 15-minute increments. The start times may vary due to individual school schedules. The crosswalk video must also capture the signal lights controlling the crosswalk.

The contractor will be compensated for additional count data, i.e. more than eight 15-minute increments per day, if provided at TAM's request. The extra compensation will be paid in 15-minute count period increments by paying one eighth of the location cost per day.

For the purpose of proposals, a minimum of two days data should be counted for the same daily hours during each of two days. Proposals should include the number of cameras proposed for each type of location to ensure that school-aged pedestrians can be distinguished from older or younger pedestrians. For the purposes of the proposal, school-aged pedestrians are pedestrians between the ages of 5 and 14 (kindergarten through eighth grade).

The 15-minute increment vehicle count data for each location shall be delivered to TAM in Microsoft Excel format and shall be segregated in accordance with the requirements of this RFP. **Time clocks shown on the video must be accurate to within 30 seconds of actual time.** The count data, and supporting data for the counts, shall be delivered to TAM with a summary report in a format approved by TAM. Field notes for the counts and the raw video files shall be delivered to TAM with the summary report and electronic files. Video files delivered to TAM shall be in a format that can be viewed using a viewing software which allows for up to five viewers concurrently on separate devices, and has the capability of viewing videos in fast forward and fast reverse modes. The viewing software, including any necessary licenses for up to five users, must be made available by the contractor at no cost to TAM.

For proposal purposes, assume 25 Type A locations; 125 Type B locations; and 11 Type C locations. Actual location designations will be assigned by TAM at the time of contract execution.

Term and Termination of Contract

The Contract shall become effective on the date of execution and shall continue in full force and effect until December 31, 2022. At that time, the Contract may be renewed by both parties if additional traffic information is required. Contract renewal may be approved by TAM's Executive Director on behalf of TAM.

Payment and Records

TAM will pay for the requested vehicle, bicycle and pedestrian count information based on a "per location" contract price. The contract price paid per location shall be considered full compensation for all labor, equipment and all other direct and indirect costs associated with providing the vehicle, bicycle and pedestrian count data to TAM in the specified formats. The contractor shall submit

invoices to TAM on a monthly basis for the number of locations actually counted and for which the count data has been submitted to TAM. The contractor shall manage all payroll responsibilities, ensuring that all employees receive weekly payroll and workers' compensation coverage in accordance with all state and federal requirements.

SECTION 3 — SCHOOL CALENDAR AND DURATION

Services are to be provided near schools in a variety of School Districts throughout Marin County. Crossing locations are near both public and private schools. The contractor should be prepared to offer services in accordance with various school calendars. This will result in some locations requiring counts on days when other locations do not. It is expected that a minimum of 7 locations will be counted each day. Counts shall be conducted on regular school days and are not to occur on Fridays or within two school days of a holiday period. The contractor will have eight weeks after receiving the Notice to Proceed to complete 161 locations. Site personnel will be provided a note on TAM letterhead explaining why they are conducting the counts near a school.

SECTION 4 — RFP SUBMITTAL REQUIREMENTS

Please prepare your proposal in accordance with the following requirements.

1. *Proposal:* The proposal (excluding resumes and the transmittal letter) shall not exceed a total of 15 single-sided, 8.5" x 11" pages. Resumes should be included in an appendix and do not count toward the page limit.
2. *Transmittal Letter:* The proposal 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 proposal shall be valid for a 90-day period and should include the name, title, address and telephone number of the individual to whom correspondence and other contacts should be directed during the contractor selection process. The cover letter should be a maximum of two pages in length and will not be included in the 15-page limitation for the proposal. The person authorized by the firm/team to negotiate a contract with TAM shall sign the cover letter.

Address the cover letter as follows:

Dan Cherrier, Project Manager
Transportation Authority of Marin
900 Fifth Avenue, Suite 100
San Rafael, California 94901

3. *Project Understanding:* This section shall clearly convey that the contractor understands the nature of the work, including coordination with and approvals from TAM.
4. *Approach and Management Plan:* This section shall provide the firm's/team's proposed approach and management plan for providing the services in accordance with this RFP, including the number of staff proposed as available to perform the counts, the method for

training the staff proposed, and any testing or quality control measures included in the approach. The approach and management plan should include a schedule showing the number of locations at which video data will be collected each week for the duration of the counting period, and the number of locations for which the final count data will be provided each week once the video data is collected. The approach and management plan should include the approach to notifying the appropriate local jurisdiction in advance of the counting to secure the necessary approvals, permits, etc. to conduct the counts and gather data. Include an organization chart showing the proposed relationships among contractor staff and TAM staff.

5. *Qualifications and Experience:* The proposal shall provide the qualifications and experience of the contractor with an emphasis on any qualifications or experience specifically related to performing vehicle, bicycle and pedestrian counts. 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 by TAM.
6. *Additional Relevant Information:* Provide additional relevant information that may be helpful in the selection process (not to exceed the equivalent of 2 single-sided pages).
7. *References:* Please provide three references that can provide feedback on the ability of your firm to successfully manage a vehicle, bicycle and pedestrian count program.
8. *Project Budget:* Please provide a project budget. Include a cost per day for each Type of location. The cost per day for each type of location shall include all charges to be invoiced to TAM, including direct and indirect expenses, for providing the video and vehicle volume data in accordance with the requirements of this RFP. The actual number of each type of location will be determined by TAM and may vary substantially from those listed in Section 2.
9. *Submittal of Proposals:* Three (3) copies of your proposal are due at the TAM offices no later than the time and date specified in Section 6, below, along with a PDF file of the entire submittal package on a flash drive or other commonly available storage medium. Email submittals will not be accepted. Envelopes or packages containing the proposals should be clearly marked, **“Proposals Enclosed.”**
10. *Professional Services Contract:* Indicate your willingness to accept the terms and conditions in attached sample contract, including your ability to comply with TAM’s insurance requirements, 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 attached sample contract.

SECTION 5 — SELECTION OF CONTRACTOR

The proposals will be evaluated and scored on a 100 point total basis using the following criteria:

Total project cost.	35
Project understanding and approach, including an understanding of the role of TAM.	20

Capacity to provide qualified personnel.	20
Qualifications and specific experience of Key Team Members.	10
Similar project experience.	10
Satisfaction of previous clients.	5
Total	100

TAM will evaluate each proposal and may establish a “short list” of qualified firms that will be asked to attend an interview in which the each firm will demonstrate its understanding of, and approach to the Project.

The Project Manager and Key Team Members should attend the interview if held. The evaluation panel may include representatives from TAM and other agencies, but the specific composition of the panel will not be revealed prior to the interviews. Costs for travel expenses and proposal preparation shall be borne by the contractor.

Once the top firm/team has been determined, TAM staff will start contract negotiations with the firm/team. If contract negotiations are not successful, the second ranked firm/team may be asked to negotiate a contract with TAM, etc.

SECTION 6 — SELECTION PROCESS DATES

The following milestone dates have been established for this RFP and subsequent contract (if awarded):

- June 8, 2022:** TAM issues RFP
- June 21, 2022:** Last day for submittal of written questions (via email to Dan Cherrier)
- June 24, 2022:** TAM provides responses to questions received by deadline
- June 30, 2022:** Proposals are due no later than 4:00 PM at TAM office. *No email or late submittals will be accepted.*
- Week of July 11, 2022:** Interviews (if necessary)
- July 28, 2022:** Contractor selection approval by TAM Board
- September – October 2022:** Count period window during regular school year

SECTION 7 — 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 Consultant 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 Consultant hereby makes the following assurance and agrees to include this assurance in any Agreements it makes with subconsultants in the performance of this contract:

“The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the Consultant or subconsultant 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 its 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 with regard to ensuring nondiscrimination in the award and administration of Authority Contracts and shall use its best efforts to insure 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.

SECTION 8 - 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.

If you have any questions regarding this RFP, please contact:

Dan Cherrier
Project Manager
Phone (415) 226-0829
Fax (415) 226-0816
dcherrier@tam.ca.gov

SECTION 9 – ATTACHMENTS

- Attachment 1: List of Crossing Guard Locations by City/Community
- Attachment 2: Sample Contract

List of TAM Crossing Guard Program Locations by City/Community

June 2022

Index	City/Community	Location	TAM Site No.
1	Bolinas	Olema-Bolinas Road & Mesa Road	069
2	Bolinas	Olema-Bolinas Road (in Front of School)	070
3	Corte Madera	Corte Madera Avenue & Tamalpais Drive (& Redwood)	011
4	Corte Madera	Mohawk Avenue (in front of Neil Cummins School)	057
5	Corte Madera	Tamalpais Drive & Eastman Avenue	058
6	Corte Madera	Hickory Avenue (near Mohawk Avenue)	074
7	Corte Madera	Golden Hind Passage (in front of school)	116
8	Corte Madera	Paradise Drive & Seawolf Passage	135
9	Corte Madera	Spindrift Passage & Prince Royal Passage	137
10	Corte Madera	Redwood Avenue & Pixley Avenue	153
11	Fairfax	Sir Francis Drake Boulevard & Oak Manor Drive	026
12	Fairfax	Oak Manor Drive (mid-block at school)	041
13	Fairfax	Sir Francis Drake Boulevard & Oak Tree Lane	042
14	Fairfax	Sir Francis Drake Boulevard & Marinda Dr	065
15	Fairfax	Sir Francis Drake & Glen Drive	121
16	Kentfield	Sir Francis Drake Boulevard & Laurel Grove Avenue (East)	005
17	Kentfield	College Avenue & Woodland Avenue/Kent Avenue	006
18	Kentfield	College Avenue & Stadium Way	007
19	Kentfield	Sir Francis Drake Boulevard & Wolfe Grade	008
20	Kentfield	Sir Francis Drake Boulevard & College Avenue	009
21	Kentfield	Sir Francis Drake Boulevard & Manor Road	113
22	Kentfield	Sir Francis Drake Boulevard & Bon Air Road	114
23	Kentfield	Sir Francis Drake Boulevard & South Eliseo Drive	115
24	Kentfield	McAllister Avenue & Stadium Way	147
25	Larkspur	Larkspur Plaza Drive (Tam Racket Club) & Doherty Drive	010
26	Larkspur	Doherty Drive & Rose Lane (East) (at Piper Park)	012
27	Larkspur	Magnolia Avenue & King Street	013

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Index	City/Community	Location	TAM Site No.
28	Larkspur	Magnolia Avenue & Wiltshire Avenue	075
29	Lucas Valley	Mt Shasta Drive & Idylberry Road	001
30	Marin County	East Strawberry Drive at Strawberry School	016
31	Marin County	Ricardo Lane & East Strawberry Drive	078
32	Marin County	Tiburon Boulevard & East Strawberry Drive	082
33	Marin County	Redwood Highway & NB Off-Ramp/DeSilva Drive (at POC)	128
34	Marin County	Bon Air Road & South Eliseo Drive	152
35	Marin County	Donahue Street & Drake Avenue (NW)	159
36	Marin County	Drake Avenue & Phillips Drive (N)	160
37	Mill Valley	East Blithedale Avenue & Lomita Avenue	014
38	Mill Valley	Throckmorton Ave & Old Mill Street	015
39	Mill Valley	Bell Lane & Enterprise Concourse	017
40	Mill Valley	Camino Alto & Sycamore Avenue	019
41	Mill Valley	Lomita Drive (in front of Edna Maguire School)	064
42	Mill Valley	East Blithedale Avenue & Elm Avenue	077
43	Mill Valley	Lovell Avenue & Old Mill Street	108
44	Mill Valley	East Blithedale Avenue & Buena Vista Avenue	117
45	Mill Valley	Miller Avenue & Evergreen Avenue	119
46	Mill Valley	Miller Avenue & Almonte Boulevard	122
47	Mill Valley	Shoreline Highway & Almonte Boulevard	126
48	Mill Valley	Redwood Highway & Southbound Seminary Drive On-Ramp	127
49	Mill Valley	Shoreline Highway & Pine Hill Road	130
50	Mill Valley	Almonte Boulevard & Rosemont Avenue	146
51	Novato	Center Road & Wilson Avenue	043
52	Novato	Center Road & Leland Drive	044
53	Novato	South Novato Boulevard & Sunset Pkwy	045
54	Novato	Sutro Avenue & Dominic Drive	046

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55	Novato	Arthur Street & Cambridge Street	047
56	Novato	South Novato Boulevard & Yukon Way	048
57	Novato	San Marin Drive & San Ramon Way	049
58	Novato	San Ramon Way & San Benito Way	050
59	Novato	Diablo Avenue & Hotckin Drive	051
60	Novato	Alameda De La Loma & Calle De La Mesa (East)	052
61	Novato	Paladini Road & Vineyard Road	053
62	Novato	Wilson Avenue & Vineyard Road	054
63	Novato	Sunset Parkway & Lynwood Drive	060
64	Novato	Sunset Parkway & Ignacio Boulevard	068
65	Novato	Olive Avenue & Summers Avenue	100
66	Novato	One Main Gate Road at School	101
67	Novato	Wilson Avenue at X-walk to field	102
68	Novato	End of Tinker Way	103
69	Novato	Center Road & Tamalpais Avenue	104
70	Novato	Center Road & Diablo Avenue	105
71	Novato	Adams Street & Johnson Street	106
72	Novato	Sunset Parkway & Merritt Drive	107
73	Novato	San Marin Drive & San Carlos Way	120
74	Novato	Sutro Avenue (in front of Pleasant Vly Elementary)	123
75	Novato	Olive Avenue (in back of school)	124
76	Novato	Wilson Avenue & Hansen Road	125
77	Novato	San Benito Way & San Ramon Way (south)	132
78	Novato	Arthur Street & Taft Court/Tyler Street	133
79	Novato	Arthur Street & Hayes Street	138
80	Novato	Sutro Avenue & Center Road	139
81	Novato	South Novato Boulevard & Lark Court	143

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82	Novato	Main Gate Road & C Street	144
83	Novato	San Ramon Way & San Juan Court	145
84	Novato	Trumbull Avenue & Vineyard Road	150
85	Novato	Calle Empinada & Calle Paseo	158
86	Point Reyes Station	Shoreline Highway (in front of West Marin School)	140
87	Ross	Lagunitas Road & Allen Avenue	023
88	Ross	Lagunitas Road & Ross Common	024
89	Ross	Sir Francis Drake Boulevard & Lagunitas Road	025
90	Ross	Ross Common (at Post Office)	134
91	Ross	Bolinas Avenue & Shady Lane	161
92	San Anselmo	Butterfield Road & Green Valley Court	027
93	San Anselmo	Sir Francis Drake Boulevard & Broadmoor Avenue	028
94	San Anselmo	Sir Francis Drake Boulevard & Bolinas Avenue	029
95	San Anselmo	Sir Francis Drake Boulevard & Tamal Avenue	030
96	San Anselmo	Sir Francis Drake Boulevard & Barber Avenue/Ross Avenue	031
97	San Anselmo	Butterfield Road & Rosemont Avenue (in front of School)	059
98	San Anselmo	Ross Avenue & Kensington Road	066
99	San Anselmo	Sir Francis Drake Boulevard & Butterfield Road	067
100	San Anselmo	Richmond Road & Belle Avenue	084
101	San Anselmo	Richmond Road & Mariposa Avenue	085
102	San Anselmo	Woodland Avenue (at back of Wade Thomas school)	089
103	San Anselmo	Sir Francis Drake Boulevard & Aspen Court	090
104	San Anselmo	Sir Francis Drake Boulevard & Saunders Avenue	091
105	San Anselmo	Sequoia Drive & Red Hill Avenue (Miracle Mile)	092
106	San Geronimo	Sir Francis Drake Boulevard & Meadow Way	073
107	San Rafael	Las Gallinas Avenue & Miller Creek Road	002
108	San Rafael	Nova Albion Way at Vallecito School	003

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109	San Rafael	Nova Albion Way & Arias Street	004
110	San Rafael	Bahia Way & Kerner Boulevard	032
111	San Rafael	North San Pedro Road & Roosevelt Avenue	033
112	San Rafael	Bahia Way at School Entrance	034
113	San Rafael	Kerner Boulevard & Canal Street	035
114	San Rafael	177 North San Pedro Road	036
115	San Rafael	Knight Drive & Ashwood Court	037
116	San Rafael	Woodland Avenue & Siebel Street	038
117	San Rafael	5th Avenue & River Oaks Drive	039
118	San Rafael	Happy Lane & 5th Avenue	040
119	San Rafael	West Castlewood Drive & Knight Drive	055
120	San Rafael	Blackstone Drive & Las Gallinas Avenue	062
121	San Rafael	Las Gallinas Avenue & Elvia Court	063
122	San Rafael	Marinwood Avenue & Miller Creek Road	071
123	San Rafael	Nova Albion Way & Las Gallinas Avenue	072
124	San Rafael	Woodland Avenue & Eva Street	093
125	San Rafael	Woodland Avenue & Lovell Avenue	094
126	San Rafael	Racquet Club Drive & 5th Avenue	095
127	San Rafael	Bellam Boulevard & Francisco Boulevard East	096
128	San Rafael	Bellam Boulevard & I-580 on ramp	097
129	San Rafael	Bellam Boulevard & I-580 off ramp	098
130	San Rafael	Bellam Boulevard & Anderson Drive	099
131	San Rafael	Nova Albion Way & Montecillo Road	109
132	San Rafael	Belle Avenue (in front of school)	110
133	San Rafael	Lincoln Avenue & Paloma Avenue	111
134	San Rafael	Grand Avenue & Jewell Street	112
135	San Rafael	Woodland Avenue & Lindaro Street	118

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136	San Rafael	Marin Street & Bayview Street	129
137	San Rafael	Arias Street & Trellis Drive	141
138	Sausalito	Buchanan Drive & Wateree Street	154
139	Sausalito	Buchanan Drive (at school driveway)	155
140	Sausalito	Nevada Street & Tomales Street	156
141	Sausalito	Bridgeway & Nevada Street	157
142	Tamalpais Valley	Harvard Avenue & Wellesley Avenue	076
143	Tamalpais Valley	Gibson Avenue & Shoreline Highway	079
144	Tamalpais Valley	Montford Avenue & Melrose Avenue	080
145	Tamalpais Valley	Melrose Avenue & Evergreen Avenue	081
146	Tamalpais Valley	Evergreen Avenue & Ethel Avenue	083
147	Tiburon	Tiburon Boulevard & Blackfield Drive	018
148	Tiburon	Tiburon Boulevard & Avenida Mireflores	020
149	Tiburon	Tiburon Boulevard & Lyford Drive	021
150	Tiburon	Tiburon Boulevard & Trestle Glen Boulevard	022
151	Tiburon	Avenida Mireflores at School	056
152	Tiburon	Karen Way (in front of school)	061
153	Tiburon	Tiburon Boulevard & Kleinert Way/Ned's Way	086
154	Tiburon	Tiburon Boulevard & Stewart Drive	087
155	Tiburon	Blackfield Drive & Karen Way	088
156	Tiburon	Kleinert Way & Neds Avenue	131
157	Tiburon	Tiburon Boulevard & Mar West Street	136
158	Tiburon	Tiburon Boulevard & San Rafael Avenue	142
159	Tiburon	Avenida Mireflores & Hilary Drive	148
160	Tiburon	Blackfield Drive & Cecilia Way	149
161	Tiburon	Tiburon Boulevard & Rock Hill Drive	151

**SAMPLE CONTRACT BETWEEN
TRANSPORTATION AUTHORITY OF MARIN
AND
XXXX**

THE ABOVE-REFERENCED CONTRACT (this “**Contract**”) is made and entered into effective as of the twenty-ninth day of April, 2022 (the “**Effective Date**”) by and between the TRANSPORTATION AUTHORITY OF MARIN a Local Agency (hereinafter referred to as “**TAM**”), and XXXXX, a California Corporation (hereinafter referred to as “**Contractor**”). TAM and Contractor 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 Contractor desire to enter into an independent contractor relationship whereby Contractor shall perform for TAM design 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 Contractor 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. Contractor 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 Contractor retain the assistance of any other person or entity to perform the Services, Contractor 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 Contractor under this Contract. Contractor agrees that the scope of the Services listed in Exhibit A may be modified by TAM at any time and for any reason. Contractor shall use its best professional skill and effort in performing the Services, which shall meet or exceed industry standards.

Business Conflicts. Subject to Contractor’s compliance with the terms and conditions of this Contract, including without limitation Sections 14 and 15 below, Contractor may provide services for other parties, provided that the services provided by Contractor to third parties does not conflict with, and are not detrimental to, the interest of TAM. To ensure that Contractor does not provide services to third parties in a manner that conflicts with, or is detrimental to, the interests of TAM, Contractor 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 Contractor 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 Contractor as required to perform the Services. TAM shall provide Contractor 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. Contractor agrees that Contractor 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. Contractor shall provide TAM with Contractor’s Federal Tax I.D. number prior to submitting the first invoice.

Work is only authorized after Contractor receives a signed Task Order from TAM.

TAM shall make payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. TAM shall pay Contractor all proper invoice charges within thirty (30) days of TAM’s receipt of an invoice that complies with **Exhibit A**. Contractor’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 XXX dollars (XXXX) total, including direct non-salary expenses. Fees for individual Task Orders re not to exceed the maximum sum of the Task Order.

5. TERM OF CONTRACT

I This Contract shall commence on the Effective Date and shall terminate XXXX (XX) 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 Contractor. Each certificate of insurance, required endorsement, and wavier of subrogation shall be furnished to TAM prior to Contractor’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 Contractor for any Services provided during any time that insurance was not in effect and until such time as Contractor provides adequate evidence that Contractor 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 Contractor is requesting reduced amounts of coverage or requesting to have a particular type of coverage waived entirely.

6.1 GENERAL LIABILITY

Contractor 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 Contractor in order to perform said services, Contractor 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

Contractor 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 Contractor 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

Contractor 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, Contractor must purchase extended reporting coverage for a minimum of twelve (12) months beyond completion of the work in the Contract. Contractor 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 *Twenty-five Thousand Dollars (\$25,000) unless approved by TAM in writing.

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

*Deductibles greater than Twenty-five Thousand Dollars (\$25,000) require Insurance Reduction/Waiver form **(Exhibit B)** to be completed.

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

Contractor's general liability and/or professional liability insurance may be provided, in part, by self-insurance as long as Contractor provides either (1) evidence to TAM that Contractor has segregated amounts in a special insurance reserve fund meeting the contract's insurance requirements and restricted specifically to this project or (2) Contractor's general insurance reserves are adequate to provide the necessary coverage and TAM may conclusively reply thereon, or (3) if Contractor has a deductible of One Hundred Thousand Dollars (\$100,000) or more, TAM shall have the same benefits and protections as if Contractor 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. Contractor hereby represents or covenants, as applicable, and warrants that it, and each of its directors officers, employees, members, managers, partners, permitted Contractors, contractors, agents, successors, heirs, representatives, beneficiaries, administrators, executors, trustees, affiliates, permitted assigns and/or representatives (each and all, "Contractor" 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 Contractor'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 Contractor'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 Contractor'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, Contractor 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, Contractor 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 Contractor.

8. NONDISCRIMINATORY EMPLOYMENT

Contractor and/or any permitted sub-Contractor shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Contractor and/or any permitted sub-Contractor understands and agrees that Contractor and/or any permitted sub-Contractor 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

Contractor 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. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Contract.

10. SUBCONTRACTING

Contractor 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 Contractor hires a sub-Contractor under this Contract, Contractor shall require sub-Contractor to provide and maintain insurance coverage identical to what is required of Contractor under this Contract and shall require sub-Contractor to name Contractor as additional insured under each policy in accordance with this Contract. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its sub-Contractor and shall forward to TAM evidence of same.

11. ASSIGNMENT

The rights, responsibilities and duties under this Contract are personal to Contractor and may not be transferred or assigned (including Accounts Receivable) without the express prior written consent of TAM. Contractor 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

Contractor shall, at its sole expense, maintain all required government and other regulatory licenses throughout the Term of this Contract. Contractor 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

Contractor 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, Contractor 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. Contractor 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 Contractor who participated in this Contract in any way. Contractor shall promptly refund to TAM any monies erroneously charged to TAM.

14. CONFIDENTIALITY

14.1 Confidential Information. Contractor agrees that during the Term of this Contract, and thereafter, Contractor shall keep TAM's Confidential Information (as hereinafter defined) confidential and shall not, directly or indirectly, on behalf of Contractor 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 Contractor under this Contract (including, without limitation, any reproductions or copies thereof), except information that the Contractor clearly proves to TAM: (a) is public knowledge at the time of disclosure, (b) was known by the Contractor before disclosure by TAM, or becomes public knowledge or otherwise known to the Contractor after such disclosure, other than by breach of a confidentiality obligation, or (c) is independently developed by the Contractor 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 Contractor 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 Contractor 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 Contractor may disclose Confidential Information of TAM to the employees and agents of the Contractor 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. Contractor 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 Contractor becomes aware of any unauthorized use or disclosure of the Confidential Information, the Contractor shall promptly and fully notify TAM of all facts known to it concerning such unauthorized use or disclosure. In addition, if the Contractor 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 Contractor 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 Contractor 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. Contractor shall access Confidential Information that is stored electronically only via TAM's computers, and shall access Confidential Information only while Contractor is at TAM's offices, unless otherwise expressly authorized by TAM in writing. If Contractor wishes to store Confidential Information electronically, Contractor may only store such Confidential Information on TAM's computers located at TAM's offices. Under no circumstances shall Contractor copy Confidential Information onto non-TAM computers or other equipment not owned by TAM without the express prior written consent of TAM. Contractor 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 Contractor 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, Contractor shall either promptly return the Confidential Information, and any and all reproductions and copies thereof, to TAM or destroy all such Confidential Information, and Contractor shall sign an affidavit certifying to TAM under penalty of perjury that all such Confidential Information in Contractor's possession has been returned or destroyed.

15. WORKS FOR HIRE

15.1 Work Product. Contractor 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 Contractor, 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 Contractor under this Contract, the Services or the fulfillment of Contractor'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. Contractor 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. Contractor hereby waives and shall not assert any and all moral rights Contractor may have to such works of authorship, which may inure to Contractor 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 Contractor 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, Contractor hereby grants, conveys, bargains, sells, assigns, transfers and delivers to TAM, its successors and assigns, any and all of Contractor's Proprietary Rights, in and to the Work Product. Contractor 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. Contractor shall cause Contractor's permitted successors and assigns to assign all Proprietary Rights in Work Product to TAM to the maximum extent permitted by law. Contractor 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**"), Contractor 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. Contractor agrees that in connection with any Work Product Contractor 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 Contractor shall preserve any such Work Product as Confidential Information of TAM. If Contractor believes that Contractor is entitled to ownership, either in whole or in part, of any Work Product, Contractor shall immediately so notify TAM's Board in writing. Contractor shall preserve all Work Product as Confidential Information of TAM. Contractor 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 Contractor 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 Contractor 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 Contractor, 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, Contractor 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, Contractor 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 Contractor fail to reach agreement by the end of said sixty (60) day period, Contractor 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 Contractor than those last offered by TAM.

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

receives and wishes to accept, including any offer containing identical terms and conditions rejected by Contractor, whether received by Contractor from the same or from a different third party.

15.5 Patent, Trademark and Copyright Registrations. Contractor 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, Contractor 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. Contractor hereby irrevocably appoints each TAM Party as Contractor's attorney-in-fact for the purpose of executing such registration applications, assignments and additional documents in Contractor's name and stead and with the same legal force and effect as if executed by Contractor.

16. TERMINATION / FORCE MAJEURE

- A. If Contractor 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 Contractor.
- 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 Contractor, Contractor 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, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Contract on the date specified by TAM and to minimize the liability of Contractor 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 Contractor 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 Contractor'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 Contractor and in which TAM has or may acquire an interest.

F. In no event shall TAM be liable for costs incurred by Contractor or any of its sub-Contractors 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, 16, and 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. Contractor 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, Contractor, 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. Contractor 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. Contractor or any agent or employee of Contractor 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 Contractor or any agent or employee of Contractor.

Any terms in this Contract referring to direction from TAM shall be construed as providing for direction as to policy and the result of Contractor'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 Contractor 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 Contractor 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 Contractor 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 Contractor for TAM, upon notification of such fact by TAM, Contractor shall promptly remit such amount due or arrange with TAM to have the amount due withheld from future payments to Contractor under this Contract (again, offsetting any amounts already paid by Contractor 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, Contractor shall not be considered an employee of TAM. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor 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 Contractor was not an employee.

20. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

The granting of any payment by TAM, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor 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 Contractor without delay.

21. SUBMITTING FALSE CLAIMS AND MONETARY PENALTIES

Pursuant to Government Code sections 12650 et seq., any Contractor, sub-Contractor or Contractor 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 Contractor, sub-Contractor or Contractor 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 Contractor, sub-Contractor or Contractor will be deemed to have submitted a false claim to TAM if the Contractor, sub-Contractor or Contractor: (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

Contractor 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

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for Contractor; 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 overnight 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: Dan Cherrier
Location: Transportation Authority of Marin
900 Fifth Avenue, Suite 100
San Rafael, CA 94901
Contact: 415.226.0829
dcherrier@tam.ca.gov

Notices shall be given to Contractor at the following address:

Contractor:
Location:
Contact:

31. ACKNOWLEDGEMENT OF EXHIBITS

**CONTRACTOR'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:

CONTRACTOR:

By: _____
Anne Richman, Executive Director

By: _____
Authorized Signature

Name (Print)

Title

Company Name

Federal Employer ID Number or SSN