

TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND KHOURI CONSULTING
AGREEMENT FOR PROFESSIONAL SERVICES
APPROVED BY THE TAMC BOARD ON: June 28, 2017
CONTRACT #: 1122.2017.01

This is an agreement between the Transportation Agency for Monterey County, hereinafter called "TAMC," and Khouri Consulting, with offices at 1215 K Street, Suite 1700 in Sacramento, California 95814, hereinafter called "Consultant."

The parties agree as follows:

1. Employment of Consultant. TAMC hereby engages Consultant, and Consultant hereby agrees to perform the services set forth in Exhibit A, in conformity with the terms of this Agreement. Consultant will complete all work in accordance with the work schedule set forth in Exhibit A.
 - (a) The work is generally described as follows:
Professional services in the areas of legislative and regulatory advocacy and governmental affairs.
 - (b) Consultant represents that Consultant and its agents, subcontractors and employees performing work hereunder are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required by this Agreement.
 - (c) Consultant, its agents, subcontractors, and employees, shall perform all work in a safe, skillful, and professional manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
 - (d) Consultant shall furnish, at its own expense, all materials and equipment necessary to carry out the terms of this Agreement, except as otherwise provided herein. Consultant shall not use TAMC premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations hereunder.
 - (e) Consultant's project manager shall be the person specified in Exhibit A. If Consultant desires to change the project manager, Consultant shall get written approval from TAMC of the new project manager.
2. Term of Agreement. The term of this Agreement shall begin on July 1, 2017, contingent upon approval by the TAMC Board, and Consultant shall commence work after Notice to Proceed by TAMC's Contract Administrator, identified in Section 31. Unless earlier terminated as provided herein, this Agreement shall remain in force until June 30, 2019. Consultant acknowledges that this Agreement is not binding until it is fully executed by TAMC.
3. Payments to Consultant; maximum liability. Subject to the limitations set forth herein, TAMC shall pay to Consultant the amounts provided in Exhibit B: Budget, upon receipt of

deliverables listed therein. Each payment by TAMC shall be for a specific deliverable outlined in Exhibit A: Scope of Work and Schedule. The maximum amount payable to the Consultant is set forth in Exhibit B: Budget and shall not exceed the amount of Thirty Thousand Dollars (\$30,000). If there is any conflict between the terms of this Agreement and the terms of either Exhibit A (Scope of Work) or Exhibit B (Budget), the terms of this Agreement shall prevail. No additional compensation will be paid to Consultant unless there is a change in the Scope of Work, as negotiated and finally approved by TAMC and Consultant through a written amendment.

4. Cost Principles.

- (a) Consultant agrees that, as applicable, the Contract Cost Principles and Procedures, 48 Code of Federal Regulations (CFR), Chapter 1, Part 31.000 et seq., Federal Acquisition Regulations System, shall be used to determine the cost allowability of individual items.
- (b) Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments to the extent applicable to this Agreement.
- (c) Any costs for which payment has been made to Consultant under this Agreement that are determined by subsequent audit to be unallowable under 49 CFR Part 18 and 48 CFR Part 31, are subject to repayment by Consultant to TAMC.

5. Method of Payment; Monthly Invoices by Consultant.

- (a) The method of payment for this Agreement will be based on a **lump sum**. The total lump sum price paid to Consultant will include compensation for all work and deliverables, including travel and equipment and any costs described in Exhibit B: Budget, for this Agreement. No additional compensation will be paid to Consultant unless there is a change in the Scope of Work, as negotiated and finally approved by TAMC and Consultant through a written amendment.
- (b) Consultant may submit to TAMC an invoice for progress payments, in arrears for work performed, based upon services provided and allowable incurred costs. Such invoices shall be in a format approved by TAMC, setting forth the amounts claimed by Consultant, the deliverables for which payment is requested, together with an itemized basis for such amounts, and setting forth such other pertinent information TAMC may require. Consultant shall submit such invoice monthly or as agreed by TAMC, but in no event shall such invoice be submitted later than thirty (30) days after completion of the Consultant's work hereunder. It is understood and agreed that Consultant shall complete all work described in Exhibit A notwithstanding Consultant's submission of periodic invoices.
- (c) If, as of the date of execution of this Agreement, Consultant has already received payment from TAMC for work which is the subject of this Agreement, such amounts shall be deemed to have been paid under this Agreement and shall be credited toward TAMC's maximum liability set forth above.
- (d) Consultant shall be reimbursed for travel expenses not to exceed the State of California approved travel reimbursement rates, which are to be included as part of the maximum contract amount listed in Section 3 of this Agreement.

6. Indemnification. To the fullest extent permitted by law, including California Civil Code sections 2782 and 2782.6, Consultant shall defend (with legal counsel reasonably acceptable to TAMC), indemnify and hold harmless TAMC, its officers, agents, and employees, from and against any and all claims, losses, costs, damages, injuries (including injury to or death of an employee of Consultant or its subcontractors), expenses and liabilities of every kind, nature and description (including incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, any subcontractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify TAMC, its officers, agents, and employees, shall not apply to the extent that such Liabilities are caused in part by the sole negligence, active negligence, or willful misconduct of TAMC, its officers, agents, and employees. To the extent there is an obligation to indemnify under this Paragraph, Consultant shall be responsible for incidental and consequential damages resulting directly or indirectly, in whole or in part, from Consultant's negligence, recklessness, or willful misconduct. Notwithstanding any other provision of this Agreement, Consultant's obligation to defend, indemnify and hold harmless TAMC shall survive the termination or expiration of the Agreement for a term to include the applicable statute of limitations related to the Consultant's performance pursuant to the Agreement.
7. Insurance.
- (a) Without limiting Consultant's duty to indemnify as set forth in this Agreement, Consultant shall maintain, at no additional cost to TAMC, throughout the term of this Agreement a policy or policies of insurance with the following coverage and minimum limits of liability (check if applicable):
- ✓ Commercial general liability insurance, including but not limited to premises, personal injury, products, and completed operations, with a combined single limit of One Million Dollars (\$1,000,000) per occurrence.
 - ☐ Professional liability insurance in the amount of not less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$3,000,000) in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims made" basis rather than an "occurrence" basis, Consultant shall, upon the expiration or termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the surviving term of Consultant's obligation to defend, indemnify and hold harmless TAMC as set for in Section 6.
 - ✓ Comprehensive automobile insurance covering all motor vehicles, including owned, leased, hired and non-owned vehicles used in providing services under this Agreement, with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence.
- (b) All insurance required under this Agreement shall be with a company acceptable to TAMC and authorized by law to transact insurance business in the State of California. Unless otherwise provided in this Agreement, all such insurance shall be written on

an occurrence basis; or, if any policy cannot be written on an occurrence basis, such policy shall continue in effect for a period of two years following the date of Consultant's completion of performance hereunder.

- (c) Each policy of insurance required under this Agreement shall provide that TAMC shall be given written notice at least thirty days in advance of any change, cancellation or non-renewal thereof. Each policy shall provide identical coverage for each subcontractor performing work under this Agreement, or be accompanied by a certificate of insurance for each subcontractor showing identical insurance coverage.
 - (d) Commercial general liability and automobile liability policies shall provide an endorsement naming TAMC, its officers, agents, and employees, as additional insureds and shall further provide that such insurance is primary to any insurance or self-insurance maintained by TAMC, and that no insurance of any additional insured shall be called upon to contribute to a loss covered by Consultant's insurance.
8. Workers' Compensation Insurance. If during the performance of this contract, Consultant employs one or more employees, then Consultant shall maintain a workers' compensation plan covering all of its employees as required by Labor Code Sec. 3700, either (a) through workers' compensation insurance issued by an insurance company, with coverage meeting the statutory limits and with a minimum of One Million Dollars (\$1,000,000) per occurrence for employer's liability, or (b) through a plan of self-insurance certified by the State Director of Industrial Relations, with equivalent coverage. If Consultant elects to be self-insured, the certificate of insurance otherwise required by this Agreement shall be replaced with consent to self-insure issued by the State Director of Industrial Relations. The provisions of this paragraph apply to any subcontractor employing one or more employees, and Consultant shall be responsible for all subcontractors' compliance herewith.
9. Safety Provisions.
- (a) Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by TAMC Safety Officer and other TAMC representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on a construction project site.
 - (b) If applicable to work to be performed by Consultant identified in the Scope of Work (Exhibit A), and pursuant to the authority contained in Section 591 of the Vehicle Code, TAMC has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
 - (c) Any subcontract entered into as a result of this Agreement, shall contain all of the provisions of this Section.
 - (d) Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

10. Certificate of Insurance and Taxpayer Identification. Prior to the execution of this Agreement by TAMC, Consultant shall submit a completed federal W-9 form, Request for Taxpayer Identification Number and Certification, and file certificates of insurance with TAMC's contract administrator evidencing that Consultant has in effect the insurance required by this Agreement. Consultant shall file a new or amended certificate promptly after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify any indemnification provision of this Agreement.
11. Maintenance of Records. Consultant shall prepare, maintain and preserve all reports and records that may be required by federal, State, and local rules and regulations relating to services performed under this Agreement. Consultant shall retain all such records for at least five years from the date of final payment, or until any litigation relating to this Agreement is concluded, whichever is later. The State, State Auditor, TAMC, or any duly authorized representative of the Federal Government, as applicable, shall have access to any books, records, and documents of Consultant that are pertinent to the Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
12. Audits.
 - (a) TAMC officials, as well as Caltrans, and/or State or Federal officials, as applicable, based upon funding sources for this Agreement, shall have the right, at any time during regular working hours and on reasonable advance notice, to examine, monitor and audit all work performed and all records, documents, conditions, activities and procedures of Consultant or its subcontractors relating to this Agreement. This Agreement also incorporates the provisions Government Code Section 8546.7 which provides that an audit by the State Auditor General may be performed up to three years after the final payment under any contract or subcontract involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000).
 - (b) Consultant and subcontractors' contracts, including cost proposals and indirect cost rates (ICR) are subject to audits or reviews such as, but not limited to, a Contract Audit; an Incurred Cost Audit; an Indirect Cost Rates Audit, or a certified public accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the Agreement, cost proposal and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31, and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review, it is Consultant's responsibility to ensure Federal, State, or local government officials are allowed full access to the CPA's Workpapers. The Agreement, cost proposal, and ICR shall be adjusted by Consultant and approved by the TAMC Contract Administrator to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by TAMC and TAMC's sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that Federal, State, or local governments have access to CPA Workpapers, will be considered a breach of contract and good cause for termination of the Agreement and disallowance of prior reimbursed costs.

13. Confidentiality; Return of Records. Consultant and its officers, employees, agents, and subcontractors shall comply with all federal, State and local laws providing for the confidentiality of records and other information. Consultant shall not disclose any confidential information received from TAMC or prepared in connection with the performance of this Agreement without the express permission of TAMC. Consultant shall promptly transmit to TAMC all requests for disclosure of any such confidential information. Consultant shall not use any confidential information gained through the performance of this Agreement except for the purpose of carrying out Consultant's obligations hereunder. When this Agreement expires or terminates, Consultant shall return to TAMC all records, which Consultant utilized or received from TAMC to perform services under this Agreement.

14. Termination.

- (a) TAMC may terminate this Agreement by giving written notice of termination to Consultant at least thirty (30) days prior to the effective date of termination, which date shall be specified in any such notice. In the event of such termination, the amount payable hereunder shall be reduced in proportion of the services provided prior to the effective date of termination.
- (b) TAMC may also terminate this Agreement at any time for good cause effective immediately upon written notice to Consultant. "Good cause" includes, without limitation, the failure of Consultant to perform the required services at the time and in the manner provided herein, as well as failure to comply with the provisions of Section 12 [Audits], subsection (b), above. If TAMC terminates this Agreement for good cause, TAMC may be relieved of the payment of any consideration to Consultant, and TAMC may proceed with the work in any manner, which it deems proper. Costs incurred by TAMC thereby shall be deducted from any sum otherwise due Consultant.
- (c) It is also mutually understood between TAMC and Consultant that this Agreement may have been written before ascertaining the availability of funds, or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. This Agreement is valid and enforceable only if sufficient funds are made available to TAMC for the purpose of this Agreement. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be amended to reflect any reduction in funds. TAMC retains the right to direct Consultant immediately to stop work and to terminate this Agreement for convenience, pursuant to Section 14(a) above, in order to address any reduction of funds.
- (d) Termination of this Agreement shall not terminate Consultant's duty to defend, indemnify and hold harmless TAMC, as provided in Section 6.

15. Amendments and Modifications. No modification or amendment of this Agreement shall be valid unless it is set forth in writing and executed by the parties hereto.

16. Non-discrimination. Throughout the performance of this Agreement, Consultant will not unlawfully discriminate, harass or allow harassment, against any person because of sex, race, color, religious creed, sex, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), denial of family

and medical care leave, denial of pregnancy disability leave, or sexual orientation, either in Consultant's employment practices or in the furnishing of services to recipients. Consultant shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. Consultant shall comply fully with all federal, State and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to any target population designated herein shall not be deemed prohibited discrimination.

17. Harassment. TAMC maintains a strict policy prohibiting unlawful harassment, including sexual harassment, in any form, including verbal, physical and visual harassment by any employee, supervisor, manager, officer or Board member, or agent of the employer. Vendors, contractors, and consultants shall not engage in conduct that has an effect of unreasonably interfering with a TAMC employee's work performance or creates an intimidating, hostile or offensive work environment.
18. Disadvantaged Business Enterprises (DBE) Participation. *This Paragraph Intentionally Omitted.*
19. Independent Contractor. In its performance under this Agreement, Consultant is at all times acting and performing as an independent contractor and not as an employee of TAMC or any of its member jurisdictions. No offer or obligation of employment is intended in any manner, and Consultant shall not become entitled by virtue of this Agreement to receive any form of benefits accorded to employees including without limitation leave time, health insurance, workers' compensation coverage, disability benefits, and retirement contributions. Consultant shall be solely liable for and obligated to pay directly all applicable taxes, including without limitation federal and State income taxes and social security arising out of Consultant's performance of this Agreement. In connection therewith, Consultant shall defend, indemnify, and hold harmless TAMC from any and all liability, which TAMC may incur because of Consultant's failure to make such payments.
20. Delegation of Duties; Subcontracting. Consultant is engaged by TAMC for its unique qualifications and abilities. Consultant may not, therefore, delegate any of its basic duties under this Agreement, except to the extent that delegation to Consultant's employees is contemplated herein through the Scope of Work and Budget. No work shall be subcontracted without the written consent of TAMC, except as provided in this Agreement or its attachments. Any subcontract in excess of \$25,000 shall contain the same provisions as found in Sections 4 and 5(b)–(d), inclusive. Notwithstanding any subcontract, Consultant shall continue to be liable to TAMC for the performance of all work hereunder. Any work performed by a subcontractor shall be done in conformance with this Agreement, and TAMC shall pay Consultant for the work but not any markup, including subcontract management, supervision, administrative and other expenses, or reimbursable costs. Consultant shall not assign, sell, mortgage or otherwise transfer its interest or obligations in this Agreement without TAMC's prior written consent.
21. Agency's Rights to Work Product. All original materials prepared by Consultant in connection with its work hereunder – including but not limited to computer codes,

customized computer routines developed using proprietary or commercial software packages, reports, documents, maps, graphs, charts, photographs and photographic negatives shall be the property of TAMC and shall be delivered to TAMC prior to final payment. Consultant may utilize any existing materials developed by Consultant prior to commencement of work under this Agreement, which materials shall remain the property of Consultant.

22. Compliance with Terms of Federal or State Grant. If any part of this Agreement has been or will be funded pursuant to a grant from the federal or State government in which TAMC is the grantee, Consultant shall comply with all provisions of such grant applicable to Consultant's work hereunder, and said provisions shall be deemed a part of this Agreement as though fully set forth herein.
23. Prevailing Wages. Consultant shall comply with the all prevailing wage requirements, including California Labor Code section 1770, et seq., and any Federal or local laws or ordinances, that may be applicable to the work to be performed pursuant to this Agreement.
24. Equipment, Supplies or Consultant Services Purchases.
 - (a) Prior authorization in writing by TAMC's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding Five Thousand Dollars (\$5,000) for supplies, equipment, or unbudgeted Consultant services. Consultant shall provide an evaluation of desirability of incurring such costs.
 - (b) For purchase of any items, service or consulting work not covered in Consultant's Cost Proposal and exceeding Five Thousand Dollars (\$5,000.), prior authorization is required by TAMC's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
 - (c) Any equipment purchased as a result of this Agreement is subject to the following:
 - i. Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of Five Thousand Dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, TAMC shall receive a proper refund or credit for such equipment at the conclusion of the Agreement, or if the Agreement is terminated, Consultant may either keep the equipment and credit TAMC in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established TAMC procedures for such sales and then credit TAMC in an amount equal to that sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from and appraiser mutually acceptable to TAMC and Consultant; if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by TAMC.
 - ii. Consultant acknowledges that, if federal funds are used in this Agreement, 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than Five Thousand Dollars (\$5,000) is credited to the project for which this Agreement was entered into.

- (d) Consultant shall include these provisions into any subcontract in excess of Twenty-Five Thousand Dollars (\$25,000.).
25. Conflict of Interest. Consultant warrants that it presently has no interest and shall not acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with its full and complete performance of all services under this Agreement.
26. Governing Laws. This Agreement shall be construed and enforced according to the laws of the State of California, and the parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.
27. Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.
28. Waiver. Any waiver of any term or condition hereof must be in writing. No such waiver shall be construed as a waiver of any other term or condition herein.
29. Successors and Assigns. This Agreement and all rights, privileges, duties and obligations hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and heirs.
30. Time is of the Essence. The parties mutually acknowledge and agree that time is of the essence with respect to every provision hereof in which time is an element. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act, nor shall any such extension create a precedent for any further or future extension.
31. Contract Administrators. Consultant's designated principal responsible for administering Consultant's work under this Agreement shall be Gus F. Khouri, Principal. TAMC's designated administrator of this Agreement shall be Debra L. Hale, Executive Director.

32. Notices. Notices required under this Agreement shall be delivered personally or by electronic facsimile, or by first class or certified mail with postage prepaid. Notice shall be deemed effective upon personal delivery or facsimile transmission, or on the third day after deposit with the U.S. Postal Service. Consultant shall give TAMC prompt notice of any change of address. Unless otherwise changed according to these notice provisions, notices shall be addressed as follows:

To TAMC:

Debra L. Hale

Executive Director

Transportation Agency for Monterey County

55B Plaza Circle

Salinas, CA 93901

Tel: 831-775-0903

Fax: 831-775-0897

E-mail: debbie@tamcmonterey.org

To Consultant:

Gus F. Khouri

Principal

Khoury Consulting

1215 K Street, Suite 1700

Sacramento, CA 95814

Tel: (916) 605-8975

Fax: (916) 503-2401

gus@khouriconsult.com

33. Non-exclusive Agreement. This Agreement is non-exclusive and both parties reserve the right to contract with other entities for the same or similar services.
34. Execution of Agreement. Any individual executing this Agreement on behalf of an entity represents and warrants that he or she has the requisite authority to enter into this Agreement on behalf of such entity and to bind the entity to the terms and conditions hereof. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.
35. Debarment and Suspension Certification. Consultant's signature affixed below shall constitute a certification under penalty of perjury under the laws of the State of California that the Consultant has complied with CFR Title 49, Part 29, Debarment and Suspension Certificate which certifies that Consultant or any person associated with Consultant in the capacity of owner, partner, director, officer, or manager is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by an federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the TAMC.
36. Rebates, Kickbacks or Other Unlawful Consideration Prohibited. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any TAMC employee. TAMC shall have the right, in its sole and absolute discretion to do any of the following for breach or violation of this warranty: terminate the Agreement without liability; pay for the value of the work actually performed; or to deduct from the compensation to be paid under this Agreement (or otherwise recover) the full amount of any such rebate, kickback or unlawful consideration.

37. Prohibition of Expending Local Agency, State or Federal Funds by Consultant for Lobbying.

- (a) Consultant certifies to the best of his, her or its knowledge and belief that:
 - i. No State or Federal appropriated funds have been paid, or will be paid, by or on behalf of Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a member of the State Legislature or United States Congress; an officer or employee of the State Legislature or United States Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any State or Federal contract; in connection with the making of any State or Federal grant; in connection with the making of any State or Federal loan; in connection with the entering into of any cooperative agreement, and in connection with the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan or cooperative agreement.
 - ii. If any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress; or an employee of a Member of Congress, in connection with this contract, grant, loan or cooperative agreement, then Consultant shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Consultant acknowledges that any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and not more than One Hundred Thousand Dollars (\$100,000) for such failure.
- (c) By signing this Agreement, Consultant also agrees that Consultant will require that the language of this certification will be included in all lower-tier subcontracts which exceed One Hundred Thousand Dollars (\$100,000), and that all recipients of such subcontracts shall certify and disclose accordingly.

38. Exhibits. The following Exhibits are attached hereto and incorporated by reference:

- Exhibit A – Scope of Work and Work Schedule
- Exhibit B – Budget

39. Entire Agreement. This document, including all exhibits hereto, constitutes the entire agreement between the parties, and supersedes any and all prior written or oral negotiations and representations between the parties concerning all matters relating to the subject of this Agreement.

IN WITNESS WHEREOF, TAMC and Consultant execute this agreement as follows:

TAMC

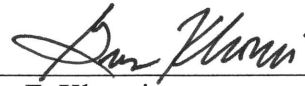
CONSULTANT

By



Debra L. Hale
Executive Director

By



Gus F. Khouri
Principal

Dated:


6/28/17

Dated:

7/10/17

INSTRUCTIONS: If Consultant is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If Consultant is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If Consultant is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

Approved as to form:



TAMC Counsel

Dated:

6/27/17

For TAMC internal use:

Work Element number to be used for the contract: _____

EXHIBIT A: SCOPE OF SERVICES

1. Consultant's services under this Agreement shall include but are not limited to the following:
 - a) Assist TAMC in determining positions on proposed legislation and recommend appropriate actions;
 - b) Advocate TAMC legislative positions based on strategy jointly developed and agreed upon by TAMC;
 - c) Advocate TAMC interests relating to legislative, regulatory or executive actions of the Legislature, the California Public Utilities Commission, the California Transportation Commission, the Office of the Governor, the California State Transportation Agency, and the Department of Transportation (Caltrans);
 - d) As appropriate, work with other agencies, interest groups and associations to develop a coalition of interests in support of TAMC positions;
 - e) Provide all technical, political and logistic support necessary for TAMC to appear or testify in legislative, regulatory or executive settings when desired by TAMC;
 - f) Assist with TAMC funding requests before the California Transportation Commission and Caltrans;
 - g) Assist TAMC in gathering information and analyzing political situations in connection with developing and implementing TAMC legislative goals; and
 - h) Provide periodic oral and written status reports on legislative, regulatory, executive and other political issues of interest to TAMC.
2. Issues on the 2017 legislative program that could require this assistance include:
 - 1S. Increase and preserve funding for transportation projects, support the constitutional protection of all transportation funding resources, and preserve regional discretion and priority-setting.
 - 2S. Encourage the state to increase investments in passenger rail and bus transit projects and seek funding for Monterey County projects.
 - 3S. Support legislation to transfer funding derived from the sale of excess rights-of-way purchased for the Prunedale Bypass project to priority projects in the region.
 - 4S. Support legislation to expand the Capitol Corridor Joint Powers Authority to Salinas, and to expand the Los Angeles-San Diego Rail Corridor Agency (LOSSAN) to San Francisco.

- 5S. Support legislation that promotes transit-oriented development, complete streets, alternative commutes, and active transportation projects.
 - 6S. Work with partner agencies to reach agreement on proposals for California Environmental Quality Act (CEQA) reform, while retaining environmental protections.
 - 7S. Support efforts to extend and expand Public Private Partnership authority, public tolling authority, and design-build authority, expand mode eligibility, and allow for regional control of such projects.
 - 8S. Support efforts to develop alternative funding sources to offset the reduction in gas tax revenues and ensure that any pay-by-the-mile funding is equitably assessed and distributed.
 - 9S. Support redefinition of “disadvantaged communities” in the Greenhouse Gas Reduction Fund (i.e., “cap and trade”) grant program guidelines to better reflect economic and rural area considerations, and seek funding from the program for regional priority projects.
 - 10S. Support measures to allow the California Department of Fish and Wildlife to allow Caltrans to adopt appropriate avoidance and mitigation measures to protect the Santa Cruz Long-Toed Salamander from potential impacts of the Highway 156 project.
 - 11S. Support funding proposals to enable cities and counties to implement storm water runoff requirements for transportation projects.
 - 12S. Support legislation that promotes transparency and access to information on rail transport of hazardous materials.
 - 13S. Support efforts to remove the Transportation Development Act’s Unmet Transit Needs hearing requirement if 100% of the TDA funds are already allocated to transit.
 - 14S. Support continued advance, lump-sum payments of state funds.
 - 15S. Support member agencies’ requests for state funding of regionally significant transportation projects and support partner agency legislative efforts as they interface with regional transportation priorities, when they are consistent with Transportation Agency for Monterey County priorities.
3. The Consultant Project Manager shall be: Gus F. Khouri

EXHIBIT B: BUDGET

Payment for monthly services.

TAMC shall pay Consultant Two Thousand Five Hundred Dollars (\$2,500) at the end of each month for the performance of all things necessary for, or incidental to, the performance of work as set forth in the Scope of Work, including any expenses or other costs, subject to receipt of a monthly invoice and progress report. Consultant's compensation under this paragraph is based on the performance of approximately ten (10) hours of work each month for TAMC.