

BRAWLEY

CALIPATRIA

HOLTVILLE

WESTMORLAND



CALEXICO

EL CENTRO

IMPERIAL

IMPERIAL COUNTY

AGENDA

WEDNESDAY, AUGUST 22, 2018
6:00 PM or immediately after the ICTC meeting

County Administration Building, 2nd Floor
Board of Supervisors Chambers
940 W. Main St.
El Centro, CA 92243

CHAIRPERSON: LUIS PLANCARTE

EXECUTIVE DIRECTOR: MARK BAZA

Individuals wishing accessibility accommodations at this meeting, under the Americans with Disabilities Act (ADA), may request such accommodations to aid hearing, visual, or mobility impairment by contacting ICTC offices at (760) 592-4494. Please note that 48 hours advance notice will be necessary to honor your request.

I. CALL TO ORDER AND ROLL CALL

II. EMERGENCY ITEMS

A. Discussion/Action of emergency items, if necessary.

III. PUBLIC COMMENTS

Any member of the public may address the Authority for a period not to exceed three minutes on any item of interest not on the agenda within the jurisdiction of the Authority. The Authority will listen to all communication, but in compliance with the Brown Act, will not take any action on items that are not on the agenda.

IV. CONSENT CALENDAR

A. Approval of LTA Board Draft Minutes: July 25, 2018 Page 3

V. REPORTS

A. LTA Executive Director Report Page 5

VI. ACTION CALENDAR

A. LTA Audit and Accountancy Agreement for the Local Transportation Authority (LTA): FY 2017-18, FY 2018-19 and FY 2019-20 Page 6

With ICTC Management Committee concurrence from August 8th, the Executive Director forwards this item to the LTA Board for review and approval after public comment, if any.

1. Authorize the Chairman to sign the agreement and engagement letter for financial audit services effective August 1, 2018, for the audit period FY 2017-18, FY 2018-19 and FY 2019-20 with the firm of The Pun Group for the not to exceed annual fees per the following schedule:

1503 N. Imperial Ave., Suite 104, El Centro, CA 92243
Phone: (760) 592-4494 Fax: (760) 592-4410

- a. For the audit period July 1, 2017 through June 30, 2018, the annual not to exceed fee set at \$75,000
- b. For the audit period July 1, 2018 through June 30, 2019, the annual not to exceed fee set at \$76,500
- c. For the audit period July 1, 2019 through June 30, 2020, the annual not to exceed fee set at \$78,030

VII. ADJOURNMENT

- A. Motion to Adjourn



MINUTES FOR JULY 25, 2018

VOTING MEMBERS PRESENT:

City of Calipatria	Maria Nava-Froelich
City of Calexico	Bill Hodge
City of El Centro	Cheryl Viegas-Walker
City of Imperial	Robert Amparano
City of Westmorland	Lawrence Ritchie
County of Imperial	Ryan Kelley
Executive Director	Mark Baza (non-voting)

STAFF PRESENT: Kathi Williams, Virginia Mendoza, David Aguirre, Michelle Bastidas, Cristi Lerma

OTHERS PRESENT: David Salgado: SCAG; Eric Havens: Counsel; Marcelo Peinado, Ann Fox: Caltrans; Phil White: VTD

I. CALL TO ORDER AND ROLL CALL

Meeting was called to order by Chair Plancarte at 6:27 p.m. and roll call was taken.

II. EMERGENCY ITEMS

There were none.

III. PUBLIC COMMENTS

There was no public comment.

IV. CONSENT CALENDAR

- A. A motion was made by [Hodge](#) and seconded by [Nava-Froelich](#) to approve the Consent Calendar, **Motion Carried unanimously.**

V. REPORTS

- A. Executive Director Report
 - A complete report was on page 8 of the agenda.

VI. ACTION CALENDAR

- A. Public Hearing: the Adoption of the Resolution Amending the Measure D Expenditure Plan and adoption of the FY 2018-19 LTA 1% Administrative Budget

The ICTC Management Committee met on July 11, 2018 and forwarded this item to the LTA Board for review and approval after public comment, if any.

1. Conducted the public hearing on July 25, 2018 at 6:00PM for the purpose of attaining public comment on the LTA 1% Administrative Budget Resolution Amending the Measure D Expenditure Plan.

2. Authorized the chairman to sign the resolution of the LTA amending the 1% administrative services by amending the Ordinance's Section 8 Expenditure Plan.
3. Approved the 1% administrative services budget for the LTA for FY 2018-19.

No comments from the public were received.

A motion was made by [Kelly](#) and seconded by [Nava-Froelich](#)

Roll Call Vote:

Brawley (Nava): Absent

Calexico (Hodge): Yes

Calipatria (Nava-Froelich): Yes

El Centro (Viegas-Walker): Yes

Holtville (Predmore): Absent

Imperial (Amparano): Yes

Westmorland (Ritchie): Yes

County of Imperial (Kelley): Yes

County of Imperial (Plancarte): Absent

Motion Carried with a 2/3rds vote.

- B. Adoption of the Imperial County Local Transportation Authority Annual Financial Audit – Westmorland, Fiscal Year Ended June 30, 2017

With Concurrence of the ICTC Management Committee on July 11, 2018, the Executive Director forwarded the following recommendations to the LTA Board for review and approval, after receipt of public comment, if any:

1. Received, Approved and Filed the FY 2016-17 Imperial County Local Transportation Authority Annual Financial Audit for the City of Westmorland.
2. Requested that the City of Westmorland provide a timeline for the completion of the further audit findings.
3. Directed staff to allocate LTA funds for the City of Westmorland through a claim/reimbursement process only until completion of an audit, effective July 1, 2018.

A motion was made by [Walker](#) and seconded by [Hodge](#), **Motion Carried** with one abstention from Westmorland

VII. ADJOURNMENT

- A. Meeting Adjourned at 7:11 p.m..

BRAWLEY

CALEXICO

CALIPATRIA



EL CENTRO

HOLTVILLE

IMPERIAL

WESTMORLAND

IMPERIAL COUNTY

Memorandum

Date: August 17, 2018
To: Local Transportation Authority
From: Mark Baza, Executive Director
Re: Executive Director's Report

The following is a summary of the Executive Director's Report for the LTA meeting of August 22, 2018:

1. 2012 LTA Bond Projects:

The following lists the remaining funds for the LTA 2012 Bond as of June 30, 2018.

- a. The City of Calexico has turned in a requisition in the amount of \$537,694.82 and is being reviewed currently by ICLTA staff. The City of Calexico is also working on a 2018 Street Improvement Project. Construction began May 2018 and is expected to be completed late October 2018. The remaining bond proceeds will be used for this project.
- b. The City of Brawley has stated that they are working on a Phase XI project that will conclude in September 2018. The remaining bond proceeds will be used for this project.

Original Bond Funds	
Brawley	\$8,155,000
Calexico	\$15,410,000
Calipatria	\$2,305,000
Imperial	\$6,170,000
County	\$21,935,000

Remaining Bond Funds*		% Spent
Brawley	\$2,010,827.99	75%
Calexico	\$3,219,547.65	79%
Calipatria	\$0	100%
Imperial	\$0	100%
County	\$0	100%

*Remaining Project Bond funds according to bank statements dated 6/30/2018

2. 2018 LTA Bond Approval:

At the June 27, 2018 board meeting, the LTA Board approved and adopted the 2018 Local Transportation Authority Bond Financing resolution.

- a. The resolution authorizes the issuance and sale of not to exceed \$17,400,000 aggregate principal amount of Imperial County Local Transportation Authority Sales Tax Revenue Bonds.
- b. Participating agencies are the Cities of Calexico, Calipatria and Holtville.
- c. Closing of the Bond is scheduled for late August. See attachment for full schedule.

3. City of Westmorland - Member Agency Coordination and Documentation:

At the July 25, 2018 board meeting with the acceptance of the City of Westmorland FY 2016-17 LTA audit, it was requested that LTA staff assist the City in addressing the FY 2016-17 audit findings.

- a. LTA staff met with City of Westmorland staff on August 3, 2018 to discuss and review documentation in preparation for the upcoming LTA audit FY 2017-18.
- b. The next meeting will take place on September 6, 2018.

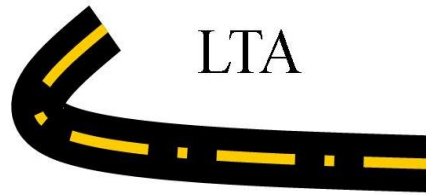
1503 N. Imperial Ave., Suite 104, El Centro, CA 92243
Phone: (760) 592-4494, Fax: (760) 592-4410

Brawley

Calipatria

Holtville

Westmorland



Local Transportation Authority

Calexico

El Centro

Imperial

County of Imperial

August 17, 2018

Luis Plancarte, Chairperson
Local Transportation Authority
1503 N. Imperial Ave., Suite 104
El Centro, CA 92243

SUBJECT: Audit and Accountancy Agreement for the Local Transportation Authority (LTA)
for FY 2017-18, FY 2018-19 and FY 2019-20

Dear Members of the Authority:

The competitive bid process for professional audit services has recently concluded. The audit agreement is for work associated with fiscal years FY 2017-18, FY 2018-19 and FY 2019-20.

A proposal review team consisting of LTA, ICTC staff and Mr. Josue Mercado, a CPA from JM Consulting Resources, scored and ranked the three proposals.

The scoring process utilized standard categories including but not limited to: relevant staff experience, audit schedule attainment, methodology, references, and costs. The following summarizes the total hours, average cost per hour, and the three-year total costs.

Name	Total Hours (Three-Year)	Average Cost/Hour	Total Cost (Three-Year)
Moss, Levy & Hartzheim, LLP	2,070	\$102.92	\$213,044
Sotomayor & Associates, LLP	2,250	\$288.93	\$650,084
The Pun Group Accountants and Advisors	2,250	\$102.01	\$229,522

All of the firms were capable of completing the project. However, the evaluation committee ranked the proposals and recommends the firm of The Pun Group as the most responsive for the audit project. The Pun Group presented a more comprehensive schedule and audit plan; an in depth familiarity with the local agencies and conditions; and more experience with similar audit projects.

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Phone: (760) 592-4494, Fax: (760) 592-4410

The original procurement documents; request for proposal and proposals; and contract exhibits referenced in the contract document are available for review at the LTA administrative offices by request.

The cost for this project was identified and approved in the ICTC FY 2018-19 OWP and Budget (7418001-525090).

With ICTC Management Committee concurrence from August 8th, the Executive Director forwards this item to the LTA Board for review and approval after public comment, if any.

1. Authorize the Chairman to sign the agreement and engagement letter for financial audit services effective August 1, 2018, for the audit period FY 2017-18, FY 2018-19 and FY 2019-20 with the firm of The Pun Group for the not to exceed annual fees per the following schedule:
 - a. For the audit period July 1, 2017 through June 30, 2018, the annual not to exceed fee set at \$75,000
 - b. For the audit period July 1, 2018 through June 30, 2019, the annual not to exceed fee set at \$76,500
 - c. For the audit period July 1, 2019 through June 30, 2020, the annual not to exceed fee set at \$78,030

Sincerely,



MARK BAZA
Executive Director

Attachment

MB//ksw/cl

1 **ACCOUNTANCY AGREEMENT**

2 THIS AGREEMENT is made and entered into this _____, 2018 by and
3 between the IMPERIAL COUNTY LOCAL TRANSPORTATION AUTHORITY, a local
4 transportation authority pursuant to Public Utilities Code sections 180000 *et seq.* (“LTA”) and THE
5 PUN GROUP, LLP a limited liability partnership (“AUDITOR”).

6 **RECITALS**

7 A. AUDITOR is a limited liability partnership and a duly licensed certified public
8 accounting firm in good standing under the laws of the State of California and is in the
9 business of supplying independent accounting services and assistance to clients.

10 B. LTA wishes to employ AUDITOR to perform:

- 11 i. Independent auditing services for the fiscal years ending June 30, 2018,
- 12 2019, and 2020
- 13 ii. Transportation Planning Agencies Financial Transactions and
- 14 Compensation Report for FY 2018, 2019, and 2020
- 15 iii. Government Compensation Report for FY 2018, 2019, and 2020

16 C. AUDITOR is willing to accept such engagement.

17 NOW THEREFORE, LTA hereby engages and AUDITOR hereby accepts such engagement
18 upon the terms and conditions set forth herein.

19 **1. TERM.**

20 This Agreement shall become effective on the date first written above and shall continue in
21 effect until the services provided for herein have been performed, but no later than December 31,
22 2020, unless sooner terminated as provided herein.

23 **2. SERVICES TO BE PERFORMED BY AUDITOR.**

24 **2.1.** AUDITOR will conduct the Audits, for the fiscal years ending June 30, 2018,
25 2019, and 2020, as detailed in the “June 2018 Imperial County Local
26 Transportation Authority (ICLTA) Request for Proposals for Annual Financial
27 Audits” attached as Exhibit “A” and “Proposal to Perform Financial Auditing
28 Services For Fiscal Years June 30, 2018 through June 30, 2020” submitted by

AUDITOR attached as **Exhibit "B"**, both of which are incorporated by this reference.

2.2 The audits will be conducted in accordance with auditing standards generally accepted in the United States of America, the standards for financial audits contained in *Government Auditing Standards*, issued by the Controller General of the United States for applicable audits, and will include tests of the accounting records and other procedures considered necessary to express an opinion.

2.3 If requested by the LTA, or CalTrans, or the Federal Transit Administration, AUDITOR will appear before the requesting body and explain any audit report or opinion.

3. RETENTION AND AVAILABILITY OF WORK PAPERS.

All supporting papers and work papers prepared by AUDITOR in connection with the Audit shall be retained for a minimum of four (4) fiscal years following the close of the Audit for the fiscal year and shall be available for inspection and examination during AUDITOR'S normal business hours upon request from LTA or representatives of LTA, the State Controller and/or ICTC.

4. TIME FOR COMPLETION.

Audits shall be completed per the schedule listed. Upon completion of the Audit, AUDITOR will furnish ten (10) copies of the audit report to LTA and an electronic version in PDF format.

LTA Audit	Start Date	Completion Date
Fiscal Year 2017-2018	August 01, 2018	December 31, 2018
Fiscal Year 2018-2019	August 01, 2019	December 31, 2019
Fiscal Year 2019-2020	August 01, 2020	December 31, 2020

RTPA/GCR	Start Date	Completion Date
Fiscal Year 2017-2018	August 01, 2018	December 31, 2018
Fiscal Year 2018-2019	August 01, 2019	December 31, 2019
Fiscal Year 2019-2020	August 01, 2020	December 31, 2020

1 **5. COMPENSATION OF AUDITOR.**

2 **5.1** In consideration for the services to be performed by AUDITOR, LTA agrees to pay
3 AUDITOR at the hourly rates indicated on the Fee Schedule as described in **Exhibit**
4 **“C”**, attached and incorporated by this reference as though fully set forth herein.

5 **5.2** LTA agrees to compensate AUDITOR for all services provided under this contract, for
6 both audits and reports, including all out-of-pocket expenses, in amounts not to exceed
7 the following:

Fiscal Year	Not to Exceed Amount
Fiscal Year 2017-2018	\$75,000.00
Fiscal Year 2018-2019	\$76,500.00
Fiscal Year 2019-2020	\$78,030.00

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13 **5.3** Except as provided under Paragraphs 5.1 and 5.2, LTA shall not be responsible to pay
14 AUDITOR any other compensation, out-of-pocket expenses, fees or other
15 remuneration.

16 **5.4** Said payment shall not be due and payable until such time as AUDITOR has provided
17 LTA with a monthly service statement which shall itemize all out-of-pocket expenses
18 and work performed for each said period. Said statements must meet with the
19 approval of LTA and be received by LTA no later than the 10th day of every month
20 following that for which the subject work was performed.

21 **5.5** Invoices, clearly indicating the period for which the bill is made, shall be submitted to:

22 Imperial County Local Transportation Authority
23 ATTN: Executive Director
24 1503 N. Imperial Ave., Suite 104
El Centro, CA 92243

25 **5.6** AUDITOR acknowledges LTA is under no obligation to compensate AUDITOR for
26 services rendered or expenses accrued under this Agreement not authorized by LTA.

27 **5.7** If LTA requires work in addition to that defined in the “Services to be Performed By
28 Auditor,” Paragraph 2, AUDITOR shall provide a cost estimate and written

1 description of the additional work needed to perform such services. Compensation
2 and the time for completing such additional services must be negotiated and approved
3 in writing by LTA prior to the commencement of any such services.

4 **6. INDEMNIFICATION.**

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

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

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

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

2 7. INSURANCE.

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

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

16 \$2,000,000 per occurrence for bodily injury and property damage

17 \$1,000,000 per occurrence for personal and advertising injury

18 \$4,000,000 aggregate for products and completed operations

19 \$4,000,000 general aggregate

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

25 (iii) WORKERS' COMPENSATION insurance as required under the California
26 Labor Code.

1 (iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than
2 \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each
3 employee.

4 (v) PROFESSIONAL LIABILITY (Errors and Omissions) insurance appropriate
5 to AUDITOR's profession, with limits of liability of \$2,000,000 per claim/occurrence and
6 \$2,000,000 policy aggregate.

7 In the event AUDITOR purchases an Umbrella or Excess insurance policy(ies) to meet the
8 minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford
9 no less coverage than the primary insurance policy(ies).

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

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

1 The General Liability and Automobile Liability insurance policies shall be written on an
2 occurrence form. The General Liability (including ongoing operations and completed operations)
3 and Automobile Liability insurance policies shall name LTA, its members, board members, officers,
4 officials, employees and agents as an additional insured. All such policies of insurance shall be
5 endorsed so AUDITOR's insurance shall be primary and no contribution shall be required of LTA, its
6 members, board members, officers, officials, employees, agents or volunteers. The coverage(s) shall
7 contain no special limitations on the scope of protection afforded to LTA, its members, board
8 members, officers, officials, employees and agents. Should AUDITOR maintain insurance with
9 broader coverage and/or limits of liability greater than those shown above, LTA requires and shall be
10 entitled to the broader coverage and/or the higher limits of liability maintained by AUDITOR. Any
11 available insurance proceeds in excess of the specified minimum limits of insurance and coverage
12 shall be available to LTA.

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

15 (i) The retroactive date must be shown, and must be before the effective date of
16 this Agreement or the commencement of work by AUDITOR.

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

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

25 (iv) A copy of the claims reporting requirements must be submitted to LTA for
26 review.

27 (v) These requirements shall survive expiration or termination of the Agreement.
28

1 AUDITOR shall furnish LTA with all certificate(s) and applicable endorsements effecting
2 coverage required hereunder. **All certificates and applicable endorsements are to be received and**
3 **approved by LTA's Executive Director or his/her designee in his/her sole discretion prior to**
4 **LTA's execution of the Agreement and before work commences.** Upon request of LTA,
5 AUDITOR shall immediately furnish LTA with a complete copy of any insurance policy required
6 under this Agreement, including all endorsements, with said copy certified by the underwriter to be a
7 true and correct copy of the original policy. This requirement shall survive expiration or termination
8 of this Agreement.

9 If at any time during the life of the Agreement or any extension, AUDITOR or any of its
10 subcontractors fail to maintain any required insurance in full force and effect, all work under this
11 Agreement shall be discontinued immediately, until notice is received by LTA that the required
12 insurance has been restored to full force and effect and that the premiums therefore have been paid
13 for a period satisfactory to LTA. Any failure to maintain the required insurance shall be sufficient
14 cause for LTA to terminate this Agreement. No action taken by LTA hereunder shall in any way
15 relieve AUDITOR of its responsibilities under this Agreement.

16 The fact that insurance is obtained by AUDITOR shall not be deemed to release or diminish
17 the liability of AUDITOR, including, without limitation, liability under the indemnity provisions of
18 this Agreement. The duty to indemnify LTA shall apply to all claims and liability regardless of
19 whether any insurance policies are applicable. The policy limits do not act as a limitation upon the
20 policy limits do not act as a limitation upon the amount of indemnification to be provided by
21 AUDITOR. Approval or purchase of any insurance contracts or policies shall in no way relieve from
22 liability nor limit the liability of AUDITOR, its principals, officers, agents, employees, persons under
23 the supervision of AUDITOR, vendors, suppliers, invitees, subcontractors, or anyone employed
24 directly or indirectly by any of them.

25 If AUDITOR should subcontract all or any portion of the services to be performed under this
26 Agreement, AUDITOR shall require each subcontractor to provide insurance protection in favor of
27 LTA, its members, board members, officers, officials, employees, agents and volunteers in
28 accordance with the terms of each of the preceding paragraphs, except that the subcontractor's

1 certificates and endorsements shall be on file with AUDITOR and LTA prior to the commencement
2 of any work by the subcontractor.

3 **8. TERMINATION.**

4 **8.1. Termination by Either Party.** This Agreement may be terminated, without cause, by
5 either party upon thirty (30) days prior written notice to the other party.

6 **8.2. Compensation in Early Termination.** In the event that this Agreement is terminated
7 prior to the completion of the term of contract as specified herein, AUDITOR shall be
8 entitled to the compensation earned prior to the date of termination as provided for in
9 this Agreement, computed pro rata up to and including that date. The compensation
10 earned and unpaid at the time of termination shall be paid without abatement or
11 reduction immediately upon termination of this Agreement. AUDITOR shall be
12 entitled to no further compensation as of the date of termination.

13 **9. INDEPENDENT CONTRACTOR.**

14 **9.1.** AUDITOR shall be responsible to LTA only for the requirements and results specified
15 by this Agreement. AUDITOR shall not be subject to LTA'S control with respect to
16 the physical actions or activities of AUDITOR or of AUDITOR'S employees or
17 agents in connection with the operation of the business or AUDITOR'S fulfillment of
18 the requirements of the Agreement, except as specifically provided in this Agreement.

19 **9.2.** AUDITOR is, and at all times during the term of this Agreement shall represent and
20 conduct itself as, an independent contractor and not as an agent or employee of LTA.
21 AUDITOR shall not have the authority, express or implied, to bind or obligate LTA in
22 any way.

23 **10. ASSIGNMENT.**

24 Neither this Agreement nor any duties or obligations hereunder shall be assignable by
25 AUDITOR without the prior, written, consent of LTA.

26 **11. NON-DISCRIMINATION.**

27 **11.1.** During the performance of this Agreement, AUDITOR and its subcontractors shall not
28 unlawfully discriminate against any employee or applicant for employment or member

1 of the public because of race, religion, color, national origin, ancestry, physical or
2 mental disability, medical condition, marital status, age or gender. AUDITOR shall
3 insure that the evaluation and treatment of their employees and applicants for
4 employment and members of the public are free of such discrimination. AUDITOR
5 shall comply with the provisions of the Fair Employment and Housing Act (California
6 Government Code §12900 *et seq.*). The applicable regulations of the Fair
7 Employment and Housing Commission implementing Government Code §12900, set
8 forth in Chapter 5 of Division 4 of Title 1 of the California Administrative Code, are
9 incorporated into this Agreement by reference and made a part thereof as if set forth in
10 full. AUDITOR shall also abide by the Federal Civil Rights Act of 1964 and all
11 amendments thereto, and all administrative rules and regulations issued pursuant to
12 said Act. AUDITOR shall give written notice of its obligations under this clause to
13 labor organizations with which it has a collective bargain or other agreement.

14 **11.2.** AUDITOR shall include the non-discrimination and compliance provision of this
15 paragraph in all subcontracts to perform work under this Agreement.

16 **12. NOTICES.**

17 All notices under this Agreement shall be in writing and may be given by personal delivery or
18 by sending through the U.S. Post Office, certified mail, return receipt requested, addressed to LTA,
19 ATTN: Executive Director, 1503 N. Imperial Ave., Suite 104, El Centro, CA 92243 and to
20 AUDITOR at 4365 Executive Drive, Suite 710, San Diego, CA 92121 or at such other address as
21 either party may designate in a notice to the other party given in such manner. Any notice sent by
22 mail shall be considered given when received.

23 **13. ENTIRE AGREEMENT.**

24 This Agreement contains the entire agreement between LTA and AUDITOR relating to the
25 transactions contemplated hereby and supersedes all prior or contemporaneous agreements,
26 understanding, provisions, negotiations, representations or statements, either written or verbal.

27 **14. MODIFICATION.**

28 No modification, waiver, amendment, discharge or change of this Agreement shall be valid

1 unless the same is in writing and signed by both parties.

2 **15. PARTIAL INVALIDITY.**

3 If any of the provisions in this Agreement is held by a court of competent jurisdiction to be
4 invalid, void or unenforceable, the remaining provisions will continue to be in full force and effect.

5 **16. GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.**

6 As used in this Agreement and whenever required by the context thereof, each number, both
7 singular and plural, shall include all numbers, and each gender shall include both genders.
8 AUDITOR as used in this Agreement or in any other document referred to in or made a part of this
9 Agreement shall likewise include both singular and plural, a corporation, a partnership, individual,
10 firm or person acting in any fiduciary capacity as executor, administrator, trustee or in any other
11 representative capacity or any other entity. All covenants herein contained on the part of AUDITOR
12 shall be joint and several if more than one person, firm or entity executes this Agreement.

13 **17. WAIVER.**

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

17 **18. CHOICE OF LAW.**

18 The laws of the State of California shall govern this Agreement. This Agreement is made and
19 entered into in Imperial County, California. To the extent permitted by law, any action brought by
20 either party with respect to this Agreement shall be brought in a court of competent jurisdiction
21 within said County.

22 **19. ATTORNEYS' FEES.**

23 If either party herein brings an action to enforce the terms thereof or declare rights hereunder,
24 the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys'
25 fees to be paid by the losing party as fixed by the court.

26 **20. AUTHORITY.**

27 Each of the individuals executing this Agreement on behalf of AUDITOR and LTA represent
28 and warrant that:

1 **20.1** He or she is duly authorized to execute and deliver this Agreement on behalf of
2 AUDITOR or LTA as applicable;

3 **20.2** Such execution and delivery on behalf of AUDITOR is in accordance with the terms
4 of the Articles of Incorporation or Partnership, any By-Laws or Resolutions of
5 AUDITOR; and

6 **20.3** Such execution and delivery on behalf of LTA is duly authorized by the Board of
7 Supervisors and within the authority of the signatory identified below.

8 **21. COUNTERPARTS.**

9 This Agreement may be executed in counterparts.

10 **22. REVIEW OF AGREEMENT TERMS.**

11 This Agreement has been reviewed and revised by legal counsel for both LTA and
12 AUDITOR, and no presumption or rule that ambiguities shall be construed against the drafting party
13 shall apply to the interpretation or enforcement of the same or any subsequent amendments thereto.

14 **IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed
15 the day and year first above written and shall be effective as of said date.

16 **IMPERIAL COUNTY LOCAL TRANSPORTATION AUTHORITY:**

17 By: _____

18 Chairman

19 **ATTEST:**

20 By: _____

21 CRISTI LERMA
22 Secretary to the Authority

23 AUDITOR:

24 By: _____ 

25 Kenneth H. Pun, CPA, CGMA
26 Managing Partner

26 **APPROVED AS TO FORM:**

27 KATHERINE TURNER
28 COUNTY COUNSEL

By: _____
Eric Havens, Deputy County Counsel