

**TRANSFORMATIVE CLIMATE COMMUNITIES SUB-RECIPIENT AGREEMENT
BETWEEN THE CITY OF COACHELLA AND BOUND CORPORATION.**

The City of Coachella, a California municipal corporation (“Grantee” or “City”) and **Bound Corporation**, (“Partner”) enter into this TRANSFORMATIVE CLIMATE COMMUNITIES (TCC) SUBRECIPIENT AGREEMENT (“Agreement”) effective the **4th day of March, 2025** (“Effective Date”), regarding the **Shared Mobility** project.

RECITALS

WHEREAS, the Strategic Growth Council (“SGC” or “State”) awarded grant funds to the City through an Implementation Grant Agreement (“Grant Agreement”) for the Coachella Prospera Project, which was approved on December 15, 2023 and entered into on February 1, 2025. The Grant Agreement is attached hereto and incorporated herewith as **Exhibit A1**;

WHEREAS, pursuant to the terms of the Grant Agreement and TCC Guidelines, the SGC will grant to City, a sum not to exceed Twenty Two Million, One Hundred Twenty Five Thousand Dollars and Zero Cents (**\$22,125,000.00**) for the Coachella Prospera Project;

WHEREAS, the Budget and Schedule of Deliverables attached as Exhibit “B” to the Grant Agreement identifies **Shared Mobility** (“Project”) as part of the Coachella Prospera Project;

WHEREAS, pursuant to the terms of the Grant Agreement, TCC Guidelines, and this Agreement, the City will reimburse Partner, a sum not to exceed **FIVE HUNDRED TWENTY ONE THOUSAND, FOUR HUNDRED DOLLARS (\$521,400)** (“Grant”) for the purposes of completing the Project;

WHEREAS, this Agreement shall memorialize Partner’s terms, conditions, and obligations regarding the Project.

Now therefore, in consideration of the mutual covenants, terms and conditions set forth herein, the Parties agree that all funds awarded pursuant to this Agreement are to be used as set forth below, and as may be set forth in the exhibits incorporated into this Agreement.

AGREEMENT

1. **DEFINITIONS.**

- A. “Agreement” – Refers to this Transformative Climate Communities (TCC) Subrecipient Agreement.
- B. “AHSC” – The Affordable Housing and Sustainable Communities Program of the California Strategic Growth Council, incorporated into the TCC Equitable Housing and Neighborhood Development Strategy
- C. “AHSC Guidelines” – The AHSC Round 7 Final Guidelines adopted December 15, 2022
- D. “Application or Proposal” – Submittal by Partner to City comprised of responses and supporting documents to apply for the Grant.

- E. “Grant” – The grant awarded by City to Partner as described in the Recitals and Section 4 of this Agreement.
- F. “Grant Agreement”– Refers to the Grant Agreement between SGC and the City of Coachella.
- G. “Project” – Project(s) that will be implemented through this Agreement as described in the Recitals and Section 4 of this Agreement.
- H. “Project Area” – Area boundary for the Project, as identified in **Exhibit A2**.
- I. “Subcontractors” – Third-parties that may be hired by Partner, with written consent of City, for work on the Project pursuant to this Agreement.
- J. “TCC Guidelines” – TCC Program Guidelines adopted on February 28, 2023.
- K. “TCC Partnership Agreement” - Agreement between City, Partner, and City’s other partners that outlines the responsibilities of each of the parties to the agreement.
- L. “TCC Program” – The Transformative Climate Communities Program.
- M. “TCC Project” – Coachella Prospera Project, comprised of the TCC Project Components defined below, that will be implemented through this Grant Agreement. The Project is a TCC Project Component.
- N. “TCC Project Components” – Components included in the TCC Project, as described in the Grant Agreement:
 - i. “TCC Projects” – Projects that will be implemented with TCC grant funds through the Grant Agreement, and that are compliant with the TCC Strategies and Fundable Elements listed in Appendix D of the TCC Guidelines.
 - a) Quantifiable Projects – Projects that have elements with approved GHG quantification methodologies. The TCC Project must implement at least one (1) Quantifiable Project.
 - b) Non-quantifiable Projects – Projects that do not have elements with approved GHG quantification methodologies, but are still eligible for grant funds.
 - ii. “Stand-alone Leverage Projects” – Projects that will be implemented with leverage funding that are integrated into the overall TCC Proposal, and were initiated in anticipation of applying for the TCC Program, or contingent upon the TCC award.
 - iii. “Transformative Plans” – The three (3) transformative plans include: Community Engagement, Displacement Avoidance, and Workforce Development and Economic Opportunities.

- O. “TCC Strategies” – Strategies that reduce GHG emissions and achieve additional public health, environmental and economic benefits, as described in Appendix B of the TCC Guidelines. The TCC Project and Stand-alone Leverage Projects must collectively implement Projects from at least three (3) TCC Strategies.
- P. Time Periods within the Grant Term. Grant terms include two components: a Project Completion Period that may last up to four (4) years, and a Performance Period that may last up to seven (7) months, during which project outcomes will be monitored.
 - i. “Project Completion Period”
 - a) Begins on the Effective Date set forth above and lasts up to four (4) years, unless otherwise amended.
 - b) The Project must be completed during the Project Completion Period.
 - ii. “Performance Period”
 - a) The intent of the Performance Period is to provide a buffer time for Projects that are completed prior to the end of the grant term to report on required indicators and request for reimbursement for the activities associated with Indicator Tracking. In some cases, the Performance Period and the Project Completion Period may overlap.
 - b) Applies to Quantifiable and Non-Quantifiable Projects and Transformative Plans
 - c) Begins immediately after each Quantifiable or Non-Quantifiable Project or Transformative Plan is completed or seven (7) months before the end of the grant term, whichever is sooner.
 - d) Will extend no longer than March 31st, 2029.
- Q. Entities involved in the Grant implementation process:
 - i. “Parties” – City and Partner, collectively
 - ii. “SGC” – The California Strategic Growth Council
 - iii. “State” – Any state agency with an oversight role over the funding or TCC Project
 - iv. “Subcontractors” – Third-parties hired by Partner

2. INCORPORATION. The Recitals, Grant Agreement (Exhibit A1), TCC Guidelines, and AHSC Guidelines and all the attachments thereto are incorporated by reference into this Agreement as though fully set forth herein. As described in the TCC Guidelines, the Project must conform to requirements of the AHSC Guidelines.

Partner understands this is a subrecipient agreement governed by the Grant Agreement, TCC Guidelines, and SGC. Partner agrees to hold the City harmless in action arising out of TCC Program administration.

3. GRANT TERM. The grant term will commence on the Effective Date set forth above. City will notify Partner when work on the Project may begin. The grant term ends March 31, 2029, unless otherwise terminated or amended.

Partner's obligations under this Agreement shall be deemed discharged only once all terms of this Agreement are fulfilled. Partner will be subject to the Project Completion and Project Performance Periods as defined under this Agreement.

4. SCOPE OF WORK. As a condition of receiving the Grant, Partner will be responsible for administering the Project in a manner satisfactory to City and consistent with any and all provisions, standards, and conditions required under this Agreement. Partner shall perform as set forth in the Scope of Work, attached hereto and incorporated herewith as **Exhibit A3** and any delineated Special Terms and Conditions in **Exhibit A4**.

Partner shall administer the Project for the grant term of this Agreement. When applicable and except as set forth in this Agreement, before Partner begins construction or undertakes any other work of improvements at the Project Site, Partner at its own cost and expense, will independently secure all land use and other entitlements, permits, and approvals that City or any other governmental agency with jurisdiction over the Project and required for construction of the Project.

Partner will diligently complete the Project according to Exhibit A3, or by any other date as the parties, and SGC, may agree. City will monitor the performance of Partner against goals and performance standards as stated above. Substandard performance, including Partner's inability or failure to perform or complete the Projects in accordance Exhibit A3, as determined by City or SGC will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Partner within a reasonable amount of time, as determined by City or SGC, after being notified by City, termination procedures may be initiated.

5. AUTHORIZED SIGNATORIES.

At the time of execution, Partner will submit the Authorized Signatory Form (attached hereto and incorporated herewith as **Exhibit A5**) that identifies the individual who is authorized to sign this Agreement and Project deliverables and related documents on behalf of Partner. Partner shall also provide verification of signature authority through a Board Resolution or other documentation acceptable to the City. Partner must also identify day-to-day contact by submitting the Designated Project Representative Form.

If the Authorized Signatory or Authorized Designee is unable to sign a deliverable or related document on behalf of Partner, Partner must submit an updated letter signed by the Authorized Signatory designating another individual to sign in their place.

Partner must keep Authorized Signatory letters up to date and submit changes through email to the City at the subsequent bimonthly reporting due date. Authorized Signatory letters will be kept on file with the City for up to four years after the Performance Period.

6. SUBCONTRACTORS. Partner shall obtain City's written consent to hire any Subcontractor(s) to perform any work on or related to the Project. City's contractual relationship is with Partner and not any of Partner's Subcontractors. City's obligation to pay Partner is an independent obligation from Partner's obligation to pay Subcontractors.
 - A. Partner must abide by the TCC Partnership Agreement. This includes abiding by the processes defined within the TCC Partnership Agreement, including, but not limited to the legal and financial considerations, transparent decision-making processes, meeting facilitation procedures, and processes for involving community representatives in decision-making.
 - B. Partner is entitled to make use of its own staff and Subcontractors, as identified in the TCC Partnership Agreement and Exhibit A3, and will comply with City's competitive bidding and sole sourcing requirements for subcontracts that arise out of or in connection with this Agreement.
 - C. Partner must manage, monitor, and accept responsibility for the performance of its own staff and Subcontractors, and conduct Project activities and services consistent with professional standards for the industry and type of work being performed under this Agreement.
 - D. Partner must notify City if Partner or Subcontractors are revoked, disbarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from the Projects.

Nothing contained in this Agreement will create any contractual relationship between City and Partner's Subcontractors, and no subcontract will relieve Partner of its responsibilities and obligations under the terms of this Agreement. Partner agrees to be fully responsible to City for the acts and omissions of Partner and Subcontractors, and of persons either directly or indirectly employed by them.

7. ASSIGNMENT. This Agreement is not assignable by Partner, either in whole or in part, without the consent of City in the form of a formal written amendment of this Agreement.
8. DOCUMENT SUBMISSION. Partner shall submit all documents required under this Agreement and related to the Project to City by email. The subject line of all emails shall contain the Project number and Partner's name.
9. TIMELINESS. Time is of the essence in this Agreement. City and Partner will work collaboratively to ensure that the Project is completed in accordance with the Project Completion Period and Performance Period.
10. AMENDMENTS AND MODIFICATIONS. City may, in its discretion, amend this Agreement to conform the Grant Agreement, or for other reasons. If such amendments result in the change in the funding, scope of services, or schedule of the activities to be undertaken as part of the

Agreement, such modifications will be incorporated only by written amendment signed by both City and Partner. No oral understanding or agreement not incorporated in the Agreement as a fully executed amendment is binding on any of the Parties.

- A. Modifications are minor changes to this Agreement. Modification requests must be submitted in writing to City at least forty five (45) calendar days prior to when the modification will take effect. Examples of actions that require a modification include but are not limited to changes in the: (a) Partner's Authorized Signatories and Subcontractors; (b) Budget and Schedule of Deliverables (i) Task descriptions (i.e. details regarding methods used to achieve deliverables), (ii) Reallocating up to 10 percent (10%) of a task's funds to another task within the same project or plan. Cumulative changes of up to 10% of a task budget are allowed before an amendment is required; (iii) Adjusting deliverable due dates within the grant term, except for readiness due dates

- B. Amendments are material changes to this Agreement. Amendment requests must be submitted in writing to SGC at least seventy five (75) calendar days prior to when the amendment will take effect. New amendment requests from Partner will not be considered less than four (4) months prior to the end of the Project Completion Period. Examples of actions that require an amendment include but are not limited to changes in the: (a) Partners or terms in the TCC Partnership Agreement; (b) Budget and Schedule of Deliverables (i) Elimination or alteration in deliverables, (ii) Reallocation of more than ten percent (10%) of a task budget to another task; (iii) Reallocation of funds to a different project or plan Changes to readiness due dates.

- C. Process for Modification and Amendment Requests:
 - i. Any request by Partner for a modification or amendment must explain the purpose of the request, how the request is consistent with the TCC Guidelines and intent of the TCC Program, and the effect of not approving the request. All requests must include supporting documentation to validate the request. Requests to increase the overall grant amount or to significantly alter the deliverables of the TCC program will not be approved because of the competitive nature of the process that resulted in the award of the grant to the City.

 - ii. City shall submit modification and amendment requests to SGC wherein SGC will make a determination (i.e. approval or denial) about the request based on a timeline set forth in the Grant Agreement. SGC's response may include additional questions or notify the parties that additional time is required.

 - iii. Effective Date of Modification or Amendment:
 - a) If SGC approves the modification request in writing, the modification may take effect immediately after City notifies Partner.

 - b) If SGC approves the amendment request, City will notify Partner and provide SGC's amendment to this Agreement. Amendment requests will take effect on the date the amendment is executed by all parties.

- c) If SGC rejects the request in writing, City will coordinate with Partner to file a Dispute as set forth herein.

11. CONDITIONS FOR BEGINNING WORK.

A. Readiness Requirements.

- i. If the Project includes a Transformative Plan (Community Engagement, Workforce Development, and Displacement Avoidance), Partner may begin work on all Transformative Plans upon execution of this Agreement. Partner Costs may also be spent upon Agreement execution.
- ii. Conditions for Beginning Work apply to all Quantifiable and Non-Quantifiable Projects. Partner must demonstrate readiness prior to expending any direct Project costs.
- iii. Pre-development, project management, and associated Indirect costs can be spent prior to achieving readiness.
- iv. Readiness requirements include CEQA documentation, site control, permits, project maps and designs, project schedules, operations and maintenance plans, and other Strategy-specific requirements (see Appendix B of the TCC Guidelines). Readiness requirements must be complete prior to beginning project implementation.
- v. Partner must demonstrate readiness within the first year of the grant term, in accordance with the requirements outlined for each Strategy in Appendix B of the TCC Guidelines. Readiness will be assessed and approved independently for each individual Project.
- vi. SGC has sole discretion to determine when the Lead Entity has demonstrated readiness for each Project. Partner may only expend direct project costs for each Project under this Agreement once City receives written notice from SGC.

B. Failure to meet Readiness Requirements

Projects that do not meet the readiness requirements within the first year of this Agreement will be deemed to be infeasible and ineligible for reimbursement, unless SGC gives written approval to City to extend the timeline to meet the readiness requirements.

C. Special Readiness Requirements

- i. If Project has multiple project sites that will be secured during the Project Completion Period, including residential participation such as tree planting or solar installations, the following readiness requirements will apply.
 - a) Partner does not need to demonstrate site control and compliance on the Project site prior to expending any direct project costs. Partner must still

achieve all other readiness requirements in accordance with Appendix B of the TCC Guidelines prior to expending any direct project costs.

- b) Partner must have site control and compliance on the Project site from the appropriate governing agency or private property owner prior to beginning work on a project site.
 - c) Partner must demonstrate site control and compliance with all applicable laws in order for City to reimburse Partner for the work on the Project site.
- D. For Car Sharing and Mobility Enhancement projects, Partner must identify the Project site(s) and develop a plan to establish site control and satisfy all readiness requirements. These projects are subject to the readiness and compliance requirements for ‘projects with multiple project sites’. Partner must submit a site plan that includes contingency plans for each site that has not yet obtained site control.

12. REPORTING REQUIREMENTS.

A. Partner’s General Reporting Requirements:

- i. All reports must be completed using templates attached to this Agreement or as otherwise provided by the City.
- ii. The first reporting period will begin on the Effective Date of this Agreement.
- iii. All reports must be submitted to the City on the due date specified in the Reporting Schedule (**Exhibit A6**). When the report submission due date falls on a weekend or state-recognized holiday, reports will be due on the first business day that follows.
- iv. All reports must be signed by the Authorized Signatory or Designee on file.
- v. City may request to verify reports through methods that include, but are not limited to: supporting documentation, site visits, conference calls or video conferencing.
- vi. Partner’s failure to timely meet the reporting requirements may result in a delay in reimbursement.

B. Bimonthly Progress Reports:

- i. Partner must complete Bimonthly Progress Reports (**Exhibit A7**) using the template attached to the Agreement.
- ii. Partner must complete Bimonthly Progress Reports for the duration of the Project Completion Period.
- iii. Bimonthly Progress Reports must correspond with Exhibit A3.

- iv. Partner must report on any deliverables submitted and submit evidence of work completed, as requested by City.

C. Annual Reports:

The following materials must be submitted on an annual basis for the duration of the Project Completion Period:

- i. Annual Progress Report: Partner must complete Annual Progress Reports using the template that will be provided by the City.
- ii. Leverage Funding Report: Partner must submit Detailed Leverage Reporting forms using the template attached to this Agreement as **Exhibit A8**.
- iii. Detailed Work Plan and Budget: Partner must provide an annual detailed work plan and budget showing alignment with Exhibit A3.
- iv. Equipment Inventory Record: Partner must maintain an inventory of all equipment acquired with funding provided under this Agreement.
- v. Indicator Tracking Report: Partner must report annually on the tracked indicators described in the Indicator Tracking Tables attached to this Agreement as **Exhibit A9**.

D. Project Completion Reports:

- i. Completion Report: Partner must submit a report at the completion of the Project using the template provided by the City.
- ii. Supporting Documentation: Partner must submit any supporting documentation required to demonstrate that the Project is fully completed.

E. Final Report:

- i. Final Report: Partner must submit a final report at the end of the Performance Period using the template provided by the City.
- ii. Leverage Funding Report: Partner must submit a detailed summary of the leverage funding spent using the template provided by the City.

F. Evaluation and Indicator Tracking Reporting. Partner must track and report on all indicators incorporated into the Indicator Tracking Plan (Exhibit A9) until the end of the Performance Period.

13. PAYMENT PROVISIONS.

- A. Partner shall be paid on a reimbursement basis.

- i. Partner must invoice City before City submits an invoice to SGC. TCC funds will be first issued to City; City will disperse payment to Partner. All invoices must be supported by adequate documentation evidencing the direct cost for which the Partner seeks reimbursement has been incurred.
- ii. City shall not pay Partner until invoices are approved by SGC and funding is received by City.
- iii. During the Project Completion Period, Partner may only request reimbursement for eligible costs incurred for implementing the Project. Any work performed prior to the start date or after the end of the Performance Period will not be reimbursed.
- iv. During the Project Completion Period, Partner may only request reimbursement for Indicator Tracking costs as well as Partner Direct and Indirect costs for completing the Final Report. If the Project Completion Period and the Performance Period overlap, Partner may continue requesting reimbursement for Project costs for the duration of the Project Completion Period.

B. Eligible costs

Partner should refer to the TCC Guidelines including Appendix B for eligible cost requirements. To the extent that the provisions of this Section may conflict with the TCC Guidelines, this Section takes precedence.

- i. Indirect costs are costs of doing business that are of a general nature and not directly tied to the Grant, but necessary for the general operation of the organization. These costs may account for no more than 12% of the awarded Grant funds minus any funds for equipment purchases with a per unit cost of \$5,000.00 or more. Reimbursement requests for indirect/overhead costs must be proportionate to the direct costs billed in an invoice.
- ii. Direct costs will be reimbursable. Direct costs are defined as costs directly tied to the implementation of the Grant Agreement. In addition, insurance premiums are only an eligible cost to the extent that the cost of coverage increased because of the award or Project requirements. Grantees must adhere to the following requirements:
 - a) Pre-development costs may account for up to ten percent (10%) of the individual Project budget submitted at the time of Application or of the individual Project budget included in in this Agreement, whichever is greater, of related capital improvement costs for the Project. This limit may be increased to 20% subject to TCC staff approval. Pre-development costs should not exceed ten percent (10%) of the Grant. These activities and costs should occur within the first year of the grant term to meet readiness requirements. Construction management tied to Project implementation is a direct project cost and will not be subject to the cap on “pre-development” costs.

- b) Basic Environmental Infrastructure costs (that support water and wastewater connections, waste disposal systems, and/or pollution control systems) may account for up to ten percent (10%) of the total Grant.
 - c) The eligible use of heavy-duty trucks and equipment shall be reimbursed at the then-current rate set by the California Department of Transportation “Labor Surcharge and Equipment Rental Rate” guide.
- iii. Travel costs directly related to the performance of this Agreement will be subject to the State of California travel reimbursement rates, in effect, during the term of this Agreement.
- a) City will reimburse for actual expenditures, based on equivalent civil service classifications, up to the maximum state allowable rates in effect at the time of travel. The state rates are available for review at: <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>.
 - b) Incidental costs and travel costs outside the State of California will not be reimbursed.
 - c) For staff working on the Project, Partner shall maintain and submit for reimbursement detailed travel records and supporting documents (e.g. travel request and approval forms, expense claims, invoices, receipts for lodging and transportation, etc.) showing the date and purpose of the grant-related travel, destination and, in the case of travel by automobile, the number of miles driven.
 - d) Partner shall ensure travel costs are outlined in the Budget and Schedule of Deliverables and tied to tasks and deliverables in the work plan.
 - e) Partner shall ensure that any person traveling pursuant to this Agreement shall indemnify and hold harmless City, SGC, and State of California for any liabilities resulting from such travel.
- iv. Project-specific allowable costs are costs that are only allowed under certain Strategies. These direct costs are allowed for Project implementation, and therefore may not be subject to the indirect cost restrictions. These costs may still be subject to additional restrictions per Appendix B of the TCC Guidelines and will not be reimbursed if incurred for other projects. See Exhibit A4 Project-Specific Terms and Conditions for project and strategy specific allowable costs.

C. Ineligible costs

- i. For ineligible direct implementation costs, refer to Appendix B and C of the TCC Guidelines, by project or plan strategy.
- ii. Indirect costs in excess of 12% of the awarded Grant.

- iii. Climate resilience and adaptation must be integrated into the Project, Transformative Elements, and Vision. Climate adaptation and resilience planning activities must be paid for with leverage funding only. Implementation measures and design features integrated into the Project are fundable as direct project costs.
- iv. Projects that fund additional parking infrastructure or other infrastructure projects that induce demand for additional parking
- v. Additional ineligible costs
 - a) Exceeding cost caps for pre-development, basic infrastructure, indirect costs, and the transformative plans
 - b) The following costs associated with community engagement and outreach: Direct cash benefits or subsidies to participants; Alcoholic refreshments; Participant incentives, such as door prizes, which are unrelated to specific community work products; General Meetings that do not specifically discuss or advance implementation of the TCC Project
- vi. Lobbying
- vii. Advocacy work, such as direct lobbying for the passage of bills or local propositions
- viii. Commission fees
- ix. Ongoing operational costs beyond the grant term
- x. Using funds for any cost that has been or will be paid through another funding source, or to finance any activities designed to supplant rather than supplement existing local agency activities or activities with pre-existing designated funding. This cost supplantation prohibition does not apply to interim financing for housing loans.
- xi. Using funds for mitigation activities that are already mandated by local, regional, state, or federal governing bodies or agencies
- xii. Ceremonial expenses (including food and beverages)
- xiii. Expenses for publicity not related to the Project implementation
- xiv. Bonus payments of any kind
- xv. Damage judgments arising from the acquisition, construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise
- xvi. Services, materials, or equipment obtained under any other State program

- xvii. Real estate brokerage fees and/or expenses
- xviii. Stewardship of legal defense funds
- xix. Costs associated with automobile or motorcycle parking (excluding electric vehicle charging infrastructure that may be located at a parking spot).
- xx. Reimbursement for any interest accumulated in order to finance the project

D. All costs must be reasonable, as defined below:

- i. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to:
 - a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the entity or the proper and efficient performance of this Agreement.
 - b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of this Agreement.
 - c) Market prices for comparable goods or services for the geographic area.
 - d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to its employees, the public at large, and the state.
 - e) Whether the cost significantly deviates from the acquiring entity's established practices and policies regarding the incurrence of costs.
- ii. SGC has the ultimate discretion to determine if a cost is reasonable. Any costs that do not meet the requirements above may not be reimbursed by the SGC. If necessary, City will coordinate with Partner to file a Dispute to contest SGC's determination.

E. Retention. City will withhold payment of the final five percent (5%) of the Project until City determines that all Project requirements have been fulfilled per this Agreement.

14. MONTHLY INVOICING. During the Project Completion Period, Partner will submit monthly invoices by the 5th of the month for the previous month, as directed by the City.

A. Invoice Package - An invoice, supporting documentation, and the appropriate reporting materials are collectively referred to as the "invoice package."

- i. Invoice – Partner must use the invoice templates provided in this Agreement (Exhibit A10)
 - a) Expenses should be broken out at the task level.
 - b) Expenses under each task should be broken out by cost type.
 - c) Indicator Tracking costs, travel, mileage, and equipment should be clearly identified.
 - ii. Supporting documentation – Partner must submit supporting documentation for all itemized costs. Documentation may include, but is not limited to: copies of purchase orders, receipts, subcontractor invoices, and timesheets. These items must contain sufficient information to establish that the specific service was rendered or purchase was made. Original supporting documentation is not required and should be retained by Partner.
 - a) Supporting documentation should be clearly labeled by task.
 - b) Supporting documentation does not need to be provided for administrative costs. However, Partner must maintain records of administrative costs to be made available upon request from the City or SGC.
 - c) Records documenting time spent performing the work must identify the individual, the date on which the work was performed, the specific grant-related activities or objectives to which the individual’s time was devoted, the hourly rate, and the amount of time spent.
 - iii. Evidence of deliverables completed – Partner must submit evidence of work completed to justify the reimbursement request in the invoice. Documentation may be the final deliverables as listed in Exhibit A3 or interim deliverables that demonstrate the work completed.
 - iv. Report(s) – Partner must submit the appropriate reporting materials described in Reporting Requirements, Section 12.
- B. Partner must submit the invoice package to the City by email. The invoice must be signed by the Authorized Signatory or Designee. By submitting the invoice package to the City, Partner certifies that all costs are eligible for reimbursement, that all work has been completed in accordance with the Grant requirements and that the invoice total reflects actual costs incurred.
- i. SGC has the discretion to determine the sufficiency of work completed and completeness of an invoice package.
 - ii. If SGC determines an invoice package is complete and sufficient, SGC will notify City and approve the invoice. City will issue one check to Partner after the invoice

is approved by SGC. Partner is responsible for dispersing payment to any Subcontractors.

- C. Invoice packages that do not meet the requirements or terms of this Agreement, are incomplete, or have inaccuracies, will be returned to Partner for resubmittal within fifteen (15) working days with an explanation of why it was not approved.
 - i. SGC may authorize partial payment of an invoice package and require Partner to resubmit the remaining portions in order to fix any inaccuracies or incomplete information.
 - ii. Partner must resubmit the amended invoice package (either partial or full) in the same manner as the original invoice within five (5) working days after receiving the notification while addressing the identified concerns.
- D. If it is determined that Partner submitted false or materially inaccurate invoices, supporting document or components of the Application, any and all available remedies, including requesting reimbursement of already disbursed payments or termination of the Agreement may be imposed.
- E. Partner's final invoice for the Project, when applicable, should include a request for reimbursement of the retention withheld throughout the Project Completion Period.

15. LEVERAGE FUNDING.

- A. Partner will report on the leverage funding expended in the Bimonthly Progress Report and Annual Leverage Funding Reporting form. Partner must retain supporting documentation of leverage funding that will be made available to the City or SGC upon request. Partner shall ensure adequate books and accounts are maintained documenting leverage funding in accordance with generally accepted accounting principles, consistently applied.
- B. Leverage funding must be spent within the Project Area and for the purposes of the Project.
- C. Partner must only report eligible leverage funding expenditures. Expenditure of leverage funding will only count if it meets the requirements in the TCC Guidelines. If leverage funding sources change during the grant term, Partner will notify the City at the subsequent bimonthly reporting due date.
 - i. Changes in leverage funding sources that impact the Budget and Schedule of Deliverables may require an amendment to the Agreement.
 - ii. Changes in leverage funding sources that impact the 50% eligibility requirement in the TCC Guidelines and Application may require a remedy to be determined between City, Partner, and SGC.

16. STAND-ALONE LEVERAGE PROJECTS

- A. Stand-alone projects must be completed by the end of the Performance Period and within the Project Area.
17. WORK OUTSIDE THE PROJECT AREA. No work outside the Project Area will be reimbursable through this Agreement except as allowed under this section. SGC and the City disclaim any representations, express or implied, that any work outside the Project Area that was not approved as part of the Application is or will be funded by the TCC Program. Partner waives any claims against the City or SGC related to such work. In the event that there is a reason that there is a need for work to occur outside the Project Area, Partner must submit a request which will be considered on a case-by-basis by City and may be approved or rejected. The request must be submitted in writing and must justify why work outside the Project Area is necessary and how it will result in direct benefit to residents of the Project Area.
18. REPAYMENT OF FUNDS. If Grant funds are not expended, or have not been expended in accordance with the Grant requirements or this Agreement; or if real or personal property acquired with grant funds is not being used, or has not been used for purposes in accordance with the Grant requirements or this Agreement; City has the authority to take appropriate action, at law or in equity, including but not limited to:
- A. Requiring Partner to forfeit any unexpended portion of the grant funds, including but not limited to any retention withheld from invoices;
- B. Requiring Partner to repay any funds improperly expended.
19. AVAILABILITY OF FUNDS. Sufficient funds for this Agreement have been made available by State FY 2022-2023 budget appropriation from the General Fund. However, this Agreement is subject to any restriction, limitation, or condition enacted by the Legislature, which may affect the provisions, terms, or funding of this contract in any manner.
20. REVENUE. All revenue generated as a part of the Project or Transformative Plan must be used to further the Project to the extent reasonably possible. Partner must keep records of revenue expenditures for audit purposes.
21. MONITORING AND OVERSIGHT. Partner agrees that the City or SGC or its designated representative shall have the right to visit any project site pertaining to any Project described in this Agreement. Project sites may include any public or participating private properties.
- A. Once the Agreement is executed, the City may request a regularly occurring monthly phone call or in-person meeting with Partner's Grant Manager to discuss the Project. Partner must work with the City to accommodate monitoring requests.
- B. The City or SGC retains the right to conduct a minimum of two (2) site visits a year during the grant term.
- C. At the City or SGC's discretion, site visits may occur more frequently.
- D. Partner agrees that the City and/or SGC or either of their designated representatives has the right to conduct a final inspection of completed Project, as determined by SGC. For

construction projects, this may require certification by the appropriate registered professional (such as California Registered Civil Engineer or Geologist) that the Project has been completed in accordance with final plans and specifications and any modifications. Partner must notify the City of the inspection date at least ten (10) working days prior to the inspection in order to provide SGC or City the opportunity to participate.

22. RECORDKEEPING. Partner must establish an official file for the Project funded by this Agreement. The file must contain adequate documentation of all actions taken with respect to the Project, including copies of this Agreement, amendments and modifications, letters and email correspondences, financial records (including agreements and any associated documents with Subcontractors), required reports, and readiness and compliance documentation. The City and SGC reserve the right to audit all Partner and Subcontractor records for this Project, as stated below.
- A. Partner must establish a separate ledger account for receipts and expenditures of Grant funds and maintain expenditure details in accordance with the attached Budget and Schedule of Deliverables. Separate bank accounts are not required. Partner must maintain financial records of expenditures incurred during the Project in accordance with generally accepted accounting principles, including leverage funding that may be required.
 - B. When applicable, Partner must maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing).
 - C. Subcontractors paid with moneys under the terms of this Agreement must maintain all records as specified. Partner maintains responsibility for ensuring that Subcontractors comply with the requirements above.
23. RECORDS. Partner agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Agreement will be in the public domain to the extent to which release of such materials is required under the California Public Records Act (Cal. Gov't Code § 7920 et seq.). Partner may disclose, disseminate and use in whole or in part, any final form data and information received, collected and developed under this Agreement, subject to appropriate acknowledgement of credit to the SGC for financial support as described in Section 54, Publicity. Partner must not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so. The City and SGC have the right to use any data described in this paragraph for any public purpose.
24. AUDIT AND RECORD RETENTION. Partner must ensure adequate protection for all records, physical and electronic, from loss, damage, or destruction for possible audit(s). Partner agrees that the City, SGC or designated representative will have the right during normal business hours to review and to copy any records and supporting documentation pertaining to the performance of this Agreement and interview any employees who might reasonably have information related to such records.
- A. Partner and Subcontractors must maintain copies of project records four (4) years after the Performance Period, unless a longer period of records retention is stipulated.

- B. The City and SGC retain the right to conduct an audit each year during the grant term and up to four (4) years after the Performance Period. Audits may include, but are not limited to, inspections of project records; ownership and usage records of equipment, vehicles, and infrastructure; and maintenance records of equipment, vehicles, and infrastructure.
- C. If required by the SGC, the City may require recovery of payment from Partner to, issue a Stop Work Order or terminate the Agreement, as warranted, based on an audit finding, or any other remedies available in law or equity.

25. COMPLIANCE. Partner must fully comply with all applicable federal, state and local laws, ordinances, regulations, plans, and design standards. Partner must secure any new permits or licenses required by authorities having jurisdiction over the Project Area, and maintain all presently required permits. Partner shall coordinate with the City to ensure that any applicable requirements of the California Environmental Quality Act are met in order to carry out the terms of this Agreement. Partner must promptly provide evidence of such compliance if requested by the City or the SGC.

Additionally, Partner certifies that it currently is not and will not become:

- A. In violation of any order or resolution subject to review promulgated by CARB or an air pollution control district;
- B. Subject to a cease and desist order subject to review issued pursuant to Section 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or
- C. Determined to be in violation of provisions of federal law relating to air or water pollution.

Partner must ensure Subcontractors comply with all terms in this Section with respect to the Project.

26. INSURANCE.

- A. Partner must ensure the insurance policies set forth in **Exhibit A11** are obtained and kept in force through the Project Completion Period for each project, with no lapses in coverage, that cover any acts or omissions of City, Partner, Subcontractors or employees engaged in carrying out any tasks specified in this Agreement.
- B. Throughout the life of this Agreement, the Partner shall pay for and maintain in full force and effect all insurance as required in Exhibit A11, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than “A-VII” in Best’s Insurance Rating Guide, or (ii) as may be authorized in writing by the City’s Risk Manager or designee at any time and in his/her sole discretion. The required policies of insurance as stated in Exhibit A11 shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to State and

City, and each of their officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

- C. If at any time during the life of the Agreement or any extension, Partner or any of its subcontractors/sub-consultants fail to maintain any required insurance in full force and effect, City may issue a Stop Work Order, until resolved, as described below, and all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to the Partner shall be withheld until notice is received by the City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the City. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement. No action taken by the City pursuant to this Section shall in any way relieve Partner of its responsibilities under this Agreement. The phrase “fail to maintain any required insurance” shall include, without limitation, notification received by the City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.
 - D. The fact that insurance is obtained by Partner shall not be deemed to release or diminish the liability of Partner, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify the State and City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Partner. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Partner, its principals, officers, agents, employees, persons under the supervision of Partner, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.
 - E. If Partner should subcontract all or any portion of the services to be performed under this Agreement, Partner shall require each subcontractor to provide insurance protection, as an additional insured, to the State and City and each of their officers, officials, employees, agents, and volunteers in accordance with the terms of this Section, except that any required certificates and applicable endorsements shall be on file with Partner and the City prior to the commencement of any services by the subcontractor. Partner and any subcontractor shall establish additional insured status for the State and City, and each of their officers, officials, employees, agents, and volunteers.
27. COMPUTER SOFTWARE. Partner must ensure that the appropriate systems and controls are in place so that funds under this Agreement will not be used for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
28. PERSONALLY IDENTIFIABLE INFORMATION. Information or data, including but not limited to all records and supporting documentation that personally identifies an individual or individuals is confidential in accordance with California Civil Code Sections 1798, et seq. and other relevant state or federal statutes and regulations. Partner must ensure that all such

information or data that comes into possession under this Agreement is appropriately safeguarded in perpetuity, and must not release or publish any such information, data, or records.

29. OWNERSHIP.

- A. Deliverables. Partner hereby grants to the City and the SGC a royalty-free, nonexclusive, transferable, world-wide license to reproduce, translate, and distribute copies of any and all materials it produces pursuant to this Agreement, for nonprofit, noncommercial purposes, and to have or permit others to do so on the City or SGC's behalf.
- B. Equipment:
 - i. Purchase of equipment using Grant funds is allowable only with prior approval by City.
 - ii. Cost of equipment purchased shall be substantiated by purchase receipt.
 - iii. For any equipment purchased or built with funds that are reimbursable as a direct cost of the Project, as determined by City, Partner must be the sole owner on title.
 - iv. If the funds are used to purchase equipment that costs \$5,000 or more, each such piece of equipment is "grant-funded equipment."
 - v. Each grant-funded equipment must be dedicated to the described use in the same proportion and scope as was in this Agreement, unless City agrees otherwise in writing, during the useful life of the equipment.
 - vi. If the owner of the grant-funded equipment determines that it no longer has need for the Project before the end of the equipment's useful life, the owner shall donate the grant-funded equipment to a public entity or nonprofit organization that will use the grant-funded equipment for purposes that are similar to the purpose intended in this Agreement or to a public entity or nonprofit that serves the Project Area.
 - vii. For the duration of the useful life of each grant-funded equipment, Partner shall maintain a record identifying each grant-funded equipment, the expected useful life of each item, and the ultimate disposition (disposal or donation). The requirements of this Section will survive termination of this agreement.
 - viii. The cost to lease equipment to use in the Project Area may be charged to the Grant. Cost of leased equipment charged to the Grant must be substantiated with receipts identifying equipment was leased, lease rate and total cost.
 - ix. Use of equipment owned by Partner may be charged to the Grant at a rate set by the California Department of Transportation Labor Surcharge and Equipment Rental Rate Guide. Use of Partner equipment must be substantiated with an equipment usage log that identifies the equipment used, rate, and total rental cost.

A cost-benefit analysis to justify the cost of purchasing equipment versus leasing must be provided.

- x. Partner will assume all risk including cost for maintenance, repair, loss, destruction, and damage to all equipment until disposition of equipment. City may, at its discretion, repair any damage or replace any lost or stolen items and deduct the cost thereof from Partner's invoice to the City, or require Partner to repair or replace any damaged, lost, or stolen equipment to the satisfaction of City with no expense to City.
- xi. In the event of theft, a report must be filed immediately with the California Highway Patrol (State Administrative Manual § 8643 [Lost, Stolen, or Destroyed Property]).
- xii. Partner must maintain an inventory record for Grant-funded equipment purchased or built with funds provided under this Agreement. In addition, items of Grant-funded equipment or supplies that are prone to theft, loss, and misuse and may contain sensitive data (e.g., computers, printers, smartphones, tablets, cameras, GPS devices, etc.) costing less than \$5,000 must be inventoried. Details on the inventory record are to be provided in the Implementation Grant Administration Guide.
- xiii. The Equipment Inventory Record must be updated annually and upon request. See Section 12, Reporting Requirements, for more information.

C. Vehicles:

- i. Partner must be the sole owner of all vehicles acquired as part of the Project, including but not limited to, bicycles, cars, buses, vans, rail passenger equipment. During the Project Completion Period, vehicles must be dedicated to the described use in the same proportion and scope as is described in this Agreement, unless SGC agrees otherwise in writing.
- ii. Vehicles acquired for the purposes of public transit must be maintained in a state of good repair and dedicated to that public transportation use for their full useful life, which, for the purpose of this Agreement, will be determined in accordance with standard State of California and national transit practices and applicable rules and guidelines, including any extensions of that life cycle achievable by reconstruction, rehabilitation or enhancements. If the ownership or use of vehicles change to a use not in accordance with the Agreement, Partner may be required to reimburse the City for the fair market value.
- iii. Vehicles acquired for general Project work (i.e., work trucks) must be maintained in a state of good repair for their full useful life, which, for the purpose of this Agreement, will be determined in accordance with standard State practices. If the ownership or use of the vehicles change to a use not in accordance with this Agreement, Partner may be required to reimburse the City for their fair market value.

D. Infrastructure:

- i. Partner must ensure all necessary rights of way, property ownership, or leases have been secured prior to construction. Purchases of all real property required for the Project must be free and clear of liens, conflicting easements, obstructions, and encumbrances. Any property acquisition by Partner must not involve eminent domain proceedings or threat of eminent domain proceedings. Partner must record deed restrictions on Project property, as applicable.
- ii. For any rights of way, real and personal property, leases, improvements, and infrastructure funded as a reimbursable direct cost of the Project, the Partner must be the sole owner of the title or leasehold. The foregoing sentence notwithstanding, dispersed improvements such as those made under the Solar Installation, Energy Efficiency and Appliance Electrification Strategy may be made on private real property. Each site acquired or improved upon with funding provided under this Agreement must remain permanently dedicated to the described use in the same proportion and scope as was in the Grant Agreement, unless SGC agrees otherwise in writing. If the ownership or use of the property changes to a use not in accordance with this Agreement, Partner may be required to reimburse the City.
- iii. Partner is obligated to continue operation and maintenance of the physical aspects of the Project for its full useful life, which, for the purpose of this Agreement, includes any extensions of that life achievable by reconstruction, rehabilitation or enhancements, in accordance with the described use in the same proportion and scope as in this Agreement, unless City agrees otherwise in writing. Partner may be excused from its obligations for operation and maintenance of the Project site only upon written approval from City. The Project and its facilities must be maintained, supervised, and inspected by adequate and well-trained staff and/or professionals and technicians as the project reasonably requires.

E. Debt Security:

Partner will not use or allow the use of any portion of real property purchased solely with Grant funds as security for any debt. This debt financing prohibition is not applicable to the Affordable Housing Development Capital Projects under the Equitable Housing and Neighborhood Development Strategy.

30. NON-PERFORMANCE. City has sole discretion to determine if Partner is performing in accordance with this Agreement. Non-performance issues can include, but are not limited to: misuse of funding for ineligible expenses, inability to meet performance requirements or schedule milestones, failure to complete or failure to make a good faith effort to complete the Project as a whole or any Project Components, including ensuring Stand-alone Leverage Projects adhere to the TCC Partnership Agreement, and/or failure to comply with the terms of this Agreement.

- A. The City will notify Partner in writing if non-performance is determined, and will provide instructions and a timeline to rectify all cases of non-performance.
 - B. Partner must respond to a determination of non-performance within 15 calendar days by either a) acting on corrective actions, or b) disputing the findings in writing.
 - C. City, without waiver of other rights or remedies, may require Partner to re-perform any actions not in accordance with this Agreement. City may withhold any payments due to Partner until the Project is brought back into full compliance. Costs and expenses for these actions will be borne by Partner.
 - D. If Partner fails to correct any non-performance to City's satisfaction, City may elect to terminate this Agreement or any part thereof. Partner may be liable for immediate repayment to City of all amounts disbursed by City for the Project or Transformative Plan, as applicable, and only if nonperforming. City may, at its sole discretion, examine the extent of Partner compliance for work partially completed and determine costs eligible for reimbursement. This paragraph will not be deemed to limit any other remedies available to City.
 - E. Upon termination by City, Partner must deliver all invoices, reports, and other deliverables required by this Agreement up to the time of termination. Partner must deliver all materials within 30 calendar days of the termination date.
31. DISPUTES. SGC has sole discretion to determine if an invoice, report, deliverable, or other supporting documentation is sufficient and complete, per the Agreement, TCC or AHSC Guidelines, and/or any other statutory requirement. All dispute, resolution, and appeal statements must be signed by the appropriate Authorized Signatory or Designee. City, Partner and relevant parties must attempt to negotiate a resolution before submitting a dispute.
- A. City or SGC will notify Partner in writing if any materials are determined to be insufficient or incomplete within five (5) working days of receiving the materials.
 - i. Partner must respond in writing within five (5) working days with either a) materials requested by the City or SGC, or b) a written statement disputing the City or SGC's findings. The dispute statement must contain a concise description of the dispute, along with any supporting documentation.
 - ii. SGC will present a dispute resolution after receiving the dispute statement.
 - B. Partner has fifteen (15) working days to appeal a dispute resolution. The appeal statement must contain a concise description of the appeal, along with any supporting documentation.
 - i. Partner and relevant parties must attempt to negotiate a resolution to the appealed dispute. SGC will respond to the appeal statement after receiving dispute resolution appeal statement.

- C. If Partner wants to further appeal a dispute resolution after undergoing both the dispute and appeal process, City will coordinate with Partner to submit a further appeal statement to the Government Claims Program at the Department of General Services, the final administrative forum for resolution of the dispute.
 - D. During a dispute, Partner and any subcontractors must observe any Stop Work Orders put into effect until the dispute is resolved.
32. STOP WORK ORDER. City has the right to issue a Stop Work Order for the Project or Transformative Plan, as applicable, and suspend payments. City reserves the right to issue a Stop Work Order if there is a breach in the leverage funding commitments that put the Project at risk of not being completed.
- A. Immediately upon receiving a Stop Work Order written notice, Partner must cease all work under the Project. The Stop Work Order will be in effect until resolution is reached or until the Project is terminated.
 - i. City may require remedial steps from Partner.
 - ii. Project may be terminated by means of an amendment.
 - B. Any costs incurred after the issuance of a Stop Work Order will not be reimbursed. Costs and expenses for these actions will be borne by Partner. Work may resume only upon written notification from the City that the Stop Work Order has ended or until the Project is terminated.

If Partner issues a Stop Work Order to any Subcontractors, Partner must notify the City within ten (10) working days of issuing the order.

33. HEALTH IMPACTS. If the SGC has a reasonable concern about the public health impact of a Project Component, the SGC may require Partner to further study and mitigate the impact as directed by the SGC. Notwithstanding Section 13 of this Agreement, Payment Provisions, Partner may request any required study and mitigation to be considered an eligible cost for reimbursement based on the fiscal inability of the entity required to perform the directed work.
34. TERMINATION FOR CONVENIENCE. Both City and Partner have the right to terminate this Agreement prior to the end of the Grant term upon thirty (30) calendar days of written notice. The written notice must specify the reason for early termination and may permit City or Partner to rectify any deficiency(ies) prior to the termination date.
- A. Conditions of early termination:
 - i. Upon any termination, Partner must deliver all invoices, reports, and other deliverables required by this Agreement up to the time of termination. Partner must deliver all materials within sixty (60) calendar days of the termination date.
 - ii. Upon receipt of notice from City of Termination for Convenience, Partner shall immediately take action to ensure neither it nor any Subcontractor incur any

additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities.

- iii. City will examine the extent of Partner compliance for work partially completed and reasonably determine costs eligible for reimbursement based on final invoices submitted and compliance with this Agreement.
35. The rights and remedies of City and Partner provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
36. GOVERNING LAW AND VENUE. Except to the extent preempted by applicable federal law, the laws of the State of California shall govern all aspects of this Agreement, including execution, interpretation, performance, and enforcement. Venue for filing any action to enforce or interpret this Agreement will be Riverside County, California.
37. INDEPENDENT CONTRACTOR. In furnishing the services provided for herein, Partner is acting solely as an independent contractor. Neither Partner, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of City for any purpose. City shall have no right to control or supervise or direct the manner or method by which Partner shall perform its work and functions. However, City shall retain the right to administer this Agreement so as to verify that Partner is performing its obligations in accordance with the terms and conditions thereof.

This Agreement does not evidence a partnership or joint venture between Partner and City. Partner shall have no authority to bind City absent City's express written consent. Except to the extent otherwise provided in this Agreement, Partner shall bear its own costs and expenses in pursuit thereof.

Because of its status as an independent contractor, Partner and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to City's employees. Partner shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this agreement, Partner shall be solely responsible, indemnify, defend and save City harmless from all matters relating to employment and tax withholding for and payment of Partner's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in City employment benefits, entitlements, programs and/or funds offered employees of City whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, Partner may be providing services to others unrelated to City or to this Agreement.

38. INDEMNIFICATION. To the furthest extent allowed by law ["including California Civil Code section 2782.8" is added in professional engineering service contracts], Partner shall indemnify, hold harmless and defend City and its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract,

tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Partner, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If Partner should subcontract all or any portion of the services to be performed under this Agreement, Partner shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, servants and volunteers in accordance with the terms of the preceding paragraph.

This Section shall survive termination or expiration of this Agreement.

39. WAIVER. Partner waives any and all rights to any type of express or implied indemnity or right of contribution from the City, officers, agents or employees, for any liability arising from, growing out of, or in any way connected with this Agreement. Partner waives all claims and recourses against the City, including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this Agreement, except claims arising from the gross negligence and intentional misconduct of the City, its officers, agents, and employees.

Neither failure nor delay on the part of the City in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the Partner therefrom shall be effective unless the same shall be in writing, signed on behalf of the City by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the Partner in any case shall entitle the Partner to any other or further notices or demands in similar or other circumstances, or constitute a waiver of any of the City's right to take other or further action in any circumstances without notice or demand.

40. NO THIRD PARTY BENEFICIARY. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties other than expressly identified herein. No subcontractor, mechanic, materialman, laborer, vendor, or other person hired or retained by Partner shall have any rights hereunder and shall look to Partner as their sole source of recovery if not paid. No third party may enter any claim or bring any such action against City under any circumstances. Except as provided by law, or as otherwise agreed to in writing between City and such person, each such person shall be deemed to have waived in writing all right to seek redress from City under any circumstances whatsoever. Partner shall include this paragraph in all contracts and subcontracts.
41. FORCE MAJEURE. Neither the City, nor Partner will be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, or other

contingencies unforeseen by the SGC, City, Partner, Subcontractors, or vendors, and beyond the reasonable control of such party.

42. EXPATRIATE CORPORATIONS. Partner hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

43. CORPORATION QUALIFIED TO DO BUSINESS IN CALIFORNIA. If Partner is a corporation, the corporation must be in good standing and currently qualified to do business in the state. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

44. Certificate of Compliance with Russia Sanctions

Per Executive Order N-6-22, if Partner's Grant is valued at \$5 million or more with agencies or departments subject to the California Governor's authority, it is directed to report its compliance with economic sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as sanctions imposed under state law, if any. If Partner is subject to the certification requirement, it should carefully review the Executive Order and the economic sanctions imposed in response to Russia's actions in Ukraine, including, but not limited to, the federal executive orders identified in Executive Order N-6-22, sanctions identified by the U.S. Department of the Treasury, and sanctions imposed under state law, if any. A certification of compliance, included as Attachment D-10 to the Grant Agreement, must be returned to City prior to any disbursement of grant funds.

Additionally, should City at any time determine Partner is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. City shall provide Partner advance written notice of such termination, allowing Partner at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the City.

45. SELF-DEALING AND ARM'S LENGTH TRANSACTIONS. All expenditures for which reimbursement pursuant to this Agreement is sought must be the result of arm's-length transactions and not the result of, or motivated by, self-dealing on the part of Partner or any employee or agent of Partner.

46. RELOCATION. If the Project is subject to State Relocation Law and a relocation plan is required by State Relocation Law (Gov. Code, § 7260 et seq.) and Section 6038 of the Relocation Assistance and Real Property Guidelines (25 Cal. Code of Regulations, div. 1, ch. 6, § 6000 et seq.) for the Project Area, Partner must provide a copy of the relocation plan.

47. AMERICANS WITH DISABILITIES ACT. Partner certifies that itself, and its Subcontractors comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines pursuant to the ADA (42 U.S.C. 12101 et seq.).

48. NON-DISCRIMINATION CLAUSE.

During the performance of this Agreement, Partner and Partner's subcontractor(s) will not unlawfully discriminate, harass, or allow harassment against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor will they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

Partner and Partner's subcontractor(s) must ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Partner and Partner's subcontractor(s) must comply with the provisions of the Fair Employment and Housing Act (Gov. Code, § 12990 et seq.) and the applicable regulations promulgated there under (Cal. Code Regs., title 2, § 11005 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a)-(f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Partner and Partner's subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other grant agreement.

Partner must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform services under this Grant Agreement.

49. DRUG-FREE WORKPLACE CERTIFICATION. Partner certifies that it will provide a drug-free workplace to employees of Partner and Subcontractors by taking the following actions:
- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.
 - B. Establish a drug-free awareness program to inform employees about:
 - i. the dangers of drug abuse in the workplace;
 - ii. the organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
 - C. Every employee who works on the Project that is subject to this Agreement must:
 - i. receive a copy of the company's drug-free workplace policy statement; and,

- ii. agree to abide by the terms of the company’s statement as a condition of employment on the Project.

- 50. CHILD SUPPORT COMPLIANCE ACT. Partner recognizes the importance of child and family support obligations and must fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Family Code Section 5200 et seq.; and Partner, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

- 51. ENVIRONMENTAL JUSTICE. In the performance of this Agreement, Partner must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of California, consistent with Government Code section 65040.12, subdivision (e).

- 52. UNION ORGANIZING. By signing this Agreement, Partner hereby acknowledges the applicability of Government Code Sections 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Agreement and hereby certifies that:
 - A. No grant funds disbursed by this Agreement will be used to assist, promote, or deter union organizing by employees performing work under this Agreement.
 - B. If Partner makes expenditures to assist, promote, or deter union organizing, Partner must maintain records sufficient to show that no state funds were used for those expenditures, and that Partner must provide those records to the Attorney General upon request.

- 53. PREVAILING WAGE AND LABOR COMPLIANCE. Partner certifies that it will comply with all prevailing wage requirements under California law, pursuant to Section 1720 et seq. of the California Labor Code. The California Labor Code requires payment of locally prevailing wages to workers and laborers on state government contracts in excess of \$1,000 for public works projects. A “public work” is the construction, alteration, demolition, installation, repair or maintenance work done under contract and paid for in whole or in part out of public funds. The definition applies to private contracts when certain conditions exist. Partner can identify additional stipulations and exceptions under Cal. Labor Code § 1720 et seq.
 - A. Partner must ensure the following on “public work” activities under this Agreement:
 - i. Prevailing wages are paid;
 - ii. The Project budget for labor reflects these prevailing wage requirements; and
 - iii. The Project complies with all other requirements of prevailing wage law including but not limited to keeping accurate payroll records, and complying with all working hour requirements and apprenticeship obligations.

- B. Partner must ensure that its Subcontractors, if any, also comply with prevailing wage requirements. Partner must ensure that all agreements with its Subcontractors to perform work related to the Project contain the above terms regarding payment of prevailing wages on public works projects.
- C. The Department of Industrial Relations (DIR) is the primary resource for consultation on the requirements of California prevailing wage law.
 - i. Partner can identify the rates for prevailing wage on the DIR website at <http://www.dir.ca.gov>. Partner may contact DIR for a list of covered trades and the applicable prevailing wage.
 - ii. If Partner is unsure whether the Project is a “public work” as defined in the California Labor Code, it may wish to seek a timely determination from the DIR or an appropriate court.
 - iii. If Partner has questions about this contractual requirement, recordkeeping, apprenticeship or other significant requirements of California prevailing wage law, it is recommended Partner consult DIR and/or a qualified labor attorney before accepting this Grant.

54. PUBLICITY. Partner should acknowledge SGC in publications, websites, signage, invitations, and other media and public outreach products related to the Grant. City will provide SGC logo files and SGC guidance on their usage to Partner. Partner agrees to follow the TCC Grantee Publicity Guidelines provided by SGC (Attachment D-8 to the Grant Agreement). If Partner is planning an event or announcement, needs sample materials, or needs assistance or advice regarding digital or print materials, press, social media, and/or general communications, Partner shall contact City.

A. Long-Form Materials

Long-form written materials are those that are more than 1,000 words in length, such as reports, should include the following standard language about SGC and TCC:

The Transformative Climate Communities (TCC) Program funds community-led development and infrastructure projects that achieve major environmental, health and economic benefits in California’s most disadvantaged communities. TCC empowers the communities most impacted by pollution to choose their own goals, strategies, and projects to enact transformational change – all with data-driven milestones and measurable outcomes. This program is administered by the California Strategic Growth Council (SGC) which coordinates the activities of State agencies and partners with stakeholders to promote sustainability, economic prosperity, and quality of life for all Californians. www.sgc.ca.gov.

B. Short-Form Materials

Press Releases, Flyers, Social Media Posts, and Visual Materials: Any informational materials that do not qualify as long-form (less than 1,000 words), but include at least a paragraph of text, should include following language:

“[Project Name] is supported by California Strategic Growth Council’s Transformative Climate Communities program with funds from California’s General Fund.

Partner may at times produce promotional materials that are primarily visual in nature, such as banners, signage, certain flyers, and sharable images for social media. In such cases, when including the above boilerplate language acknowledging SGC support is not practical, Partner should instead include the official logo of SGC, preceded by the words “Funded by.”

See TCC Grantee Publicity Guidelines, Attachment D-8 to the Grant Agreement, for approved tags.

55. RECYCLED CONTENTS PRODUCTS. Partner must certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision must specify that the cartridges so comply (Pub. Contract Code § 12205).
56. SEVERABILITY. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.
57. NOTICES. Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this Agreement shall be directed to the following contract representatives:

GRANTEE
City of Coachella
Attn: City Manager
53990 Enterprise Way
Coachella, CA 92236

PARTNER
Bound Corporation
Attn: Juan Guevara Diaz
Chief Executive Officer
44907 Golf Venter Parkway, Suite 1-2
Indio, CA 92201

58. ATTORNEY FEES. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party will be entitled to recover from the other party its reasonable attorney’s fees and legal expenses.
59. BINDING ON ALL SUCCESSORS AND ASSIGNS. Unless otherwise expressly provided in this Agreement, all the terms and provisions of this Agreement shall be binding on and inure to

the benefit of the parties hereto, and their respective nominees, heirs, successors, assigns, and legal representatives.

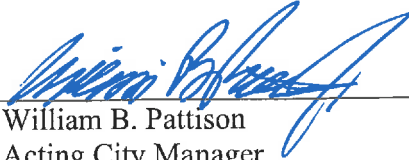
60. COUNTERPARTS. This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument. The execution of this Agreement by any party hereto will not become effective until counterparts hereof have been executed by all parties hereto.
61. CUMULATIVE REMEDIES. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity. All powers and remedies given by this Agreement shall be cumulative and in addition to those otherwise provided by law.
62. ENTIRE AGREEMENT. This Agreement represents the entire and integrated agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified or amended only by written instrument duly authorized and executed by the parties.
63. EXHIBITS. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.
64. EXPENSES INCURRED UPON EVENT OF DEFAULT. Partner shall reimburse City for all reasonable expenses and costs of collection and enforcement, including reasonable attorney's fees, incurred by City as a result of one or more Events of Default by City under this Agreement.
65. HEADINGS. The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.
66. NON-RELIANCE. Partner hereby acknowledges having obtained such independent legal or other advice as it has deemed necessary and declares that in no manner has it relied on City, its agents, employees or attorneys in entering into this Agreement.
67. SURVIVAL. The following Sections survive the termination or expiration of the Agreement: 5, 15, 19, 20, 21, 22, 23, 24, 26, 28, 35, 36, 37, 51, 53, 65.


[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CITY OF COACHELLA,
A California municipal corporation

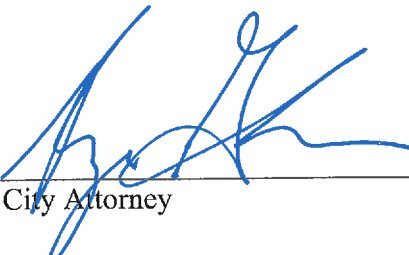
BOUND CORPORATION

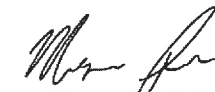
By: 
William B. Pattison
Acting City Manager

By: 
Name: Juan Guevara Diaz

APPROVED AS TO FORM:

Title: Chief Executive Officer
(If corporation or LLC, Board Chair
Pres. Or Vice Pres.)

By: 
City Attorney

By: 
Name: Miguel Felix

ATTEST:
ANGELA M. ZEPEDA
City Clerk

Title: Chief Financial Officer
If corporation or LLC., CFO,
Treasurer, Secretary or Assistant
Secretary)

By: 
City Clerk

Addresses:
CITY:
City of Coachella
Attention: City Manager's Office
Coachella City Hall
53990 Enterprise Way
Coachella, CA 92236
Phone: (760)398-3502