Mark Nexsen - Chair Buster Johnson – Vice Chairman Donna McCoy – Secretary/Treasurer David Lane – Board Member Deanna Beaver – Board Member



Lake Havasu MPO 900 London Bridge Rd, Bldg. B Lake Havasu City, AZ 86404 www.LHMPO.org

LAKE HAVASU METROPOLITAN PLANNING ORGANIZATION (LHMPO) EXECUTIVE BOARD MEETING AGENDA Tuesday, June 13, 2017, 2:00 PM

One or More Executive Board Members May Attend and Vote Telephonically

The Lake Havasu MPO Executive Board may vote to hold an Executive Session for the purposes of obtaining legal advice from the Attorney on any matter listed on the agenda under A.R.S §38-431.03(A)(3)

- 1. CALL TO ORDER
- 2. PLEDGE OF ALLEGIANCE
- 3. ROLL CALL
- 4. CALL TO THE PUBLIC: This item is to provide an opportunity for citizens wishing to address the Executive Board on issues within the jurisdiction of the LHMPO planning area that are not on the Agenda. Your comments SHALL be limited to five (5) minutes or less. Please be advised that Executive Board Members may not respond to comments or questions brought up during call to the public.

5. CONSENT AGENDA

The following items will be considered as one item by the Executive Board and will be enacted with one motion with no separate discussion unless a board member requests to so, in that event the item will be removed.

- **5.1** Approve the Executive Board Meeting Minutes of May 9, 2017 (*Task #102*)
- **5.2** Approve FY16 20 Transportation Improvement Program (TIP) Amendment 3 (*Task #300*)
- **5.3** Approve Amended Title VI Plan (*Task #102*)
- 5.4 Call for Executive Session Pursuant to A.R.S. § 38-431.03(A), 2:00 p.m., Tuesday, July 11, 2017

6. ANNOUNCEMENTS, COMMUNICATIONS, UPDATE REPORTS

- 6.1 ADOT Northwest District Update Report
- 6.2 Technical Advisory Committee (TAC) Update Report
- 6.2 LHMPO Manager Report

7. **PUBLIC HEARINGS**

- 7.1 Discussion and Possible Action to Award the Professional Services Agreement with Amec Foster Wheeler to Perform the Bicycle & Pedestrian Implementation Plan Stuart Schmeling, LHMPO TAC Chairman (Task #102)
- 7.2. Discussion and Possible Action to Approve a New Technical Advisory Committee (TAC) Member Stuart Schmeling, LHMPO TAC Chairman (Task #102)
- **7.3.** Discussion and Possible Action Related to Recruitment of the Lake Havasu MPO Manager *Mark Nexsen, LHMPO Chairman*

8. FUTURE AGENDA ITEMS

9. UPCOMING MEETING SCHEDULE

- LHMPO TAC Meeting: **TBD**, 900 London Bridge Rd, Bldg. B, Lake Havasu City, AZ 86404
- State Transportation Board Meeting: June 16, 2017, 9:00 AM, Payson, AZ
- Executive Board Regular Meeting: July 13, 2017, 2:00 PM, Lake Havasu City Police Facility Meeting Room, 2360 McCulloch Boulevard N, Lake Havasu City, AZ 86403

10. ADJOURNMENT

Pursuant to the Americans with Disabilities Act (ADA), the Lake Havasu Metropolitan Planning Organization endeavors to ensure the accessibility of all of its programs, projects and services to all persons with disabilities. If you need an accommodation for this meeting, please contact Jeanette Buckley, Lake Havasu MPO at (928) 453-2823 at least 48 hours prior to the meeting so that accommodations may be arranged.

LAKE HAVASU MPO REQUEST FOR ACTION JUNE 13, 2017

SUBJECT: ACTION TO APPROVE THE CONSENT AGENDA

SUBMITTED BY: Jeanette Buckley, Administrative Specialist II

AGENDA TYPE: CONSENT AGENDA

ATTACHMENTS:

Executive Board Meeting minutes of May 9, 2017

SUMMARY/BACKGROUND:

Approve the minutes from the Executive Board meeting held May 9, 2017

ACTION OPTION:

Motion to approve the Consent Agenda OR Motion to approve the Consent Agenda, with the noted changes

RECOMMENDATION:

Motion to approve the Consent Agenda

Mark Nexsen - Chair Buster Johnson – Vice Chairman Donna McCoy – Secretary/Treasurer David Lane – Board Member Deanna Beaver – Board Member



Lake Havasu MPO 900 London Bridge Rd, Bldg. B Lake Havasu City, AZ 86404 www.LHMPO.org

LAKE HAVASU METROPOLITAN PLANNING ORGANIZATION (LHMPO) EXECUTIVE BOARD MEETING MINUTES Tuesday, May 9, 2017, 2:00 PM

**THIS MEETING WILL BE HELD TELEPHONICALLY. Call in information:

1- 877-820-7831 Passcode: 196687#

The Lake Havasu MPO Executive Board may vote to hold an Executive Session for the purposes of obtaining legal advice from the Attorney on any matter listed on the agenda under A.R.S §38-431.03(A)(3)

1. CALL TO ORDER

Chairman Nexsen called the meeting to order at 2:00 p.m.

2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance not performed at this meeting since it was telephonic.

3. ROLL CALL

The roll call was performed by Jeanette Buckley: Present: David Lane and participating telephonically Mark Nexsen, Donna McCoy and Deanna Beaver. Absent: Buster Johnson

4. CALL TO THE PUBLIC:

There were no public comments.

5. CONSENT AGENDA

 5.1 Approve the Executive Board Meeting Minutes of March 14, 2017 MOTION Secretary/Treasurer McCoy presented a motion to approve the Consent Agenda as presented. Motion was seconded by Member Lane. VOTE ON MOTION The vote on the motion was unanimous.

6. ANNOUNCEMENTS, COMMUNICATIONS, UPDATE REPORTS

- **6.1** LHMPO Manager Report
 - Jean Knight, LHMPO Manager
 - No updates at this time

7. PUBLIC HEARINGS

7.1 Discussion and Possible Action to Adopt the FY2018 Unified Planning Work Program (UPWP) and Planning Budget

Executive Board Meeting Minutes May 9, 2017 Page 2 of 2

Jean Knight related the FY18 UPWP was reviewed thoroughly at the March 14th meeting and just needed to be adopted today and forwarded to ADOT.

MOTION

Member Beaver presented a motion to Adopt the Final Draft FY18 UPWP and Planning Budget. Motion was seconded by Secretary/Treasurer McCoy.

VOTE ON MOTION

The vote on the motion was unanimous.

8. FUTURE AGENDA ITEMS

No future agenda items were given.

9. UPCOMING MEETING SCHEDULE

- LHMPO TAC Meeting: May 16, 2017, 1:30 PM, 900 London Bridge Rd, Bldg. B, Lake Havasu City, AZ 86404
- State Transportation Board Meeting: May 19, 2017, Phoenix, AZ
- Executive Board Regular Meeting: June 13, 2017, 2:00 PM, Lake Havasu City Mobility Building Meeting Room, 900 London Bridge Road, Building B, Lake Havasu City, AZ 86404

Chairman Nexsen reminded Board members of the May 16th interviews for the LHMPO Manager.

10. ADJOURNMENT

Motion to adjourn was presented by Member Lane seconded by Secretary/Treasurer McCoy. Vote on the motion was unanimous. Meeting adjourned at 2:05 p.m.

Lake Havasu Metropolitan Planning Organization 900 London Bridge Road, Building B Lake Havasu City, AZ 86404 (928) 453-2823

LAKE HAVASU MPO REQUEST FOR ACTION JUNE 13, 2017

SUBJECT: ACTION TO APPROVE THE CONSENT AGENDA

SUBMITTED BY: Stuart Schmeling, LHMPO TAC Chairman

AGENDA TYPE: CONSENT AGENDA

ATTACHMENTS:

FY16 – 20 Transportation Improvement Program (TIP) Amendment 3

SUMMARY/BACKGROUND:

The Amended TIP being presented is "potential" FTA 5310 awards. By approving the current amendment, eliminates having an Executive Board meeting for just this item after the announcement of the awards from ADOT. After ADOT announces which human service providers will be awarded, the LHMPO will be able to just submit an Administrative Amendment, which does not need approval. The TIP went out for 30-day public comments on April 18, 2017, and no comments were received.

ACTION OPTION:

Motion to approve the Consent Agenda OR Motion to approve the Consent Agenda, with the noted changes

RECOMMENDATION:

Motion to approve the Consent Agenda

LHMPO TRANSPORTATION IMPROVEMENT PROGRAM FY 16 - 20 - AMENDMENT 3 - POTENTIAL PROJECTS NOT FUNDED YET

TIP ID #				TYPE OF	FUNCTIONAL									ADOT REVIEW	local Match	LOCAL ADDTL	PROJECT
/TRACS#	SPONSOR	PROJECT NAME/LOCATION	TYPE OF WORK	FUNDING	CLASS		FY17	FY18		FY19	FY2	0	FY21	FEES	FUNDS	FUNDS	TOTAL
	TRANSIT PROJECTS (5310)																
LHM-17-111	New Horizons	FTA Vehicle Award	Cutaway Van w/Lift	5310	N/A	\$	56,677	\$-	\$	\$-	\$	-		\$ -	\$ 6,297	\$ -	\$ 62,974
LHM-17-112	New Horizons	FTA Vehicle Award	Cutaway Van w/Lift	5310	N/A	\$	56,677	\$-	\$	\$-	\$	-		\$ -	\$ 6,297	\$-	\$ 62,974
LHM-17-113	New Horizons	FTA Vehicle Award	Minivan w/Ramp	5310	N/A	\$	39,237	\$-	- \$	\$-	\$	-		\$ -	\$ 4,360	\$-	\$ 43,597
LHM-17-114	New Horizons	FTA Vehicle Award	Minivan w/Ramp	5310	N/A	\$	39,237	\$-	- \$	\$-	\$	-		\$ -	\$ 4,360	\$-	\$ 43,597
LHM-17-115	New Horizons	Operating	Operating	5310	N/A	\$	12,500	\$-	\$	\$-	\$	-		\$ -	\$ 12,500	\$-	\$ 25,000
LHM-17-116	ACHIEVE	FTA Vehicle Award	Cutaway Van w/Lift	5310	N/A	\$	56,677	\$-	\$	\$-	\$	-		\$ -	\$ 6,297	\$ -	\$ 62,974
LHM-17-117	Milemarkers Therapy	Operating	Operating	5310	N/A	\$	25,000	\$-	\$	\$-	\$	-		\$ -	\$ 25,000		\$ 50,000
LHM-17-118	Milemarkers Therapy	FTA Vehicle Award	Minivan w/Ramp	5310	N/A	\$	39,237	\$-	\$	\$-	\$	-	\$-	\$ -	\$ 4,360		\$ 43,597
LHM-17-119	Milemarkers Therapy	FTA Vehicle Award	Cutaway Van w/Lift	5310	N/A	\$	56,677	\$-	- \$	\$-	\$	-	\$-	\$ -	\$ 6,297		\$ 62,974
				TOTAL	FRANSIT (5310)	\$	381,919	\$-	\$	\$-	\$	-	\$-	\$ -	\$ 75,768	\$ -	\$ 457,687

ADOT: Arizona Department of Transportation

Local Additional Funds: Applicable to the Agency Awarded

LHMPO: Lake Havasu Metropolitan Planning Organization

WACOG: Western Arizona Council of Governments

LHC: Lake Havasu City

MC: Mohave County

LAKE HAVASU MPO REQUEST FOR ACTION JUNE 13, 2017

SUBJECT: ACTION TO APPROVE THE CONSENT AGENDA

SUBMITTED BY: Stuart Schmeling, LHMPO TAC Chairman

AGENDA TYPE: CONSENT AGENDA

ATTACHMENTS:

Amended 2016 Title VI Plan with Complaint Log

SUMMARY/BACKGROUND:

The Amended 2016 Title VI Plan is to remove and replace the prior LHMPO Manager as the Title VI Coordinator throughout the Plan and updating the TAC composition on page 26. The Amended 2016 Title VI Plan will be forwarded to ADOT Title VI Division.

ACTION OPTION:

Motion to approve the Consent Agenda **OR** Motion to approve the Consent Agenda, with the noted changes

RECOMMENDATION:

Motion to approve the Consent Agenda



Lake Havasu Metropolitan Planning Organization 900 London Bridge Road – Transit Bldg. B Lake Havasu City, AZ 86404 www."LHMPO".org

Title VI Plan

Nondiscrimination in Federally Assisted Programs

Endorsed and Approved on July 19, 2016, by the: Lake Havasu Metropolitan Planning Organization Executive Board

Endorsed and Approved on June 28, 2016, by the: Lake Havasu Metropolitan Planning Organization Technical Advisory Committee

Amended June 13, 2017

Contact:

Jeanette Buckley, "LHMPO" Administrative Specialist II Title VI Coordinator 900 London Bridge Road, Bldg. B Lake Havasu City, AZ 86404 Phone: (928) 453-2824 Email: <u>BuckleyJ@lhcaz.gov</u> www."LHMPO".org

En Español:

Para más información, o si está interesado en participar en el planeamiento del proceso de transporte en su comunidad y necesita asistencia con el idioma, por favor comuníquese:

Señora Buckley Teléfono: (928) 453-2823 BuckleyJ@lhcaz.gov

Lake Havasu Metropolitan Planning Organization "LHMPO"

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I. INTRODUCTION

The Lake Havasu Metropolitan Planning Organization "LHMPO", as a condition to receiving Federal financing assistance from the Federal Transit Administration (FTA), Federal Highways Administration (FHWA), and Arizona Department of Transportation (ADOT) agrees to comply with the Title VI of the Civil Rights Act of 1964 and subsequent authorities.

II. POLICY STATEMENT

The Lake Havasu Metropolitan Planning Organization "LHMPO" is committed to insure that no person is discriminated against on the grounds of race, color, national origin, sex, age, disability, limited proficiency in English, or low-income status as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 (ADA), Executive Order 12898 (Environmental Justice), Executive Order 13166 (Limited English Proficiency, Code of Federal Regulations 49 Part 21, Code of Federal Regulations 23 Part 200, and Code of Federal Regulations Part 303.

The "LHMPO" strives to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not. As a sub-recipient of federal funding, the "LHMPO" is responsible for initiating and monitoring Title VI activities and preparing required reports.

By:_____

Date:_____

Jeanette Buckley, Administrative Specialist II Title VI Coordinator Lake Havasu Metropolitan Planning Organization

III. CERTIFICATION and ASSURANCES

Lake Havasu Metropolitan Planning Organization <u>Title VI Assurances</u>

The Lake Havasu Metropolitan Planning Organization (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through *Federal Highway Administration and Arizona Department of Transportation*, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation--Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- 23 C.F.R. Part 200 Subchapter C-Civil Rights (Title VI program implementation and related statues)

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda and/or guidance, the Recipient hereby gives assurances that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

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Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its *Federal Aid Highway Program.*

- The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
- 2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all *Federal Aid Highway Program* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The <u>Lake Havasu Metropolitan Planning Organization</u>, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

- 3. The Recipient will insert the clauses of this Assurance in every contract or agreement subject to the Acts and the Regulations.
- 4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
- 5. That where the Recipient receives Federal financial assistance to a construct a facility or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
- 6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
- 7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project or program.
- 8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
- 9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
- 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> also agrees to comply (and require any sub-recipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing Federal Highway Administration or Arizona Department of Transportation access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration or Arizona Department of Transportation. You must keep records, reports, and submit the material for review upon request to Federal Highway Administration, Arizona Department of Transportation, or its designee in timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

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Lake Havasu Metropolitan Planning Organization gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal Highway Administration and Arizona Department of Transportation. This ASSURANCE is binding on Arizona. other recipients, sub-recipients, sub-grantees, contractors. subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Ву_____

Mark S. Nexsen, Chairman Lake Havasu Metropolitan Planning Organization Date

Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, *Federal Highway Administration or the Arizona Department of Transportation,* as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination: The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's

obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

- 4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient, the *Federal Highway Administration or Arizona Department of Transportation* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation*, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration or Arizona Department of Transportation*, may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests.

Appendix B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting

interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that Lake Havasu Metropolitan Planning **Organization** will accept title to the lands and maintain the project constructed thereon in accordance with *Title 23*, United States Code the Regulations for the Administration of *Federal Aid for Highways*, and the policies and procedures prescribed by the Arizona Department of Transportation, Federal Highway Administration and the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252;42 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, guitclaim and convey unto the Lake Havasu Metropolitan Planning Organization all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto <u>Lake Havasu</u> <u>Metropolitan Planning Organization</u> and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the <u>Lake Havasu Metropolitan</u> <u>Planning Organization</u>, its successors and assigns.

The Lake Havasu Metropolitan Planning Organization, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [.] [and]* (2) that the Lake Havasu Metropolitan Planning Organization will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.

Appendix C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities,
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, <u>Lake Havasu Metropolitan</u> <u>Planning Organization</u> will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, <u>Lake Havasu Metropolitan</u> <u>Planning Organization</u> will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the <u>Lake Havasu Metropolitan Planning Organization</u> and its assigns*.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

Appendix D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by *Lake Havasu Metropolitan Planning Organization pursuant* to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, <u>Lake Havasu</u> <u>Metropolitan Planning Organization</u> will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> will there upon revert to and vest in and become the absolute property of <u>Lake Havasu Metropolitan Planning Organization</u> and its assigns.*

Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to

comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin): and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et seq).

IV. ENVIRONMENTAL JUSTICE ACTIVITY

In 1994, Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, was issued. EO 12898 emphasizes the responsibility to make environmental justice a goal by identifying and addressing the effects of programs, policies and activities on minority and low-income populations. "LHMPO" accomplishes this by considering these populations in its transportation planning process to ensure equitable and safe projects within its community.

Title VI of the Civil Rights Act of 1964 requires outreach to underserved groups. "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The "LHMPO" will make every effort to hold public meetings in facilities that are Americans with Disabilities Act (ADA) compliant; and, arrange for reasonable accessibility and accommodation to persons with disabilities. Further, to provide equally effective communication, the "LHMPO" will make due preparation for persons requiring assistance, such as the hearing or visually impaired, upon request.

The "LHMPO" will assist persons with limited English proficiency to participate in the transportation planning process. Staff will provide Spanish translators and document translation, where feasible and upon request. Elderly persons or non-vehicle households who are unable to attend meetings may request information from the "LHMPO" office and have the requested materials delivered to their residence. "LHMPO" staff, coordinating availability, is willing to go speak to groups in an effort to eliminate participation barriers and involve citizens in the transportation process.

V. COMPLAINT PROCESS

Any person who believes that he or she, either individually, as a member of any specific class of persons, or in connection with any minority contractor, has been subjected to discrimination prohibited by Title VI of Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 may file a complaint. The complaint must be (a) unequal treatment because of race, color, national origin, gender, age, income status, limited English proficient and/or disability, or (b) noncompliance with Title VI rules or guidelines adopted thereunder.

The Arizona Department of Transportation (ADOT) has the principal responsibility for processing, investigating, and resolving any complaint arising as a result of operations of its subrecipients such as Lake Havasu Metropolitan Planning Organization ("LHMPO"). The "LHMPO" will be responsible for processing, investigating and resolving complaints of discrimination by its member agencies. The "LHMPO" contact information is as follows:

Jeanette Buckley LHMPO Administrative Specialist II/Title VI Coordinator 900 London Bridge Road – Transit Bldg. B Lake Havasu City, AZ 86404 Telephone 928-453-2824

The complaint process will follow the ADOT procedures. Complaints must be filed in writing to:

ADOT Civil Rights Office 206 S. 17th Avenue, Room 183, MD 155 Phoenix, AZ 85007 Telephone 602-712-8946

Complaints received by the "LHMPO" will be forwarded to the ADOT Civil Rights Office.

A formal complaint must be filed within 180 calendar days of the alleged act of discrimination or the date when the alleged discrimination became known to the complainant(s), or where there has been a continuing course of conduct, the date on which the conduct was discontinued or the latest instance of the conduct. This timeframe is prescribed by 49 CFR 21.11(b).

The complaint must meet the following requirements:

- a. Complaint shall be in writing and signed by the complainant(s) and must include complainant(s) name, address and phone number. The Title VI Program Manager or a liaison will assist the complainant with documenting the issues if necessary.
- Present date of the alleged act of discrimination; date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct.
- c. Present a detailed description of the issues including names and job titles of those individuals perceived as parties in the complained-of-incident.

- d. Allegations received by fax or e-mail will be acknowledged and processed, once the identity (ies) of the complainant(s) and the intent to proceed with the complaint have been established. For this, the complainant is required to mail a signed, original copy of the fax or e-mail transmittal for the Civil Rights Office (CRO) to be able to process it.
- e. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign and return to the CRO for processing.
- f. Within 45 calendar days of the acceptance of the complaint, the ADOT investigator will prepare a draft investigative report for the review of the ADOT CRO Deputy Administrator. The report shall include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.
- g. ADOT's final investigative report with the preliminary findings and a copy of the complaint will be forwarded by certified mail to either FHWA (Arizona Division office Civil Rights Specialist). FTA or FAA or NHTSA, within 60 calendar days of the acceptance of the complaint, per 23 CFR 200.9(b)(3).

A complainant dissatisfied with USDOT's Final Agency Decision may file action with the appropriate US District Court.

A complaint form can be obtained from "LHMPO" or downloaded from the "LHMPO" website. Insert Link

VI. LIMITED ENGLISH PROFICIENCY (LEP)

Limited English Proficiency (LEP) is a term used to describe individuals who are not proficient in the English language. Arizona's diverse population makes it critically important the "LHMPO" be innovative and proactive in engaging individuals from different cultures, backgrounds and businesses in planning, project development and other program areas.

Laws and Policy

Executive Order (EO) 13166 - *Improving Access to Services for Persons with Limited English Proficiency* is directed at implementing the protections afforded by Title VI of the Civil Rights Act of 1964 and related regulations. Accordingly, it prohibits recipients of Federal financial assistance from discriminating based on national origin by failing to provide meaningful access to services to individuals

who are LEP. This protection requires that LEP persons be provided an equal opportunity to benefit from or have access to services that are normally provided in English.

The following matrix illustrates legal and policy considerations:

Limited English Proficiency Executive Order 13166
Federal policy
Signed August 11, 2000
Considers eligible population
Contains monitoring and oversight
Requirements
Factor criteria is required, no numerical or percentage thresholds

Program Responsibility

Executive Order (EO) 13166 directs recipients of Federal financial assistance to take reasonable steps to provide limited English proficient individuals with meaningful access to their programs, activities and services.

• Notify LEP customers of the availability of language assistance services LEP persons have the right to language assistance at no cost to them in their spoken language. Language identification cards or posting signs in public areas are methods that can be used to provide notice of the service.

• Translation of vital documents in languages other than English

It is appropriate to have written materials that have been historically provided in English to applicants, customers and the general public translated into languages that are regularly encountered. The translation of vital documents into languages other than English is particularly important where a significant number or percentage of the customers served and/or eligible to be served have limited English proficiency. Written materials include electronic documents and web-sites. "LHMPO" with indicate on its web site and newspaper publications that translation can be provided, with appropriate notice.

Vital Documents are documents that convey information that critically affects the ability of the recipient/customer to make decisions about his/or her participation in

the program or activity. Examples of vital documents include, but are not limited to: applications, public notices, consent forms, letters containing important information regarding participation in a program, eligibility rules, notices pertaining to the reduction, denial or termination of services or benefits, right to appeal, notices advising of the availability of language assistance and outreach and community education materials. It is recommended that divisions/programs develop criteria for deciding which documents are vital thereby subject to translation.

Translating documents for LEP to a fourth (4th) grade literacy level ensures the targeted audience understands the information. Community based organizations or focus groups can assist with testing translations for language and literacy level appropriateness.

Section Five of the US Department of Transportation guidance on LEP requires a four-factor analysis to determine the need for translation services in order to ensure LEP populations are able to receive information about and can participate in the planning process in the language they best understand.

- 1. <u>Demography</u>: According to the U.S. Census Bureau, 2010-2014, American Community Survey five year estimates, 3.9% of the Lake Havasu MPO area population is considered to be Limited English Proficient. This equates to 2,028 individuals or 3.9% of the population five years of age or older who report speaking English less than "very well". The predominate language spoken by these individuals is Spanish. Under the Department of Justice's (DOJ) Safe Harbor provision, it is necessary to translate materials when five percent or 1,000 persons, whichever is less, speak English less than "very well".
- 2. <u>Frequency</u>: Some government offices provide materials in English and Spanish but, because the general public comes in contact with "LHMPO" on an infrequent basis, only public notices and certain vital materials are available in both English and Spanish.
- 3. <u>Importance</u>: Transportation planning is an important facet of the community and affects all residents. All residents are encouraged to participate in public meetings.
- 4. <u>Resources:</u> Due to limited resources and small staff, interpretation and translation services are not available without advance notice; however, public notices are available in English and Spanish.

Based on the four—factor analysis, Lake Havasu MPO will continue to provide public notices in English and Spanish. Translation and interpretation services will be provided through public online translation sites, bilingual community members and, if not cost prohibit and funds permit, through a language interpretation and translation service. The goal of the "LHMPO" is to engage all community members in the planning process. The Department of Transportation Policy Guidelines give recipients of federal funds substantial flexibility in determining what language assistance is appropriate based upon a local assessment. Due to current financial constraints, translation of large plan documents and maps are considered not warranted at this time. The "LHMPO" will provide translation services, if requested, with 10-days' notice prior to when the services are needed.

Persons with Limited English Proficiency (LEP)	Estimate	% of Persons 5 Yrs. & Over	% of Persons 5 Yrs. & Over With LEP
Total Persons 5 years & Over	51,366	100.0%	
English Speaking Only	46,179	89.9%	
Limited English Proficiency	2,028	3.9%	100.0%
Spanish with LEP	1,562	3.0%	77.0%
Other Indo-European languages with LEP	87	0.2%	4.3%
Asian & Pacific Island languages with LEP	357	0.7%	17.6%
Other Languages with LEP	22	0.0%	1.1%

Source: U.S. Census Bureau, 2010-2014 American Community Survey (ACS) 5-year estimates ACS data are based on a sample and are subject to sampling variability

Limited English Proficient (LEP) persons refers to persons age 5 years and over for who English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who reported to the Census they speak English less than very well, not well, or not at all.

Program Areas

- Long Range Transportation Plan (2040 Plan)
- Transportation Improvement Program (TIP)
- Public Involvement Plan (PIP)
- Coordinated Public Transit-Human Services Transportation Plan
- Unified Planning Work Program

All persons living, working, conducting business and visiting the region are beneficiaries of the planning, coordination, and construction activities of the "LHMPO". The "LHMPO" does not construct projects; albeit, this activity is accorded to member agencies. The safe movement of goods and people is supported by providing and maintaining a transportation network and facilities.

The Title VI Coordinator provides oversight to the program areas through contract reviews and personal interaction in an effort to ensure their compliance with Title VI and other nondiscrimination related authorities.

VII. POPULATION AND DEMOGRAPHIC PROFILE OF LAKE HAVASU CITY AND MOHAVE COUNTY

2010 Census							
	Lake Havasu City	Mohave County	"LHMPO" Area				
Total Population	52,527	200,186	55,503				
Male	25,954	100,078	27,462				
Female	26,573	100,108	28,041				
White	44,119	159,378	46,644				
Hispanic/Latino	6,356	29,569	6,708				
African American/Black	329	1,715	342				
Asian	486	2,016	501				
Am. Indian/Alaskan Native	419	3,793	442				
Native Hawaiian other	54	316	56				
Pacific Islander							
Other Races	29	145	29				
2 or More Races	735	3,254	781				

Source: U.S. Census Bureau, 2010 Census

2010-2014 Area Estimates Population By Race							
	Lake Havasu City	Mohave County					
Population	52,827	202,482					
Male	25,408	101,778					
Female	27,419	100,704					
Hispanic/Latino	6,841	31,101					
White	43,989	159,353					
African American/Black	334	1,890					
Asian	681	2,182					
Am. Indian/Alaskan Native	282	3,140					
Native Hawaiian other Pacific	6	341					
Islander							
Other Races	24	95					
2 or More Races	670	4,380					

Source: U.S. Census Bureau, ALRIS, American Fact Finder

2010 – 2014 Estimates										
Population and I	Households	;	Census Tracts ⁹							
	MF	° O								
Category	Total	Percent	Number of tracts >= MPO Percentage ^d	% Tracts	Affected ^e	% of Affected Population Captured in Census Tracts				
Population Base (Defined Census	52,8	100.0	11	100%						
Minority ^a	8,6	16.3	5	45.5%	4,29	49.6%				
Age 60+ ^a	18,5	35.0	5	45.5%	9,25	49.9%				
Age 65+ ^a	14,0	26.5	6	54.5%	8,50	60.7%				
Age 75+ ^a	5,8	11.1	6	54.5%	3,61	61.5%				
Below Poverty Level ^b	8,0	15.2	6	54.5%	5,23	64.8%				
Population with a disability ^c	8,7	16.3	5	45.5%	4,36	50.2%				
Limited English Proficient (LEP) Persons ^f	2,0 28	3.9 %	4	36.4%	923	45.5%				

Sources: U.S. Census Bureau, 2010-2014 American Community Survey (ACS) 5-Year estimates and 2010 Decennial Census

ACS data are based on a sample and are subject to sampling variability

^a Minority includes total population less White (Non-Hispanic). Data for minority and population groups by age are from 2010 Census data.

^b Percent of the population for whom poverty status is determined does not include institutionalized persons or persons under 5 years of age. Total population in the Census defined MPO area for whom poverty status is determined is 53,218. Data from 2014 ACS 5-Year estimates (Table B17001)

^c Disability status from the 2014 ACS 5-year estimates. All percentages are based on Census Tracts that match as close as possible to the MPO area, see note 'g'. Disability status is determined for the civilian noninstitutionalized population based on six types of difficulty: hearing, vision, cognitive, ambulatory, self-care, and independent living difficulty. (Table B18101)

^d For Limited English Proficient (LEP) persons, the Federal guidance (Federal Transit Administration Circular 4702.1B) notes that DOT has adopted the DOJ's Safe Harbor Provision. This Provision stipulates that the targeted minimum number of recipients regarding the translation of written materials for LEP populations is five percent or 1,000 persons, whichever is less, of the total population of persons eligible to be served. Thus for determining the number of affected Census Tracts and affected population, 5% is used as the guideline rather than the MPO percentage.

^e Affected population is the total of people that fall into the specified category for all Census tracts that have greater than or equal to the percentage for the MPO area (as defined by the Census geography, see note h) or as designated for LEP populations (see note e).

^f The guidance for Limited English Proficiency (LEP) for DOT recipients refers to persons age 5 years and over who speak English less than "very well." See

<u>http://www.lep.gov/guidance/guidance_Fed_Guidance.html</u>Data from 2014 ACS 5-Year estimates (Table B16005). 2014 estimate of total persons age 5 years and over for the defined Census geography is 51,366.

^g The Census Tracts used in this analysis include the best match using full Census Tracts where the majority of the population or the tract centroid is within the MPO boundary. The base numbers for all values in this table are for this Census-based defined area.

Demographic data obtained from the US Census Bureau, LEP.gov and collected during public meetings will be analyzed and used to ensure the minority and low income populations are considered in the planning process.

VIII. PUBLIC PARTICIPATION PROCESS – Public Involvement Plan (PIP)

Public participation implies an open process. This means that anyone who is potentially affected, or is just interested in the process, is welcome to participate. Some of the reasons for encouraging this openness are:

- 1. Project leaders may gain new information.
- 2. Participants, who want a project to be completed, can provide additional resources in the form of assistance, goods, or services.
- 3. Public participation can be a forum for dispute resolution.
- 4. Progress can be made and implementation occur because:
 - The project itself will be better designed with public input.
 - The community better understands what the project is about.
- 5. Input can be a warning mechanism for potential problems.
- 6. Participant comments help the project leaders understand areas where additional people may have concerns or misunderstandings. This can be used to provide better information to others who are not participating.

The goals of the "LHMPO" public involvement plan are to ensure that:

- Residents are given the opportunity to participate in the transportation planning process.
- The issues and concerns of residents are given consideration in the selection of transportation investments.
- Transportation investments do not disproportionately burden any population with adverse impacts.

The "LHMPO" Public Involvement Plan (PIP) outlines the importance of, and specific guidelines for, involving community members, organizations, governments, transportation professionals and others in ongoing and future "LHMPO" projects, plans and programs. Included is information about the value of public participation, how it will be accomplished, and what will be done with the results.

The PIP contains background material, guidelines, and commitments that "LHMPO" is undertaking to incorporate an effective public process into future plans, projects, and programs. Specifically "LHMPO" is committed to:

- Inclusive and meaningful public involvement.
- Open and honest communications with all individuals and entities.
- Timely public notice.
- Full public access to information and key decisions.
- Creating a sense of shared responsibility and ownership for regional transportation/congestion problems and a shared sense of pride in the development of solutions to those problems.
- Helping form partnerships between member entities, and the private and public sectors to plan and implement transportation/congestion solutions.
- Establishing policies and prioritizing needs based on valid data and using objective, fair and consistent processes.
- Providing information and gathering input so that decision makers will be able to make informed decisions.

The "LHMPO" is committed to providing the public 30 – calendar days to review the following:

- 1. Regional Transportation Plan (RTP) when Amended or updates are performed,
- 2. Transportation Improvement Program (TIP) Projects when any changes or updates are prepared; and,
- 3. Public Involvement Plan (PIP) when major changes are made to the Plan.

The above documents are available on the "LHMPO" web site, <u>www.LHMPO.ORG</u> or at the "LHMPO" location, 900 London Bridge Rd., Building B, Lake Havasu City, AZ. A notice shall be placed on the "LHMPO" web site and publicized in the Today's News-Herald inviting public comment when the documents are being amended.

"LHMPO" Notice to the Public informs the public of their rights under Title VI. The notice is posted in "LHMPO"s public offices, during public meetings and on the "LHMPO" website: <u>http://www."LHMPO".org/"LHMPO"/studies/title-vi-lep</u>.



X. "LHMPO" ORGANIZATIONAL & PROGRAM ADMINISTRATION

General Organization

The "LHMPO" was established in 2013 with the responsibility for transportation planning within the regional area. The regional area generally encompasses Lake Havasu City, a portion of Mohave County and the state highway system within its boundaries. Federal legislation requires that an MPO be designated to carry out a comprehensive, continuing, and coordinated transportation planning process for urbanized areas with a population of 50,000 or more. Lake Havasu City is the fiscal and administrative agent for the "LHMPO".

"LHMPO" Title VI Coordination and Administration

Compliance is ongoing and falls under duties for the "LHMPO" Manager, which includes, but is not limited to activities such as reporting and data collection, as well as advising the administrative staff of Title VI changes. The Title VI Coordinator is also responsible for preparing and submitting Title VI Plans once every three years and an annual Title VI Accomplishment and Goals report.

The Title VI Coordinator will receive training from ADOT and will share the requirements of Title VI and related authorities with staff and committee members.

The Title VI Coordinator will develop strategies to include minority and low-income populations (including individuals with Limited English Proficiency) in the transportation planning and grant awards processes as outlined in the "LHMPO" Public Involvement Plan.

"LHMPO" Title VI Coordinator Contact Information:

Jeanette Buckley, Administrative Specialist II 900 London Bridge Rd., Bldg. B Lake Havasu City, AZ 86404 928-453-2824 office

"LHMPO" Membership

The **Executive Board** is the policy body of the "LHMPO" and consists of elected or appointed officials from the Lake Havasu City, Mohave County, one member from ADOT State Transportation Board (appointed by the Governor of the State of Arizona) and one ex-officio from Federal Highways Administration. As the policy body, the function of the Executive Board is to coordinate transportation planning and related implementation activities within the metropolitan area. The Board must approve all agreements and contracts and the Chairman, or designee, signs all appropriate documents related to contracts and agreements. The Executive Board also reviews and approves the Title VI Plan.

1.	Lake Havasu City – Three Members
2.	Mohave County – One Member
3.	Arizona State Transportation Board – One Member
4.	Ex-Officio – Federal Highways Administration – One Member

The **Technical Advisory Committee (TAC)** is an advisory committee to the Executive Board. The eight-member committee is comprised of: the Lake Havasu City Director of Operations, or designee; Lake Havasu City Project Manager, or designee; Lake Havasu City Zoning Administrator, or designee; Mohave County Public Works Director, or designee; Mohave County Development Services Director, or designee; Western Arizona Council of Governments (WACOG) Transportation Program Manager as well as representatives from the Arizona Department of Transportation's Northwest District Engineering Office and Transportation Planning Division. In addition, there is an ex-officio non-voting member from Federal Highways Administration. The committee has the authority and primary responsibility to conduct technical reviews and analysis regarding all work activities of the Unified Planning Work Program and to advise the Executive Board on appropriate actions to be taken.

Lake Havasu MPO Technical Advisory Committee Representation

- 5. Lake Havasu City Three Members
- 6. Mohave County Two Member
- 7. WACOG One Member
- 8. Arizona Department of Transportation Two Members
- 9. Ex-Officio Federal Highways Administration One Member

Lake Havasu MPO Committee Characteristics

LAKE HAVASU MPO		GENDER			
COMMITTEES	RACE/Ethnicity	Female	Male		
Technical Advisory Committee	8 Caucasian		8		
Technical Advisory Committee Alternates	2 Caucasian	1	1		


XI. LAWSUITS ALLEGING DISCRIMINATION

No investigations, lawsuits or complaints have been filed against the Lake Havasu MPO or its member agencies during the past three years. A copy of the Complaint Log is included as an attachment.

XII. COMPLIANCE AND ENFORCEMENT

A. Compliance

"LHMPO" is committed to Title VI and related authorities and will make every effort to identify, address and eliminate discrimination if it is found to exist in any of its programs and activities.

B. Subrecipient Review Procedures

The Title VI Coordinator is responsible for reviewing subrecipients for Title VI Compliance through review of training, onsite visits and personal interviews of staff. The Title VI Coordinator will also ensure its subrecipients receive Title VI training. At the current time, "LHMPO" does not have any subrecipients.

EXHIBIT "A" Complaint Log

(Attached)



900 London Bridge Rd., Bldg. B Lake Havasu City, AZ 86404

Annual Report Date: _____

Title VI Complaints, Investigations and Lawsuits											
Description/Name	Date Month, Day & Year	Summary (Basis of Complaint)*	Status	Actions / Final Findings							
Complaints											
1)											
2)											
3)											
Investigations											
1)											
2)											
3)											
Lawsuits											
1)											
2)											
3)											

*Specific category, i.e. Sex, Race, Disability, etc.

Report to be Submitted Annually to ADOT Title VI Department; a NIL Report is Required

LAKE HAVASU MPO REQUEST FOR ACTION JUNE 13, 2017

SUBJECT: DISCUSSION AND POSSIBLE ACTION TO AWARD THE PROFESSIONAL SERVICES AGREEMENT WITH AMEC FOSTER WHEELER TO PERFORM THE BICYCLE & PEDESTRIAN IMPLEMENTATION PLAN

SUBMITTED BY: Stuart Schmeling, LHMPO TAC Chairman

AGENDA TYPE: PUBLIC HEARING

ATTACHMENTS:

Professional Services Agreement with Amec Foster Wheeler

SUMMARY/BACKGROUND:

The TAC reviewed two (2) responses to the Request for Statements of Interest and Qualifications to develop a Bicycle and Pedestrian Implementation Plan (BPIP). Amec Foster Wheeler (Amec) was selected unanimously by the TAC as the consulting firm. The LHMPO Manager negotiated with Amec for an amount of \$99,992 and the development of the Plan will take approximately 9 months from the issuance of the Notice to Proceed. Funding for the Plan was identified in the FY18 LHMPO budget, utilizing State Planning and Research (SPR) funding and FTA Section 5305 funding, for a budgeted amount of \$100,000.

The BPIP will provide Lake Havasu City and/or Mohave County an implementation guide to move forward with bicycle and pedestrian improvements that will be identified in the plan. Should either the City or County not have funding available in their respective Capital Improvement Plan (CIP) budgets, the BPIP puts both in a good position to apply for federal funding. One of the components of the BPIP is to identify funding mechanisms that can be utilized for the planned improvements.

Staff is requesting the Executive Board approve and sign the Professional Services Agreement.

ACTION OPTION:

Motion to approve and authorize the Chairman, or in his absence the Vice Chairman, to sign the Professional Services Agreement with Amec Foster Wheeler

OR

To be determined from discussion

RECOMMENDATION:

Motion to approve and authorize the Chairman, or in his absence the Vice Chairman, to sign the Professional Services Agreement with Amec Foster Wheeler



PROFESSIONAL SERVICES AGREEMENT

Lake Havasu Metropolitan Planning Organization (Bicycle and Pedestrian Implementation Plan)

This Professional Services Agreement ("Agreement") is entered into this June 13, 2017, by and between the Lake Havasu Metropolitan Planning Organization ("LHMPO"), and Amec Foster Wheeler Environment & Infrastructure, Inc., ("Contractor or Consultant"), both individually referenced as the "Party" and collectively referenced as the "Parties." For the purpose of providing professional services for LHMPO for the Bicycle and Pedestrian Implementation Plan ("Project"), the Parties agree as follows:

- 1. Contractor agrees to:
 - 1.1 Provide professional services to the LHMPO in relation to the Project described in the attached Exhibit "A" (Scope of Work, Task and Fee Estimate, and Project Schedule) and other related services.
 - 1.2 Provide sufficient qualified personnel to perform all required services, including but not limited to inspections and preparation of reports, as reasonably requested by representatives of the LHMPO.
 - 1.3 Complete all services required by this Agreement and in compliance with the Contractor's project schedule identified in the attached Exhibit "A."
 - 1.4 Comply with the Supplemental Contract Language contained in the attached Exhibits "B," "C," and "D" required by Arizona Department of Transportation. In the Exhibits, Consultant has the same meaning as Contractor, MPO has the same meaning as LHMPO, and LPA has the same meaning as LHMPO.
 - 1.5 Comply with the LHMPO Title VI Assurances as applicable contained in the attached Exhibit "E."
 - 1.6 Covenant to furnish its skill and judgment in all matters related to the Project and exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a professional at the locality of the Project.
- 2. Termination for Convenience or Default (Architect and Engineering) (if 49 CFR 18 applies)
 - 2.1 LHMPO may terminate this Agreement in whole or in part, for LHMPO's convenience or because of the failure of the Contractor to fulfill the contract obligations. LHMPO shall terminate by delivering to the Contractor a Notice of Termination specifying the nature,

extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall

- a) immediately discontinue all services affected (unless the notice directs otherwise), and
- b) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.
- 2.2 If the termination is for the convenience of the LHMPO, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.
- 2.3 If the termination is for failure of the Contractor to fulfill the contract obligations, LHMPO may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.
- 2.4 If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.
- 3. This Agreement may be cancelled under A.R.S. § 38-511.
- 4. Any notices to be given by either Party to the other must be in writing, and personally delivered or mailed by prepaid postage, at the following addresses:

LHMPO:	Contractor:
MPO Manager	Ed Latimer, PhD, PE
900 London Bridge Road, Bldg. B	Infrastructure Operations Manager - AZ
Lake Havasu City, AZ 86404	Amec Foster Wheeler Environment &
	Infrastructure, Inc.
	4600 E. Washington St., Suite 600
	Phoenix, AZ 85034-1917

- 5. It is expressly agreed and understood by and between the Parties that Contractor is an independent contractor and not an LHMPO employee, and is not entitled to any fringe benefits to which LHMPO employees are entitled. As an independent contractor, Contractor acknowledges that it is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. Contractor agrees that it will conduct itself in a manner consistent with its independent contractor status, and that it will neither hold itself out nor claim to be an officer or employee of the LHMPO, and that it will not make any claim, demand, or application to or for any right or privilege applicable to any officer or employee of the LHMPO, including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.
- 6. This Agreement is non-assignable by the Contractor. However, the Contractor may subcontract for services and/or materials, provided the subcontractor adheres to all applicable provisions of this Agreement and all federal requirements.

7. Payment:

- 7.1 LHMPO agrees to pay to Contractor a total sum of \$99,992.00 for all services specified in this Agreement.
- 7.2 A contingency line item is included in the fee proposed to address additional efforts that may be requested by LHMPO and the LHMPO's Technical Advisory Committee (TAC) for the Scope of Work tasks. No efforts will be initiated under the contingency line item without concurrence from the TAC and written authorization from the LHMPO Manager detailing the work effort and itemized cost.
- 7.3 The payment amount includes payment for all services to be rendered by Contractors or subcontractors, which the Contractor may employ to complete the services required by this Agreement. It is expressly agreed by and between the Parties that the Contractor is solely responsible for all payment to subcontractors retained by the Contractor.
- 7.4 Payment of the total amount provided for under Section 7.1 does not relieve Contractor of its obligations to complete the performance of all services required by this Agreement. Should the LHMPO request in writing additional services beyond that specified in this Agreement, then Contractor may charge and LHMPO agrees to pay Contractor in accordance with Exhibit "A."
- 7.5 Prior to the final payment to the Contractor, the LHMPO will deduct all unpaid privilege, license, and other taxes, fees and all other unpaid monies due the LHMPO from the Contractor, and apply those monies to the appropriate accounts. Contractor agrees to provide to the LHMPO any information necessary to determine the total amount(s) due.
- 7.6 Contractor agrees to bill the LHMPO monthly for any fees due the Contractor based upon the hourly rate agreed to in this Agreement. Pursuant to Prompt Pay Legislation (A.R.S. § 28-411) LHMPO agrees to pay billings within twenty-one (21) calendar days of the date of receipt.
- 7.7 Should the federal funding related to this Project be terminated or reduced by the federal government, or Congress rescinds, fails to renew, or otherwise reduces apportionments or obligation authority, the LHMPO shall in no way be obligated for funding or liable for any past, current, or future expenses under this Agreement.
- 8. This Agreement is the result of negotiations by and between the Parties and it is agreed that any ambiguity in this Agreement is not to be construed against either Party.
- 9. This Agreement shall be construed under the laws of the State of Arizona.
- 10. All work product of the Contractor for this Project are instruments of service for this Project only and shall remain the property of the LHMPO whether the Project is completed or not. All plans, drawings, specifications, data maps, studies and other information, including all copies thereof, furnished by the LHMPO shall remain the property of the LHMPO. They are

not to be used on other work, and, with the exception of this Agreement, are to be returned to the LHMPO on request or at the completion of the work.

- 11. The Parties expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the Parties waive any right to a trial by jury. In the event of litigation, the Parties agree to submit to a trial before the Court. Contractor agrees that this provision will be contained in all subcontracts related to this Agreement.
- 12. If there is any legal action or proceeding between LHMPO and the Contractor arising from or based upon this Agreement, the unsuccessful party to the action or proceeding agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees incurred by the prevailing party. The award of attorneys' fee shall be made by the Court without a jury.
- 13. This Agreement and its Exhibits represent the entire and integrated Agreement between the LHMPO and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the LHMPO and the Contractor, except as provided in Section 16 of this Agreement. Nothing contained in this Agreement is intended to benefit any third party.
- 14. In the event any provision of this Agreement is held to be invalid and unenforceable, the remaining provisions will remain valid and binding upon the Parties. One or more waivers by either Party of any provision, term, condition, or covenant shall not be construed by the other Party as a waiver of a subsequent breach of the same by the other Party.
- 15. No oral order, objection, claim or notice by any Party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver or modification shall be introduced in any proceeding.
- 16. The LHMPO Manager may make minor changes in the work, not involving additional cost and not inconsistent with the purpose of the Project, by written instrument signed by the LHMPO Manager and Contractor. Changes in work that involve additional costs must be approved by the Parties by written amendment to this Agreement signed by both Parties.
- 17. Insurance Requirements:
 - 17.1 Contractor and its subcontractors shall procure and maintain until all of their obligations are discharged, including any warranty periods under this Agreement, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work by the Contractor, its agents, representatives, employees or subcontractors.
 - 17.2. These insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. LHMPO in no way warrants that these minimum limits are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

- 17.3 <u>Minimum Scope and Limits of Insurance</u>: Contractor agrees to provide coverage with limits of liability not less than those stated below.
 - A. Commercial General Liability Occurrence Form: Policy must include bodily injury, property damage, personal injury and broad form contractual liability coverage.

1. G	eneral Aggregate	\$2,000,000
2. P	roducts- Completed Operations Aggregate	\$1,000,000
3. P	ersonal and Advertising Injury	\$1,000,000
4. B	anket Contractual Liability – Written and Oral	\$1,000,000
5. Fi	re Legal Liability	\$ 50,000
6. E	ach Occurrence	\$1,000,000

- a. The policy must be endorsed to include the following additional insured language: LHMPO, its departments, agencies, boards, committees, and its officers, officials, agents, and employees shall be named as additional insured's with respect to liability of the activities performed by or on behalf of the Contractor."
- b. The policy must contain a waiver of subrogation against LHMPO, its departments, agencies, boards, committees, and its officers, officials, agents, volunteers, and employees for losses arising from work performed by or on behalf of the Contractor.
- c. Completed operations coverage shall remain effective for at least two years following expiration of Contract.
- B. **Business Automobile Liability:** Bodily Injury and Property Damage for any owned, hire, and/or non-owned vehicles used in the performance of this Contract.
 - 1. Combined Single Limit (CSL)
 - a. The policy must be endorsed to include the following additional insured language: "LHMPO, its departments, agencies, boards, committees, and its officers, officials, agents, volunteers, and employees shall be named as additional insured's with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."
 - b. The policy must contain a waiver of subrogation against LHMPO, its departments, agencies, boards, committees, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

C. Worker's Compensation and Employers' Liability

1. Workers' Compensation	Statutory
2. Employers' Liability Each Accident	\$1,000,000
3. Disease – Each Employee	\$1,000,000

Professional Services Agreement

\$1,000,000

4. Disease – Policy Limit

\$1,000,000

- a. The policy must contain a waiver of subrogation against LHMPO, its departments, agencies, boards, committees, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement does not apply if exempt under A.R.S. Section 23-901.

D. Professional Liability (Errors and Omissions Liability)

1.	Each Claim	\$1,000,000
2.	Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.
- b. The policy must cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Agreement.
- c. The policy must be endorsed to include the following additional insured language: "LHMPO, its departments, agencies, boards, committees, and its officers, officials, agents, volunteers, and employees shall be named as additional insured's with respect to liability arising out of the activities performed by or on behalf of the Contractor."
- E. Theft, Damage, or Destruction of Work, if applicable: In the event of theft, damage or destruction of the work, Contractor will re-supply or rebuild its work without additional compensation and will look to its own resources or insurance coverage's to pay for such resupply or rebuilding. Contractor will promptly perform, re-supply or rebuild, regardless of the pendency of any claim by Contractor against any other party, including LHMPO, that such party is liable for damages, theft or destruction of Contractor's work. This subparagraph shall apply except to the extent that the cost of re-supply or rebuilding is paid by LHMPO's builder's risk insurance; in such event, LHMPO waives (to the fullest extent permitted by the builder's risk policy) all rights of subrogation against Contractor and each of its subcontractors to the extent of such payment by LHMPO's builder's risk insurer.

17.4 Additional Insurance Requirements:

The policies shall include, or be endorsed to include, the following provisions:

a. LHMPO, its departments, agencies, boards, committees and its officers, officials, agents, volunteers, and employees wherever additional insured status is required shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Agreement.

- b. Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
- c. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Agreement.
- 17.5 <u>Notice of Cancellation:</u> Each insurance policy required by the insurance provisions of this Agreement shall not be suspended, voided, cancelled, reduced in coverage or in limits without thirty (30) business days written notice to LHMPO, mailed directly to LHMPO, Attention MPO Manager, 900 London Bridge Road, Transit Bldg., Lake Havasu City, AZ 86404 and sent by certified mail, return receipt requested.
- 17.6 <u>Acceptability of Insurers:</u> Insurance is to be placed with duly licensed or approved nonadmitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. LHMPO in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- 17.7 <u>Verification of Coverage:</u> Contractor agrees to furnish LHMPO with certificates of insurance as required by this Agreement signed by a person authorized by that insurer to bind coverage on its behalf and the Project/Agreement number and project description noted on the certificate of insurance.
 - a. All certificates and endorsements are to be received and approved by LHMPO at least ten (10) days before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.
 - b. All renewal certificates required by this Agreement shall be sent directly to LHMPO, Attention MPO Planning Manager, 900 London Bridge Road, Transit Bldg., Lake Havasu City, AZ, 86404 with the Project/Agreement number and project description noted on the certificate of insurance.
- 17.8 <u>Subcontractors</u>: Contractor's certificate(s) shall include all subcontractors as insured's under its policies **or** Contractor shall furnish to LHMPO separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.
- 18. Contractor warrants compliance with A.R.S. §§ 41-4401 and 23-214(A), and that it is compliant with all federal immigration laws. Breach of this section is a material breach of this Agreement.

This Agreement is executed as of the day and year first written above.

LAKE HAVASU METROPOLITAN PLANNING ORGANIZATION

AMEC FOSTER WHEELER ENVIRONMENT & INFRASTRUCTURE, INC

Mark S. Nexsen LHMPO Chairman

Ed Latimer, PhD, PE Infrastructure Operations Manager - AZ

ATTEST:

LHMPO Manager

APPROVED AS TO FORM:

nev for

Exhibit "A"

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SCOPE OF WORK (Attached)

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Lake Havasu MPO Bicycle and Pedestrian Implementation Plan

Task 1. Prepare Detailed Work Plan and Schedule

Present an outline of a work plan strategy, schedule of meetings, meetings documentation, and proposed public network.

Task 2. Review Existing Plans

Review and provide a summary of existing plans to determine the status of the plans such as terms of implementation progress relevant to bicycle and pedestrian facilities to ensure coordination. The review should indicate the relevance of previous planning to current conditions. Plans available:

- LHMPO 2040 Regional Transportation Plan
- LHMPO 2017 Strategic Transportation Safety Plan
- Lake Havasu City 2016 Trails Plan
- Lake Havasu City 1998 Bicycle and Pedestrian Plan
- ADOT 2013 Statewide Bicycle and Pedestrian Plan Update

Task 3. Inventory Existing Facilities and Current Conditions

Inventory and analyze the existing off-road and on-road pathways, bike paths, trails and all other walking and biking facilities in the LHMPO region. The LHMPO will provide any sidewalk and trails inventories Lake Havasu City has available as well as any traffic counts needed.

Describe existing conditions of streets, bike lanes, shared-use paths, sidewalks identifying gaps or deficiencies in terms of accommodating potential and existing bicycle and pedestrian travel. Consideration of the elderly and individuals with disabilities; and community expectations and needs such as on-street parking.

Task 3A. School Area Assessment

Assess conditions at the elementary and middle schools in Lake Havasu City and develop an inventory of barriers and issues that limit the number of students walking and biking to school.

Task 4. Public Participation/Outreach

The LHMPO will provide in an Excel format a stakeholder list to be utilized for the public meetings. Consultant will determine the number of public meeting providing the recommendation to the LHMPO Technical Advisory Committee (TAC) and LHMPO Manager. One of the public meetings should provide issues related to on-street and off-street bicycle and pedestrian transportation modes within the region.

The Consultant shall describe what has occurred during the plan development process as well as future work tasks, and present existing conditions, future projections, deficiencies within the system and recommended improvements that could realistically occur. Input received form the public should become part of the final Plan. A final public meeting should be held with the Consultant presenting the final Bicycle and Pedestrian Implementation Plan, including recommendations, implementation and funding. Regular update meetings shall be held with the LHMPO Manager and TAC, with the majority being teleconferencing if desired.

Task 5. Future Conditions

This task promotes development of short range, med-range and long range vision and direction for bicycle and pedestrian facilities. The objective is to analyze baseline information to support strategies and actions necessary to achieve implementation of the Plan. The Plans approach is to evaluate ways to enhance non-vehicular mobility and accessibility to improve economic and recreational activities and help create a multimodal transportation system while also improving non-vehicular safety. Where current bicycle and Pedestrian routes do not exist, the Plan should recognize proposed routes and connections and identify infrastructure deficiencies of streets, shared-use paths, bike lanes, natural pathways and washes including:

- Identify and explain both the fastest and safest bike and pedestrian routes from one node to another.
- Prepare a map(s) depicting the bike and pedestrian routes.
- Identify the obstacles that make the fastest routes unsafe and make recommendations to make the routes safer.
- Recommend infrastructure improvements such as retrofitting shared-use paths, pedestrian curb ramps, striping and signage.
- Estimated costs of improvements.

Task 6. Conduct Needs and Demand Analysis

This task includes initiating a user needs and demands analysis of the bicyclists in the LHMPO Region to ensure that the proposed system meets the needs of the cyclists of all ages. There should be a measurement of safety needs by reviewing existing educational programs and conducting site specific hazards and performance of region wide accident analysis as identified in the LHMPO 2017 Strategic Transportation Safety Plan. A review of the Regions roads, as well as a discussion with Lake Havasu City and Mohave County, to determine if the proposed improvements are realistic and feasible.

Task 7. Develop Evaluation Criteria and Implementation Plan for Improvements

This task includes the development of a recommended region wide bicycle and pedestrian system. Specific projects and implementation strategies should be provided that address the deficiencies and special needs over a period of five, ten and 20 years. Include the on-street and off-street bicycle and pedestrian routes in the analysis. Prioritize projects based on need, available funding and the realistic probability that the project can occur.

The implementation of the plan shall include, at a minimum the following:

- Identify bicycle, pedestrian, and bike/pedestrian trails and connections at the following levels:
 - o Residential (intra-neighborhood)
 - Collector (neighborhood to activity centers)
 - Regional (termini at LHMPO boundary which affords connection to or future development of regional trail extending beyond MPO – e.g., old SR 95 right-of-way and BLM trails)
- Develop typical cross section and related design standards for uniform development
- Identify spot-specific solutions and countermeasures to promote efficiency and safety of bike/pedestrian travel

• For example mid-block and intersection crossings; street furniture catering to pedestrian/bikes at strategic locations

Task 8. Prepare 2017 Bicycle and Pedestrian Implementation Plan Report

Develop the Draft Plan for review by the LHMPO manager and Technical Advisory Committee. Once the review is complete, a presentation to the public shall occur.

Following the public meeting and comments are received, Consultant will prepare the final version of the Plan. The Consultant shall provide 12 copies of the Final Plans and 12 CD's.

All public comments whether written or verbal shall be incorporated into the final report.

Proposer shall provide the following:

- All files shall be provided in Microsoft Office Word, Excel and PowerPoint
- Maps shall be submitted in GIS Shapefiles or GDB file in the following datum: NAD_1983_StatePlane_Arizona_West_FIPS_0203_Feet
- PowerPoint presentation aids in electronic and hard copy format

Project Team Members		Project Budget Tasks/Hours											
and R													
Name	Role	Rate	1	2	3	3A	4	5	6	7	8	Hrs.	Cost
Prime Consultant: A	mec Foster Wheeler												
Mike Blankenship	Project Manager	\$200.00	4	4	8	12	24	16	20	20	20	128	\$25,600.00
Clark Clatanoff	Principal	\$230.00	1					1	1	1	2	6	\$1,380.00
Scott Kelley	Safety Engineer	\$160.00	2	4	8	8	24	24	20	24	12	126	\$20,160.00
Brian Fellows	Planner	\$110.00	2	4	4	24	16	16	12	12	12	102	\$11,220.00
Rumpa Dey	Traffic Engineer	\$115.00		8	20			20		25		73	\$8,395.00
Lucy Brady	GIS/Data Analyst	\$70.00			12	4	8	12		9	4	49	\$3,430.00
Gina Agate	Admin. Support	\$65.00	1	1	1	1	1	1	1	1	2	10	\$650.00
Subtotal: Amec Foste	er Wheeler		10	21	53	49	73	90	54	92	52	494	\$70,835.00
Subconsultants	an Alexandre Sale and a			1								1-12	
Dale Miller, RICK Eng.	Planner	\$240.00			16	8	16	16	13-2-5	12	4	72	\$17,280.00
Jaye Jackson, GCI	Public Involvement	\$150.00					64					64	\$9,600.00
Subtotal: Subconsult	tants	an an ann an	0	0	16	8	80	16	0	12	4	136	\$26,880.00
Direct Costs			Sec.										
Dinner @ \$23 (2 Pul	blic Meetings, 4 people)	\$23.00	8									8	\$184.00
Lunch @ \$12	2 (4 meetings, 3 people)	\$12.00	12									12	\$144.00
1	Wileage @ \$0.445/mile	\$0.445	2,000						1			2,000	\$890.00
Ads for Public Meetings @ \$400/ad		\$400	2									2	\$800.00
Display	/ Boards @ \$33/board	\$33.00	8	1								8	\$264.00
Total Direct Costs													\$2,282.00
TOTAL			10	21	69	57	153	106	54	104	56	630	\$99,997.00

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Project Tear	Project Budget												
and F		Tasks/Hours											
Name	Role	Rate	1	2	3	3A	4	5	6	7	8	Hrs.	Cost
Prime Consultant: A	mec Foster Wheeler												
Mike Blankenship	Project Manager	\$200.00	4	4	8	12	24	16	20	20	20	128	\$25,600.00
Clark Clatanoff	Principal	\$230.00	1					1	1	1	2	6	\$1,380.00
Scott Kelley	Safety Engineer	\$160.00	2	4	8	8	24	24	20	24	12	126	\$20,160.00
Brian Fellows	Planner	\$110.00	2	4	4	24	16	16	12	12	12	102	\$11,220.00
Rumpa Dey	Traffic Engineer	\$115.00		8	20	1.1.30		20		25		73	\$8,395.00
Lucy Brady	GIS/Data Analyst	\$70.00			12	4	8	12		9	4	49	\$3,430.00
Gina Agate	Admin. Support	\$65.00	1	1	1	1	1	1	1	1	2	10	\$650.00
Subtotal: Amec Foste	er Wheeler	152	10	21	53	49	73	90	54	92	52	494 <	\$70,835.00
Subconsultants									and the second				
Dale Miller, RICK Eng.	Planner	\$240.00			16	8	16	16		12	4	72	\$17,280.00
Jaye Jackson, GCI	Public Involvement	\$150.00					64					64	\$9,600.00
Subtotal: Subconsult	tants		0	0	16	8 /	80	16	0	12	4 <	136 1	\$26,880.00
Direct Costs			in the							A.A.			
Dinner @ \$23 (2 Pu	blic Meetings, 4 people)	\$23.00	8 ′									8	\$184.00
Lunch @ \$1	2 (4 meetings, 3 people)	\$12.00	12 /									12	\$144.00
	Mileage @ \$0.445/mile	\$0.445	2,000									2,000	\$890.00
Ads for Public Meetings @ \$400/ad		\$400	2 1									2	\$800.00
Displa	y Boards @ \$33/board	\$33.00	8 /									8	\$264.00
Total Direct Costs													\$2,282.00
TOTAL			10	21	69	57	153	106	54	104	56	630	\$99,997.00

El Calim 5-19-2017

				2017					2018	
TASKS NTP 6/13/17	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
1. Work Plan and Schedule	1859									
2. Review Existing Plans		1.2								
3. Inventory Existing Facilities and Current Conditions	199	- Count	and the second second	San A						
3.A. School Area Assessment	Sec. 1			St. Wall	AN OWN	L. L. Constant		1		Sell' mar
4. Public Participation/Outreach	12	「「「「		ST. A.		A States Land	A Real Providence	140.00	State and	
5. Future Conditions						Lating It.				
6. Conduct Needs and Demand Analysis						and the	A Carton			
7. Develop Evaluation Criteria and Implementation Plan							and and any	alt Car		
8. Prepare Bicycle and Pedestrian Implementation Plan										
PUBLIC/STAKEHOLDER INVOLVEMENT								-		
Public/Stakeholder Meetings										
MPO Executive Board Meeting										
TAC Meetings	Kick-o Meetin				Exist	ing litions		Impler	nentation	

Exhibit "B"

SUPPLEMENTAL CONTRACT LANGUAGE

NO OBLIGATION BY THE FEDERAL GOVERNMENT.

- 1. LHMPO and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the LHMPO, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- 2. Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.

- 1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 <u>et seq</u>. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- 2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- 3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

ACCESS TO RECORDS - The following access to records requirements apply to this Contract:

- 1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- 2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- 3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- 4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- 5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- 7. FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the <u>Master Agreement</u> between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

CIVIL RIGHTS REQUIREMENTS

- Nondiscrimination In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 2. Equal Employment Opportunity The following equal employment opportunity requirements apply to the underlying contract:
 - a. Race. Color. Creed. National Origin. Sex In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - b. Age In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- c. *Disabilities* In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to

Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

FTA TERMS

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in <u>FTA Circular 4220.1E</u> are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

RESOLUTION OF DISPUTES AND BREACHES OR OTHER LITIGATION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in

support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance During Dispute - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

LOBBYING

- 1. Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.
- 2. Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]
- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)
- 4. Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.
 - a. Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.
- 5. Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
- 3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the

required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, Amec Foster Wheeler Environment & Infrastructure, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

____ Signature of Contractor's Authorized Official

Ed Latimer, PhD, PE

Name and Title of Contractor's Authorized Official

5/19/2017 Date

CLEAN AIR

- 1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq*. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

CLEAN WATER

- The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

PROHIBITED INTERESTS

- 1. No member, officer, or employee of the MPO either during his or her tenure or for one year thereafter shall have any interests, direct or indirect, in this agreement or the proceeds thereof.
- 2. Contractor shall insert in all subcontractor agreements entered into connection with the Work Program or any property included or planned to be included in any WP, and shall require its subcontractors to insert in each of its subcontracts the provisions contained in paragraph 1 above.

INDEMNIFICATION

Contractor agrees to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, volunteers, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damages to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the MPO's contractor or sub-recipient or any of the directors, officers, agents, or employees or subcontractors of such contractor or subrecipient. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor or sub-recipient to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor or sub-recipient from and against any and all claims. It is agreed that such contractor or sub-recipient will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

Contractor further agrees to include a similar indemnification in any subcontracts it enters into with subcontractors related to this Agreement.

PUBLICATIONS

All reports and maps completed as a part of this Agreement, jointly written or produced by the MPO, except copies of such documents made for the exclusive internal use of the MPO, shall include an acknowledgment on the front cover or a title page, or in the case of maps, in the title block, which identifies the cooperative parties.

In addition, in accordance with 23 CFR 420.117(e), all such documents shall contain the following disclaimer statement:

"This report was funded in part through grant[s] from the Federal Highway Administration and/or Federal Transit Administration, U.S. Department of Transportation. The contents of this report reflect the views and opinions of the author(s) who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily state or reflect the official views or policies of the U.S. Department of Transportation, the Arizona Department of Transportation, or any other State or Federal Agency. This report does not constitute a standard, specification or regulation".

Exhibit "C"

PROFESSIONAL SERVICES DBE PROVISIONS

FOR USE ON LPA/SUBRECIPIENT FEDERAL AID PROJECTS WITHOUT DBE GOALS

(LPA PS EPRISE, 8/26/2016)

DISADVANTAGED BUSINESS ENTERPRISES:

1.0 Policy:

The Arizona Department of Transportation (hereinafter the Department) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The Department has received Federal financial assistance from the U.S. Department of Transportation and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Department to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the policy of the Department:

- 1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
- 2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
- 3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
- 4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are counted as DBEs;
- 5. To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
- 6. To assist in the development of firms that can compete successfully in the market place outside the DBE program; and
- 7. To promote the use of DBEs in all types of federally-assisted contracts and procurement activities.

It is also the policy of the Department to facilitate and encourage participation of Small Business Concerns (SBCs), as defined in Subsection 3.0, in USDOT-assisted contracts. The Department encourages consultants to take reasonable steps to eliminate obstacles to SBCs' participation and to utilize SBCs in performing contracts.

Local Public Agencies (LPA) and or Subrecipients of Federal financial assistance will administer and manage the contracts from advertising, consultant selection, negotiation, contract execution, processing payment reports and contract modifications, audits, DBE compliance (e.g., reporting and monitoring) through contract closeout.

2.0 Assurances of Non-Discrimination:

The consultant, subrecipient, or subconsultant shall not discriminate on the basis of race, color, sex or national origin in the performance of this contract. The consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts.

Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the LPA/Subrecipient with the Department's concurrence deems appropriate, which may include, but are not limited to:

- 1. Withholding monthly progress payments;
- 2. Assessing sanctions;
- 3. Liquidated damages;
- 4. Disqualifying the consultant from submitting SOQs, or any other forms of proposals, as non-responsible;
- 5. Cancellation, termination, or suspension of the Contract, in whole or in part.

The consultant, subrecipient, or subconsultant shall ensure that all subcontract agreements contain this non-discrimination assurance.

3.0 Definitions:

- (A) Commercially Useful Function (CUF): Commercially Useful Function is defined fully in 49 CFR 26.55, which definition is incorporated herein by reference.
- (B) Disadvantaged Business Enterprise (DBE): a for-profit small business concern which meets both of the following requirements:
 - (1) Is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more such individuals; and,
 - (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (C) NAICS Code: The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.
- (D) Non-DBE: any firm that is not a DBE.
- (E) Race-Conscious (RC): a measure or program focused specifically on assisting only DBEs, including women-owned DBEs.
- (F) Race-Neutral (RN): a measure or program used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.
- (G) Small Business Concern (SBC): a business that meets all of the following conditions:
 - (1) Operates as a for-profit business registered to do business in Arizona;
 - (2) Operates a place of business primarily within the U.S., or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor;
 - (3) Is independently owned and operated;
 - (4) Is not dominant in its field on a national basis; and

- (5) Does not have annual gross receipts that exceed the Small Business Administration size standards average annual income criteria for its primary North American Industry Classification System (NAICS) code.
- (H) Socially and Economically Disadvantaged Individuals: any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:
 - (1) Any individual who is found to be a socially and economically disadvantaged individual on a case-by-case basis.
 - (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans," which includes persons who are enrolled members of federally or State recognized Indian tribe, Alaskan Natives or Native Hawaiians;
 - (iv) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (v) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - (vi) "Women;"
 - (vii)Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

4.0 Working with DBEs:

The Department works with DBEs and assists them in their efforts to participate in the highway construction program. All proposers should contact the Department's Business Engagement and Compliance Office (BECO) by phone, through email, or at the address shown below, for assistance in their efforts to use DBEs in the highway construction industry. BECO contact information is as follows:

Arizona Department of Transportation Business Engagement and Compliance Office 1801 W. Jefferson St, Suite 101, Mail Drop 154A

Phoenix, AZ 85007 Phone (602) 712-7761 FAX (602) 712-8429 Email: <u>ContractorCompliance@azdot.gov</u> Website : <u>www.azdot.gov/bec</u>

4.01 Mentor-Protège Program

The Department has established a Mentor-Protégé program as an initiative to encourage and develop disadvantaged businesses in the highway construction industry. The program encourages prime consultants to provide certain types of assistance to certified DBE subconsultants. ADOT encourages consultants and certified DBE subconsultants to engage in a Mentor-Protégé agreement under certain conditions. Such an agreement must be mutually beneficial to both parties and to ADOT in fulfilling requirements of 49 CFR Part 23. For guidance regarding this program refer to the Mentor-Protégé Program Guidelines available on the BECO website.

The Mentor-Protégé program is intended to increase legitimate DBE activities and is not intended to diminish nor circumvent existing DBE rules or regulations.

5.0 Applicability:

The Department has established an overall annual goal for DBE participation on Federal-aid contracts. The Department intends for the goal to be met with a combination of race conscious efforts and race neutral efforts. Race conscious participation occurs when the consultant uses a percentage of DBEs, as defined herein, to meet the contract-specified goal. Race neutral efforts are those that are, or can be, used to assist all small businesses or increase opportunities for all small businesses. The regulation, 49 CFR 26, defines race neutral as when a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

The DBE provisions are applicable to all consultants including DBE consultants.

6.0 Certification and Registration:

6.01 DBE Certification:

Certification as a DBE shall be predicated on:

- (1) The completion and execution of an application for certification as a "Disadvantaged Business Enterprise."
- (2) The submission of documents pertaining to the firm(s) as stated in the application(s), including but not limited to a statement of social disadvantage and a personal financial statement.
- (3) The submission of any additional information which the Department or the applicable Arizona Unified Certification (UCP) agency may require to determine the firm's eligibility to participate in the DBE program.
- (4) The information obtained during the on-site visits to the offices of the firm and to active jobsites.

Applications for certification may be filed online with the Department or the applicable UCP agency at any time through the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) website at <u>http://www.azutracs.com</u>.

DBE firms and firms seeking DBE certification shall cooperate fully with requests for information relevant to the certification process. Failure or refusal to provide such information is a ground for denial or removal of certification.

ADOT is a member of the AZ Unified Certification Program (AZUCP). Only DBE firms that are certified by the AZUCP are eligible for credit on ADOT projects. A list of DBE firms certified by AZUCP is available on the internet at http://www.azutracs.com. The list will indicate contact information and specialty for each DBE firm, and may be sorted in a variety of ways. However, ADOT does not guarantee the accuracy and/or completeness of this information, nor does ADOT represent that any licenses or registrations are appropriate for the work to be done.

The Department's certification of a DBE is not a representation of qualifications and/or abilities nor does it mean that a DBE firm is guaranteed or entitled to receive or be awarded a contract. Being certified simply means that a firm has met the criteria for DBE certification as outlined in 49 CFR Part 26. The consultant bears all risks of ensuring that DBE firms selected by the consultant are able to perform the work.

6.02 SBC Registration:

To comply with 49 CFR Part 26.39, ADOT's DBE Program incorporates contracting requirements to facilitate participation by Small Business Concerns (SBCs) in federally assisted contracts. SBCs are for-profit businesses authorized to do businesses in Arizona that meet the Small Business Administration (SBA) size standards for average annual revenue criteria for its primary North American Industry Classification System (NAICS) code

While the SBC component of the DBE program does not require utilization of goals on projects, ADOT and the LPA/Subrecipient strongly encourages consultants to utilize small businesses that are registered in AZ UTRACS on their contracts, in addition to DBEs meeting the certification requirement. The consultant may use the AZ UTRACS website to search for certified DBEs and registered SBCs that can be used on the contract. However, SBCs that are not DBEs will not be counted toward the DBE participation.

SBCs can register online at the AZ UTRACS website.

The Department's registration of SBCs is not a representation of qualifications and/or abilities nor does it mean that an SBC firm is guaranteed or entitled to receive or be awarded a contract. Being SBC registered simply means that a firm has met the criteria for SBC registration as outlined in 49 CFR Part 26. The consultant bears all risks of ensuring that SBC firms selected by the consultant are able to perform the work.

7.0 DBE Financial Institutions:

The Department thoroughly investigates the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its service area and makes reasonable efforts to use these institutions. The Department encourages prime consultants to use such institutions on USDOT assisted contracts. However, use of DBE financial institutions will not be counted toward the DBE participation.

The Department and the LPA/Subrecipient encourages prime consultants to research the Federal Reserve Board website at <u>www.federalreserve.gov</u> to identify minority-owned banks in Arizona derived from the Consolidated Reports of Condition and Income filed quarterly by banks (FFIEC 031 and 041) and from other information on the Board's National Information Center database.

8.0 Time is of the Essence:

TIME IS OF THE ESSENCE IN RESPECT TO THE DBE PROVISIONS

9.0 Computation of Time:

In computing any period of time described in this DBE special provision, such as calendar days, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, Federal or State holiday, the period extends to the next day that is not a Saturday, Sunday, Federal or State holiday. In circumstances where the LPA/Subrecipient Procurement Office is closed for all or part of the last day, the period extends to the next day on which the LPA / Subrecipient Procurement Office is open.

10.0 Consultant and Subconsultant Requirements:

10.01 General:

The consultant shall establish a DBE program that will ensure nondiscrimination in the award and administration of contracts and subcontracts.

Agreements between the proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other proposers are prohibited.

10.02 DBE Liaison:

The consultant shall designate a DBE Liaison responsible for the administration of the consultant's DBE program. The name of the designated DBE Liaison shall be included on the DBE Intended Participation Affidavit Summary.

11.0 DBE Goal:

The Department has not established contract goals for DBE participation in this contract.

Consultants are still encouraged to employ reasonable means to obtain DBE participation. Consultants must retain records in accordance with these DBE specifications. The consultant is notified that this record keeping is important to the Department so that it can track DBE participation where only race neutral efforts are employed.

12.0 Bidders/Proposers List and AZ UTRACS Registration Requirement:

Under Title 49 CFR of the Code of Federal Regulations, Part 26.11, DOTs are required to collect certain information from all consultants and subconsultants who seek to work on federally-assisted contracts in order to set overall and contract DBE goals. ADOT collects this information when firms register their companies on the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) web portal at <u>http://www.azutracs.com/</u> a centralized database for companies that seek to do business with ADOT. This information will be maintained as confidential to the extent allowed by federal and state law.

Prime consultants and all subconsultants, including DBEs listed in the SOQ must be registered in AZ UTRACS. Proposers may verify that their firm and each subconsultant is registered using the AZ UTRACS website.

Proposers may obtain additional information at the AZ UTRACS website or by contacting the LPA/Subrecipient.

All proposers shall create a Bidders/Proposers list in the AZ UTRACS by selecting all firms, service providers, and vendors that expressed interest or submitted proposals or quotes for this contract. The Bidders/Proposers List form must be complete and must include the names for all subconsultants, service providers, and vendors that submitted proposals or quotes on this project regardless of the proposer's intentions to use the those firms on the project.

All proposers must complete and submit the Bidders/Proposers List online at AZ UTRACS prior to Cost Proposal submittal. A confirmation email will be generated by the system. This email confirmation shall be submitted with the Cost Proposal.

FAILURE TO SUBMIT THE REQUIRED BIDDERS/PROPOSERS LIST CONFIRMATION EMAIL WITH THE COST PROPOSAL BY THE STATED TIME AND IN THE MANNER HEREIN SPECIFIED AND AS OUTLINED IN THE RFQ SHALL BE CAUSE FOR THE PROPOSER'S COST PROPOSAL TO BE REJECTED.

13.0 Payment Reporting:

The consultant shall report on a monthly basis indicating the amounts paid to all subconsultants, of all tiers, working on the project. Reporting shall be in accordance with Prompt Pay and Payment Reporting requirements Exhibit "D" of the contract specifications.

14.0 Crediting DBE Participation:

14.01 General Requirements:

To count toward DBE participation, the DBE firms must be certified at the time of Cost Proposal submission in each NAICS code applicable to the kind of work the firm will perform on the contract. NAICS for each DBE can be found on the AZ UTRACS website. General descriptions of all NAICS codes can be found at <u>http://www.naics.com/search/</u>.

Credit towards the consultant's DBE participation is given only after the DBE has been paid for the work performed.

The entire amount of a contract that is performed by the DBE's own forces, including the cost of supplies and materials purchased by the DBE for the work on the contract and equipment leased by the DBE will be credited toward DBE participation. Supplies and equipment the DBE subconsultant purchases or leases from the prime consultant or its affiliate will not be credited toward DBE participation.

The consultant bears the responsibility to determine whether the DBE possesses the proper consultant's license(s) to perform the work and, if DBE credit is requested, that the DBE subconsultant is certified for the requested type of work.

The Department's certification is not a representation of a DBE's qualifications and/or abilities. The consultant bears all risks that the DBE may not be able to perform its work for any reason.

A DBE may participate as a prime consultant, subconsultant, or as a vendor of materials or supplies. The dollar amount of work to be accomplished by DBEs, including partial amount of a lump sum or other similar item, shall be on the basis of subcontract, purchase order, hourly rate, rate per ton, etc., as agreed to between parties.

DBE credit may be obtained only for specific work done for the project, supply of equipment specifically for physical work on the project, or supply of materials to be incorporated in the work. DBE credit will not be allowed for costs such as overhead items, capital expenditures (for example, purchase of equipment), and office items.

The consultant may credit second-tier subcontracts issued to DBEs by non-DBE subconsultants. Any second-tier subcontract to a DBE must meet the requirements of a first-tier DBE subcontract.

A prime consultant may credit the entire amount of that portion of a contract that is performed by the DBE's own forces. The cost of supplies and materials obtained by the DBE for the work of the contract can be included so long as that cost is reasonable. Leased equipment may also be included. No credit is permitted for supplies purchased or equipment leased from the prime consultant or its affiliate(s).

When a DBE subcontracts a part of the work of its contract to another firm, the value of the subcontract may be credited towards the DBE participation only if the DBE's subconsultant is itself a DBE and performs the work with its own forces. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE participation.

A prime consultant may credit the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consulting, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

14.02 Effect of Loss of DBE Eligibility:

If a DBE is deemed ineligible (decertified) or suspended in accordance with 49 CFR 26.87 and 26.88, the DBE may not be considered to count toward DBE participation on a new contract, but may be considered to count toward DBE participation under a subcontract that was executed before the DBE suspension or decertification is effective.

When a DBE firm or a DBE prime consultant loses its DBE eligibility and a subcontract or contract has not been executed before a decertification notice is issued to the DBE firm by its certifying agency, the ineligible firm does not count toward DBE participation.

When a subcontract is executed with the DBE firm before the Department notified the firm of its ineligibility, the consultant may continue to use the firm on the contract and may continue to receive DBE participation credit for the firm's work.

14.03 Notifying the Consultant of DBE Certification Status:

Each DBE contract at any tier shall require any DBE subconsultant or supplier that is either decertified or certified during the term of the contract to immediately notify the consultant and all parties to the DBE contract in writing, with the date of decertification or certification. The consultant shall require that this provision be incorporated in any contract of any tier in which a DBE is a participant.
14.04 Police Officers:

DBE credit will not be permitted for procuring DPS officers. For projects on which officers from other agencies are supplied, DBE credit will be given only for the broker fees charged, and will not include amounts paid to the officers. The broker fees must be reasonable.

14.05 Commercially Useful Function:

A prime consultant can credit expenditures to a DBE subconsultant toward DBE participation only if the DBE performs a Commercially Useful Function (CUF).

A DBE performs a CUF when it is responsible for execution of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself that it uses on the project. To determine whether a DBE is performing a commercially useful function, the LPA/Subrecipient will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

A DBE will not be considered to perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the LPA/Subrecipient will examine similar transactions, particularly those in which DBEs do not participate.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, LPA/Subrecipient will presume that the DBE is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function as provided above, the DBE may present evidence to rebut this presumption. The Department will determine if the firm is performing a CUF given the type of work involved and normal industry practices.

The LPA/Subrecipient will notify the consultant, in writing, if it determines that the consultant's DBE subconsultant is not performing a CUF. The consultant will be notified within seven calendar days of the LPA/Subrecipient's decision.

Decisions on CUF may be appealed to the ADOT BECO. The appeal must be in writing and personally delivered or sent by certified mail, return receipt requested, to the ADOT BECO. The appeal must be received by ADOT BECO no later than seven calendar days after the LPA/Subrecipient's decision. LPA/Subrecipient's decision remains in place unless and until the ADOT BECO reverses or modifies LPA/Subrecipient's decision. ADOT BECO will promptly consider any appeals under this subsection and notify the consultant of the ADOT BECO findings and decisions. Decisions on CUF matters are not administratively appealable to USDOT.

The LPA/Subrecipient may conduct project site visits on the contract to confirm that DBEs are performing a CUF. The consultant shall cooperate during the site visits and the LPA/Subrecipient staff will make every effort not to disrupt work on the project.

15.0 Required Provisions for DBE Subcontracts:

All subcontracts of any tier, all supply contracts, and any other contracts in which a DBE is a participant shall include as a physical attachment, DBE Subconsultant Compliance Assurances available from the LPA/Subrecipient and all of the Uniform Terms and Conditions set forth in other sections of this contract.

Consultants executing agreements with subconsultants, DBE or non-DBE, that materially modify federal regulation and state statutes such as, prompt payment and retention requirements, through subcontract terms and conditions will be found in breach of contract which may result in termination of the contract, or any other such remedy as the LPA/Subrecipient and ADOT deem appropriate as outlined in DBE Subsection 2.0.

The LPA/Subrecipient reserves the right to conduct random reviews of DBE and non-DBE subcontract documentation to ensure compliance with federal requirements.

The consultant shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower tier subcontracts be performed in accordance with 49 CFR Part 26 provisions.

The Consultant shall provide electronic copies of signed subcontract agreements for all DBE Subconsultants listed on the DBE Intended Participation Affidavit Summary by uploading them within 15 calendar days of an approved contract to the LPA DBE System.

16.0 Contract Performance:

The LPA/Subrecipient will visit the consultant's office to conduct reviews to ensure compliance with CUF and other DBE requirements. The reviews may include, among other activities, interview of DBEs and their employees and the consultant and its employees. The consultant shall cooperate in the review and make its employees available. The consultant shall inform the LPA/Subrecipient in advance when each DBE will be working on the project to help facilitate reviews.

The LPA/Subrecipient reserves the right to request and inspect all records of the consultant and all records of the DBEs and non-DBE subconsultants concerning this contract. The consultant must make available a copy of all documents related to all contracts to LPA/Subrecipient upon request.

17.0 Certification of Final DBE Payments:

DBE participation on the contract is measured by actual payments made to the DBEs. The consultant shall submit the "Certification of Final DBE Payments" form for each DBE firm working on the contract. This form shall be signed by the consultant and the relevant DBE, and submitted to the LPA/Subrecipient no later than 30 days after the DBE completes its work.

The LPA/Subrecipient and ADOT will use this certification and other information available to determine applicable DBE credit allowed to date by the Prime Consultant and the extent to which the DBE firms were fully paid for that work. By the act of filing the forms, the consultant

acknowledges that the information is supplied in order to justify the payment of state and federal funds to the consultant.

The consultant will not be released from the obligations of the contract until the "Certification of Final DBE Payments" forms are received and deemed acceptable by the LPA/Subrecipient.

18.0 False, Fraudulent, or Dishonest Conduct:

In addition to any other remedies or actions, the Department will bring to the attention of the US Department of Transportation any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take steps such as referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General for possible initiation of suspension and debarment proceedings against the offending parties or application of "Program Fraud and Civil Penalties" rules provided in 49 CFR Part 31.

Exhibit "D"

CONSTRUCTION AND PROFESSIONAL SERVICES/DESIGN CONTRACTS PROMPT PAY AND PAYMENT REPORTING PROVISIONS

** FOR USE ON LPA FEDERAL AID PROJECTS **

(09/20/2016)

MEASUREMENTS AND PAYMENT:

Partial Payments:

If satisfactory progress is being made, the contractor will receive a payment based on the amount of work completed. Progress payments may be made by the LPA/ Subrecipient Procurement Office to the contractor on the basis of an approved estimate of the work performed during a preceding period of time. The progress payments shall be paid on or before 14 days after the estimate of the work is approved. The estimate of the work shall be deemed received by the LPA/Subrecipient Procurement Office on submission to the person designated by the LPA/Subrecipient Procurement Office for the submission, review or approval of the estimate of the work. The LPA/Subrecipient Procurement Office by mutual agreement may make progress payments on contracts of less than 90 days and shall make monthly progress payments on all other contracts. Payment to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under the contract may include payment for material and equipment.

An estimate of the work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the LPA/Subrecipient Procurement Office or Designee prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the contract. The contractor shall work with the LPA/Subrecipient or the LPA/Subrecipient Designee to finalize monthly estimate. The progress payments shall be paid on or before 14 days after the estimate of the work is certified and approved in accordance with Arizona Revised Statutes Section 34-221.

The contractor shall pay to the contractor's subcontractors or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor or material supplier, within seven days of receipt of each progress payment the respective amounts allowed the contractor or subcontractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest, except that no contract for construction services may materially alter the rights of any contractor, subcontractor or material supplier to receive prompt and timely payment.

A subcontractor may notify the LPA/Subrecipient Procurement Office in writing requesting that the subcontractor be notified by the Subrecipient Procurement Office in writing within five days from payment of each progress payment made to the contractor.

Subcontractor Payments:

(1) Retention:

If the prime contract does not provide for retention, the contractor and each subcontractor of any tier shall not withhold retention on any subcontract. If the prime contract provides for retention, the prime contractor and each subcontractor of any tier shall not retain a higher percentage than the LPA/Subrecipient may retain under the prime contract.

(2) No Set-offs Arising from Other Contracts:

If a subcontractor is performing work on multiple contracts for the same contractor or subcontractor of any tier, the contractor or subcontractor of any tier shall not withhold or reduce payment from its subcontractors on the contract because of disputes or claims on another contract.

(3) Partial Payment:

The contractor and each subcontractor of any tier shall make prompt partial payments to its subcontractors within seven days of receipt of payment from the LPA/Subrecipient Procurement Office. Notwithstanding any provision of Arizona Revised Statutes Section 34-221, the parties may not agree otherwise.

(4) Final Payment:

The contractor and each subcontractor of any tier shall make prompt final payment to each of its subcontractors. The contractor and each subcontractor of any tier shall pay all monies, including retention, due to its subcontractor within seven days of receipt of payment. Notwithstanding any provision of Arizona Revised Statutes Section 34-221, the parties may not agree otherwise.

(5) Payment Reporting:

For the purposes of this subsection "Reportable Contracts" means any subcontract, of any tier, DBE or non-DBE, by which work shall be performed on behalf of the contractor and any contract of any tier with a DBE material supplier.

The requirements of this subsection apply to all Reportable Contracts.

Payment Reporting for all Reportable Contracts shall be done through the LPA DBE System which can be accessed at AZ UTRACS on the Arizona Transportation Business Portal at <u>www.azutracs.com</u>. No later than fifteen calendar days after the preconstruction conference, the contractor shall log into the system and enter or verify the name, contact information, and subcontract amounts for Reportable Contracts on the project. As Reportable Contracts are approved over the course of the contract, the contractor shall enter the subcontractor information in the LPA DBE System. Reportable contracts information shall be entered into the system no later than five calendar days after approval by the LPA/Subrecipient Procurement Office.

The contractor shall report on a monthly basis indicating the amounts actually paid and the dates of each payment under any Reportable Contract on the project. The contractor shall provide information for payments made on all Reportable Contracts during the previous month by the last day of the current month. In the event that no payments were made during a given month, the contractor shall identify that by entering a dollar value of zero. If the contractor does not pay the full amount of any invoice from a subcontractor, the contractor shall note that and provide the reasons in the comment section of the Monthly Payment Audit of the LPA DBE System.

In addition, the contractor shall require that all participants in any Reportable Contract electronically verify receipt of payment on the contract within 15 days of receipt of electronic payment notification and the contractor shall actively monitor the system to ensure that the verifications are input. The contractor shall proactively work to resolve any payment discrepancies in the system between payment amounts it reports and payment confirmation amounts reported by others.

The contractor shall ensure that all Reportable Contract payment activity is in the LPA DBE System. This includes all lower-tier Reportable Contracts.

The contractor shall maintain records for each payment explaining the amount requested by the subcontractor, and the amount actually paid pursuant to the request, which may include but are not limited to, estimates, invoices, pay requests, copies of checks or wire transfers, and lien waivers in support of the monthly payments in the system.

The contractor shall ensure that a copy of this Subsection is included in every Reportable Contract of every tier.

(a) Sanctions for Inadequate Reporting:

For each Reportable Contract on which the contractor fails to submit timely and complete payment information the LPA/Subrecipient Procurement Office will retain \$1,000.00 as liquidated damages, from the monies due to the contractor. Liquidated damages will be deducted each month for each Reportable Contract on which the contractor fails to submit payment information until the contractor provides the required information as described herein. After 90 consecutive days of non-reporting, the liquidated damages will increase to \$2,000.00 for each subsequent month, for each Reportable Contract on which the contractor fails to report until the information is provided. These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.

(6) Completion of Work:

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted by the LPA/Subrecipient Procurement Office.

(7) Disputes:

If there is a discrepancy between what is reported by the contractor in the LPA DBE System and what the subcontractor indicates, an alert email will automatically be sent to the contractor. The email will be sent to the email address provided by the contractor in the LPA DBE System. It is the contractor's responsibility to ensure that the email address in the system is kept current.

The contractor shall provide a verifiable explanation of the discrepancy in the LPA DBE System as early as practicable but in no case later than seven days after the date of the alert email.

The LPA/Subrecipient will determine whether the contractor has acted in good faith concerning any such explanations. The LPA/Subrecipient and ADOT BECO reserves the right to request and receive documents from the contractor and all subcontractors of any tier, in order to determine whether prompt payment requirements are met.

The contractor shall implement and use the dispute resolution process outlined in the subcontract or by following the LPA/Subrecipient escalation process, to resolve payment disputes.

(8) Non-compliance:

Failure to make prompt partial payment, or prompt final payment including any retention, within the time frames established above, will result in remedies, as the LPA/Subrecipient Procurement Office deems appropriate, which may include but are not limited to:

Professional Services Agreement

- (a) Liquidated Damages: These liquidated damages shall be in addition to all other retention or liquidated damages provided for elsewhere in the contract.
 - (i) The LPA/Subrecipient Procurement Office will withhold two times the disputed dollar amount not paid to each subcontractor.
 - (ii) If full payment is made within 30 days of the LPA/Subrecipient Procurement Office's payment to the contractor, the amount withheld by the LPA/Subrecipient Procurement Office will be released.
 - (iii) If full payment is made after 30 days of the LPA/Subrecipient Procurement Office's payment to the contractor, the LPA/Subrecipient Procurement Office will release 75 percent of the funds withheld. The LPA/Subrecipient Procurement Office will retain 25 percent of the monies withheld as liquidated damages.
- (b) Additional Remedies. If the contractor fails to make prompt payment for three consecutive months, or any four months over the course of one project, or if the contractor fails to make prompt payment on two or more projects within 24 months, the LPA/Subrecipient Procurement Office may, in addition, invoke the following remedies:
 - (i) Withhold monthly progress payments until the issue is resolved and full payment has been made to all subcontractors, subject to the liquidated damages described in paragraph (a) above,
 - (ii) Terminate the contract for default,
 - (iii) Disqualify the contractor from future bidding, temporarily or permanently, depending on the number and severity of violations, if applicable.

In determining whether liquidated damages will be assessed, the extent of the liquidated damages, or additional remedies assessed, the LPA/Subrecipient will consider whether there have been other violations on this or other federal-aid contracts, whether the failure to make prompt payment was due to circumstances beyond the contractor's control, and other circumstances. The contractor may, within 15 calendar days of receipt of the decision of the LPA/Subrecipient, escalate the decision according to the contract's escalation process.

Exhibit "E"

LHMPO TITLE VI ASSURANCES (Attached)

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Professional Services Agreement

Lake Havasu Metropolitan Planning Organization Title VI Assurances

The <u>Lake Havasu Metropolitan Planning Organization</u> (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through *Federal Highway Administration and Arizona Department of Transportation*, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation--Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- 23 C.F.R. Part 200 Subchapter C-Civil Rights (Title VI program implementation and related statues)

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda and/or guidance, the Recipient hereby gives assurances that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federal Aid Highway Program.

- The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
- 2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all *Federal Aid Highway Program* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The <u>Lake Havasu Metropolitan Planning Organization</u>, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252.42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

- 3. The Recipient will insert the clauses of this Assurance in every contract or agreement subject to the Acts and the Regulations.
- 4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
- 5. That where the Recipient receives Federal financial assistance to a construct a facility or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
- 6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
- 7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project or program.
- 8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
- 9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
- 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> also agrees to comply (and require any sub-recipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing Federal Highway Administration or Arizona Department of Transportation access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration or Arizona Department of Transportation. You must keep records, reports, and submit the material for review upon request to Federal Highway Administration, Arizona Department of Transportation, or its designee in timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Lake Havasu Metropolitan Planning Organization gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Federal Highway Administration and Arizona Department of Transportation. This ASSURANCE is binding on Arizona. other recipients. sub-recipients, sub-grantees, contractors. subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Federal Aid Highway Program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

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Mark S. Nexsen, Chairman Lake Havasu Metropolitan Planning Organization

7/19/16

Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration or the Arizona Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination: The contractor, with regard to the work performance by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's

obligations under this contract and the Acts and Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

- 4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient, the *Federal Highway Administration or Arizona Department of Transportation* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient, the *Federal Highway Administration, or Arizona Department of Transportation*, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Federal Highway Administration or Arizona Department of Transportation*, may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- 6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with request to any subcontract or procurement as the Recipient, the Federal Highway Administration, or Arizona Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests.

Appendix B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting

interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that Lake Havasu Metropolitan Planning Organization will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United States Code the Regulations for the Administration of Federal Aid for Highways, and the policies and procedures prescribed by the Arizona Department of Transportation ,Federal Highway Administration and the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A. Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252;42 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, guitclaim and convey unto the Lake Havasu Metropolitan Planning Organization all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto <u>Lake Havasu</u> <u>Metropolitan Planning Organization</u> and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the <u>Lake Havasu Metropolitan</u> <u>Planning Organization</u>, its successors and assigns.

The Lake Havasu Metropolitan Planning Organization in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [.] [and]* (2) that the Lake Havasu Metropolitan Planning Organization will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49. Code of Federal Regulations. U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.

Appendix C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities,
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, <u>Lake Havasu Metropolitan</u> <u>Planning Organization</u> will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, <u>Lake Havasu Metropolitan</u> <u>Planning Organization</u> will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the <u>Lake Havasu Metropolitan Planning Organization</u> and its assigns*.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

Appendix D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, <u>Lake Havasu</u> <u>Metropolitan Planning Organization</u> will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> will there upon revert to and vest in and become the absolute property of <u>Lake Havasu Metropolitan Planning</u> <u>Organization</u> and its assigns.*

Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.

Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to

comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin): and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1687 et seq).

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LAKE HAVASU MPO REQUEST FOR ACTION JUNE 13, 2017

SUBJECT: DISCUSSION AND POSSIBLE ACTION TO APPROVE NEW TECHNICAL ADVISORY COMMITTEE (TAC) MEMBER

SUBMITTED BY: Stuart Schmeling, LHMPO TAC Chairman

AGENDA TYPE: PUBLIC HEARING

ATTACHMENTS:

Mohave County Recommendation Letter

SUMMARY/BACKGROUND:

Pursuant to the March 14, 2017 Amended By-Laws, the Executive Board needs to approve new TAC members recommended by the TAC Members.

Mohave County has designated Steven Latoski, Public Works Director, to recommend the second (2nd) voting member from Mohave County. Mr. Latoski is recommending Tim Walsh, Jr., P.E., Mohave County Development Service Director. Mr. Walsh received the LHMPO TAC's approval.

Staff is requesting the Board approve and appoint Tim Walsh as a new TAC member.

ACTION OPTION:

Motion to recommend the Executive Board appoint and approve Tim Walsh as the new TAC Member

OR

To Be Determined From Discussion

RECOMMENDATION:

Motion to recommend the Executive Board appoint and approve Tim Walsh as the new TAC Member



MOHAVE COUNTY PUBLIC WORKS

Telephone (928) 757-0910 3715 Sunshine Drive Steven P. Latoski, P.E., PTOE Public Works Director

Fax (928) 757-0913 P. O. Box 7000 Kingman, Arizona 86402-7000

TDD (928)753-0729 www.mohavecounty.us Michael P. Hendrix, P.E. County Administrator / County Engineer

May 19, 2017

Jean Knight Manager Lake Havasu Metropolitan Planning Organization (LHMPO) 900 London Bridge Rd., Bldg. B Lake Havasu, City, AZ 86404

RE: Recommendation of Tim Walsh, Jr., P.E. to the Lake Havasu MPO Technical Advisory Committee

Dear Ms. Knight:

I am writing to respectfully submit for Executive Committee consideration my recommendation appoint Tim Walsh, Jr., P.E. to the Lake Havasu MPO Technical Advisory Committee as a voting member for Mohave County. Mr. Walsh surpasses the TAC member qualifications and has expressed a willingness to serve. He has practiced civil engineering in Mohave County through his professional career in both private and public sector capacities. Mr. Walsh maintains extensive experience in traffic and transportation engineering as well as sound knowledge of principles and practices of land development and economic development and related revenue programs key to successful transportation planning and project development in the greater Lake Havasu area.

The following presents Mr. Walsh's bio:

Tim Walsh is the Director of Mohave County Development Services, and has worked over 7 years for Mohave County. He is a registered Professional Engineer in the State of Arizona. Tim manages a staff of over 60 employees department-wide across Planning and Zoning, Building, Flood Control, Environmental Quality/Landfills and Economic Development. Tim has over 13 years in Civil Engineering with experience in land development, hydrology, hydraulics, water and wastewater systems, transportation and construction management. Prior to working for the County he was a consultant at a land development engineering firm in Kingman working on commercial and residential projects. Tim holds a Master's Degree in Civil Engineering from Utah State University and a Bachelor's Degree in Civil Engineering from Utah State University.

If you have any questions, please let me know.

Sincerely,

Steven P. Latoski, P.E., PTOE Public Works Director



Facilities Water Systems Parks • Fleet Improvement Districts

LAKE HAVASU MPO REQUEST FOR ACTION JUNE 13, 2017

SUBJECT: Discussion and Possible Action Related to Recruitment of the Lake Havasu MPO Manager

SUBMITTED BY: Mark Nexsen, Chairman

AGENDA TYPE: PUBLIC HEARING

ATTACHMENTS:

SUMMARY/BACKGROUND:

The Board needs to discuss the vacant LHMPO Manager Position, and the action they wish to take. The Board needs to give direction to staff and Lake Havasu City Human Resources the action they want both to take.

ACTION OPTION:

To be determined from discussion

RECOMMENDATION:

To be determined from discussion