

Release Date: March 15, 2024  
Project No. RFP20240315YARTS

**Request for Proposals  
for  
Consultant to Prepare a Short-Range Transit Plan**

Notice is hereby given that proposals will be received at the Yosemite Area Regional Transportation System (YARTS), a California Joint Powers Authority, for performing all work necessary in accordance with the Requirements specified herein. Please carefully read and follow the instructions provided. Proposers are responsible for making certain their proposal is complete and is received by YARTS on or before the closing deadline.

Proposals shall be emailed to: Alexandra Arroyo, Procurement Specialist, at [alexandra.arroyo@mcagov.org](mailto:alexandra.arroyo@mcagov.org). The email subject line shall read as follows: *RFP20240315YARTS – Consultant to Prepare a Short-Range Transit Plan – Email Submission Deadline April 19, 2024, 12:00 p.m., PDT [insert consultant name here]*.

**Proposals received after the closing deadline will be rejected.**

The Merced County Association of Governments Purchasing Policy and the YARTS Procurement Manual for Federally Funded Projects are incorporated by this reference. Proposers of this project are hereby bound by all applicable federal laws, regulations, and certifications.

YARTS is not liable for any costs incurred by Proposers in responding to this Request for Proposals (RFP). Proposers are hereby notified that Proposals become public record. Proposers are to clearly identify any information that is confidential and/or proprietary and submit a redacted copy of their Proposal with the confidential and/or proprietary information. In the event of a Public Records Act or Freedom of Information Act request, YARTS will use the redacted copy submitted by Proposer in response and the failure to provide a redacted copy may result in the disclosure of a Proposer's response. YARTS is not responsible or liable for the disclosure of any information that is not clearly labeled as confidential and/or proprietary.

In accordance with the Civil Rights Act of 1964, Proposers are hereby notified that Disadvantaged Business Enterprises (DBE) are encouraged to submit proposals and will be afforded full opportunity to submit and participate in this solicitation. The DBE contract goal for this procurement is 0.2%.

Please direct inquiries to Alexandra Arroyo, Procurement Specialist, via email at [alexandra.arroyo@mcagov.org](mailto:alexandra.arroyo@mcagov.org).

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## PROPOSER'S SUBMITTAL CHECKLIST

This checklist is provided to assist Proposers with submitting a complete Proposal. Proposers are to submit a Proposal as noted below and are to include this checklist with Proposal.

1. \_\_\_\_\_ Cover Letter
2. \_\_\_\_\_ Proposer's Submittal Checklist
3. \_\_\_\_\_ Table of Contents
4. \_\_\_\_\_ Section One – Certification, Nondebarment Certification, Lobbying Certification, DBE Program Bidders List Form, and References List
5. \_\_\_\_\_ Section Two – Organization, Capability, and Experience
6. \_\_\_\_\_ Section Three – Response to Requirements
7. \_\_\_\_\_ Section Four – Cost

A simple cover page noting each Section before each Section begins in your proposal is acceptable. For example, a single page noting "Section One".

**Non-submittal of any requested item may be considered non-responsive.**

## DEFINITIONS

Agreement – The Agreement constitutes the entire contract between YARTS and the selected Proposer. Term may be used interchangeably with Contract.

Authorized Representative – Person who has the legal authority to enter into and sign contracts on behalf of the organization.

Closing Deadline – The last day and time the proposal must be received via email to alexandra.arroyo@mcagov.org. Term may be used interchangeably with Submission Deadline.

Contract – The Contract constitutes the entire agreement between YARTS and the awarded Proposer. Term may be used interchangeably with Agreement.

Consultant – The Proposer awarded the Contract derived from this RFP. Term may be used interchangeably with Contractor, Vendor, or Service Provider.

Evaluation Committee – A committee established to review and evaluate proposals to determine the Contract award. The committee may include representatives of YARTS and its member jurisdictions.

MCAG – Merced County Association of Governments, a Joint Powers Authority, established under California Government Code Section 6500 et seq.

Proposer/Respondent – A person, partnership, firm, or corporation submitting a proposal with the intention of obtaining a YARTS contract.

Subcontractor(s) – Any person, entity, or organization, to which Consultant or Contractor/Vendor/Service Provider or YARTS has delegated any of its obligations hereunder.

YARTS – Yosemite Area Regional Transportation System, a California Joint Powers Authority and an affiliate agency of the Merced County Association of Governments.

## SECTION I – GENERAL INFORMATION

### 1.1 PURPOSE AND BASIS OF AWARD

YARTS is seeking proposals from qualified firms with experience in transit planning to assist in the development and implementation of its 2024-2027 Short-Range Transit Plan.

YARTS intends to use the results of this RFP to award one (1) contract to the most responsive and responsible Proposer as evaluated per Section IV of this RFP.

### 1.2 AGENCY INFORMATION

YARTS is a Joint Powers Authority (JPA) formed by the Counties of Mariposa, Madera, Merced, Mono, and Tuolumne for the purpose of providing transit service in the greater Yosemite Region. YARTS is overseen by a Board of Commissioners which includes ten (10) voting members. Voting members consist of two elected Supervisors from each of the five member-counties. YARTS is governed by the YARTS Board of Directors (YARTS Board) and is administered and managed, under contract, by the Merced County Association of Governments.

The Yosemite Area Regional Transportation System (YARTS) provides public fixed route transit service into Yosemite National Park (YNP), covering a 480-mile service area. Since its initial services began in May 2000, YARTS has grown into a vibrant and extensive public transit system. The transit service is important to various “Gateway Communities” in the adjacent counties including Sonora, Merced, Fresno, and Mammoth Lakes. YARTS operates as a thruway bus service for Amtrak and the interline bus service for Greyhound.

Ridership has grown by approximately 50% over the last 20 years and includes both visitors to the park as well as National Park Service (NPS) employees. Ridership also consists of passengers who use the service to reach the City of Merced for shopping, academics (Merced College and UC Merced), recreation, medical appointments, and other transportation connection services.

YARTS operates the following service corridors:

- Year-round along Highway 140 (Merced-Mariposa-YNP): YARTS operates year-round on Highway 140 between Merced and Yosemite National Park, through Mariposa County with multiple trips per day. The number of trips varies by season. In Merced, YARTS connects with Greyhound, Amtrak, and Merced Airport.
- Summer-only on Highway 120 East and Highway 395 (Mammoth Lakes-June Lake- Lee Vining - YNP): This service typically operates July through September depending on weather conditions. The corridor connects with the local transit provider, Eastern Sierra Transit Authority (ESTA) in Mammoth Lakes. The ESTA has Reno, Nevada, (Amtrak, Greyhound, and Reno Airport) and Lancaster, CA, (Metrolink) as final destinations to the north and south.
- Summer-only on Highway 120 (Sonora-Jamestown-Groveland-YNP): This service typically operates May through September and connects the Tuolumne County communities to Yosemite National Park.

- Highway 41 Service to Fresno: Fresno service began May 23, 2015, and currently operates seasonally (May-September). Full funding is provided by Madera and Fresno Counties, using local monies.

### 1.3 CONTRACT DURATION

The contract term is anticipated to commence August 1, 2024, and end July 31, 2025, and is contingent upon available funding and successful performance. The contract term may be extended by YARTS for an additional one-year term and shall be based on available funding and successful performance. The contract will be a fixed price contract for the full-term including extension.

### 1.4 RFP SCHEDULED ACTIVITIES

To the extent achievable, the following schedule shall be used for the procurement process. YARTS reserves the right to modify the dates below as necessary.

a. RFP Distributed	March 15, 2024
b. Questions/Clarifications due via email by	March 29, 2024, 12:00 p.m.
c. Addendum(s) and Responses Posted by	April 5, 2024
<b>d. Deadline to Submit Proposal via Email</b>	<b>April 19, 2024, 12:00 p.m.</b>
e. Evaluations/Selection	April 22 – May 10, 2024
f. Virtual Interviews	May 21 – May 22, 2024
g. Notice of Intent to Negotiate	May 30, 2024
h. Notice of Intent to Award	June 20, 2024
i. Governing Board Approval of Contract	July 22, 2024
j. Notice of Award	July 23, 2024
k. Contract Execution/Notice to Proceed	August 1, 2024

### 1.5 QUESTIONS, CLARIFICATIONS AND/OR REVISIONS

Proposers are expected to raise any questions, noted errors, discrepancies, ambiguities, exceptions, additions, or deficiencies they have concerning this RFP via email to alexandra.arroyo@mcagov.org no later than 12:00 p.m. March 29, 2024.

If the Proposer fails to notify YARTS of any condition stated above that reasonably should have been known to the Proposer, and if a contract is awarded to that Proposer, the Proposer shall not be entitled to additional compensation or time by reason of the error or its correction.

Revisions to this RFP will be made only by official addendum issued by YARTS. Addenda will be posted by April 5, 2024. Proposers are responsible for checking the website for addenda prior to submitting their proposal. Failure to acknowledge addenda may disqualify a Proposal. As such, Proposers are advised to review the website prior to the close of this RFP at <http://www.mcagov.org/bids.aspx>. Proposers are encouraged to sign up for “Notify Me” on the website to receive emails, or a text, when items are posted relevant to RFP’s.

## **1.6 WITHDRAWAL OF PROPOSALS**

Proposals shall be irrevocable unless withdrawn prior to the closing deadline. Proposers may withdraw a Proposal, in writing, at any time up to the closing deadline. A written withdrawal notice must be received by YARTS at 357 W. 18<sup>th</sup> Street, Merced, California, 95340 or via email at alexandra.arroyo@mcagov.org. The notice must be signed by an authorized representative. If a previously submitted Proposal is withdrawn before the closing deadline, the Proposer may submit another proposal at any time up to the closing deadline.

## **1.7 PROTEST PROCEDURES**

Notice of intent to protest must be made in writing and conform to the requirements of YARTS Protest Procedures, included herein on pages 13-15.

## **1.8 FALSE OR MISLEADING STATEMENTS**

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Proposer, shall be rejected.

## **1.9 RIGHT TO REJECT OR ACCEPT PROPOSALS AND RIGHT TO CANCEL**

YARTS reserves the right to reject any or all Proposals or any part thereof, or to waive any informalities or minor irregularities in the Proposals, and to make an award on the basis of suitability, quality of service to be provided, and ability to perform the Requirements. YARTS also reserves the right to cancel this RFP in part or in its entirety.

## **1.10 DISPUTE RESOLUTION, ATTORNEY FEES, JURISDICTION, AND VENUE**

In any action, suit, or proceeding arising out of or in any way connected with the performance of the Agreement contemplated herein, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. Notwithstanding any other provision of the Agreement contemplated herein, any disputes concerning any question of fact or law relating to the Agreement contemplated herein, or any litigation or arbitration arising out of the Agreement contemplated herein, shall be interpreted pursuant to California law, subject to the jurisdiction of the Superior Court of California, and venued in the County of Merced. CONSULTANT expressly waives federal jurisdiction.

## SECTION II – REQUIREMENTS – SCOPE OF WORK

### 2.1 GENERAL

YARTS is seeking proposals from qualified firms with experience in transit planning to assist in the development and implementation of its 2024-2027 Short-Range Transit Plan. This plan aims to align with the agency's revised mission and goals while addressing emerging challenges and opportunities in providing public transit in the Yosemite region.

### 2.2 BACKGROUND

YARTS is a Joint Powers Authority (JPA) formed by the Counties of Mariposa, Madera, Merced, Mono, and Tuolumne for the purpose of providing transit service in the greater Yosemite Region and, operates a public transit system covering a 480-mile service area, including Yosemite National Park. YARTS connects with various regional transportation services, including Amtrak, Greyhound, and local airports.

#### Mission and Goals

- Original Mission (2011): Provide a safe, convenient public transit alternative in the Yosemite region, focusing on customer satisfaction, reliability, and connectivity.
- Revised Mission (2023): Offer safe, convenient, and cost-effective transit in Yosemite, prioritizing reliability, environmental friendliness, and accessibility.
- Goals: Safe and accessible transport, high-quality service, responsiveness to community needs, financial sustainability, and regional expansion.

### 2.3 SCOPE OF WORK

CONSULTANT shall have the direct experience necessary to prepare a final plan that includes but is not limited to the tasks below. CONSULTANT shall prepare a proposal addressing all tasks outlined below and their approach to accomplishing them.

#### A. Strategic Planning and Goal Alignment

- Update YARTS mission and goals and develop strategies for incorporating these into operations over the next four years.
  - a. What has YARTS accomplished from the previous Strategic Plan?
  - b. What still needs to be accomplished from the previous Strategic Plan?
  - c. What has changed from the last Strategic Plan that YARTS needs to update?

#### B. Communication and Marketing

- Explore modern techniques that can be used to improve communication and connection with customers.
- Design a marketing plan that promotes a car-free experience, and which aligns with YARTS's eco-friendly and accessibility-focused vision.
- Develop tools and materials that can be used by YARTS Public Affairs staff to promote YARTS.
  - a. Tourism strategies
  - b. Fare subsidy programs for disadvantaged communities.

#### C. Integration with Yosemite National Park Shuttle Services

- Plan the incorporation of shuttle services into YARTS's operations.



- D. Inter-Agency Collaboration & Connectivity to Multi-Modal Transit
- Analyze and provide recommendations for strengthening connectivity to multi-modal transit options, to include regional transit authorities, such as Tuolumne County Transit, Eastern Sierra Transit Authority, Amtrak, Greyhound, ACE Rail, high-speed rail (Merced Multi-Modal Station), and local airlines (Merced & Mammoth Lakes).
- E. Zero Emission Transition
- The Innovative Clean Transit (ICT) Plan is projected to be completed by July 2024. Provide strategies and recommendations for incorporating zero-emission buses (ZEB), technology, and ZEB fueling infrastructure into YARTS services, adhering to California Air Resources Board guidelines.
- F. Fleet Evaluation
- Conduct a comprehensive fleet assessment.
  - Assess methodology for future bus purchases and fleet retirement.
- G. Route Analysis and Improvement
- Conduct a detailed planning and financial analysis of all bus routes ([See 2021-2022 Strategic Plan](#)).
  - Evaluate the potential for express bus routes on all corridors.
  - Analyze all YARTS bus stops for accessibility, safety, and efficiency.
- H. JPA Membership Dues Analysis ([See 2021-2022 Strategic Plan](#))
- Evaluate Joint Powers Authority (JPA) member dues to determine if funding will adequately sustain the following needs of the organization:
    - a. Fleet
    - b. Operations
    - c. Overhead

## SECTION III – SUBMITTALS

### 3.1 GENERAL INSTRUCTIONS

This section describes the required Proposal format and content. The Proposal must contain the requested information organized by the prescribed sections. Each Proposer shall submit a complete Proposal, providing all information requested with a complete description of the project plan. Failure to follow the prescribed format may result in rejection of the Proposal.

A Proposal may be rejected if it is conditional or incomplete, or if it contains any alteration of form or other irregularities of any kind. A Proposal may be rejected if any such defect or irregularity constitutes a material deviation from the submittal requirements. Proposals submitted under improperly marked covers may be rejected. If discrepancies are found within the Proposal, the Proposal may be rejected. Proposals must be typed with a minimum font size 11. Each page must be clearly and consecutively numbered. All Proposals must be submitted in the name of the legal entity or authorized agency.

### 3.2 SUBMITTAL OF PROPOSAL

Via email, Proposers must submit their proposal and include all materials required for acceptance of their Proposal by the Proposal deadline - 12:00 p.m. PDT, April 19, 2024, to: Alexandra Arroyo, Procurement Specialist, at alexandra.arroyo@mcagov.org. All Proposals must be signed by an authorized representative and received by Alexandra Arroyo via email by the closing deadline. Late Proposals will be rejected. YARTS will not accept facsimiles. The email subject line shall read as follows: *RFP20240315YARTS – Consultant to Prepare a Short-Range Transit Plan – Submission Deadline April 19, 2024, 12:00 p.m., PDT [insert consultant name here].*

### 3.3 COVER LETTER

A one (1) page cover letter shall be submitted and include the Proposer's contact information and specify the authorized representative. The person authorized by the firm to negotiate a contract with YARTS shall sign the cover letter. The cover letter shall include the name, phone number, fax number and e-mail address of a contact person for the selection process. Proposers shall include a statement certifying the firm will comply with insurance requirements as noted in Section Five of the Sample Agreement page 23.

### 3.4 TABLE OF CONTENTS

Using the Submittal Checklist provided on page 3, the Proposer shall provide a Table of Contents listing proposal contents by page number.

### 3.5 REQUIRED SUBMITTAL OF CERTIFICATIONS AND REFERENCES (TAB ONE)

- 1) Certification, (noting any addenda – if applicable);
- 2) Nondebarment Certification and Other Responsibility Matters;
- 3) Lobbying Certification;
- 4) Disadvantaged Business Enterprise Bidders List Form; and,
- 5) Reference List

RFP Certifications must be signed by the person in the Proposer's organization who is responsible for the decision as to the prices being offered or by a person who has been authorized in writing to act as agent

for the person responsible for the decision on prices and services. Failure to provide this form/information with a submittal may disqualify the Proposal.

All Proposers, including subcontractors (if applicable), *must* complete a Disadvantaged Business Enterprise (DBE) Bidders List form regardless of DBE status.

Proposer must supply three references to which similar services have been provided. If contacted, all references must verify that a high level of satisfaction was provided.

### **3.6 ORGANIZATION, CAPABILITY, AND EXPERIENCE (SECTION TWO)**

Provide a concise statement covering the history of your organization under current and any prior names (include number of years in business under each name), your major projects or activities both in general and similar to the subject of the proposal, and why your agency is best suited to fulfill the Requirements - Scope of Work in Section II of this RFP. The section is to clearly state the unique qualifications which the Proposer believes it possesses to meet the goals and objectives of the Requirements - Scope of Work in Section II. This section is to contain the following information:

1. Describe your present organizational structure and current operations including number of years in business;
2. Describe organizational experience providing similar service that demonstrates your agency's capability in providing the services described in your proposal;
3. Describe experience and qualifications of the proposed key staff members assigned to this project;
4. Include any other relevant information regarding your suitability/capability in providing the services described in Requirements - Scope of Work.

### **3.7 RESPONSE TO REQUIREMENTS (SECTION THREE)**

Proposers are to describe how the Requirements - Scope of Work in Section II will be met. Proposers are to describe their response in sufficient detail to enable evaluators in knowing what is anticipated at every stage and to make a judgment as to the probable success of the proposed effort.

Proposers shall provide, in a timeline format, a clear and concise description of the services to be provided and activities to be undertaken as a means of reaching the objectives stated in the Requirements - Scope of Work in Section II. Proposals must include deliverables to be created within each task, Proposals may include milestone charts, flowcharts, and related graphics to display the timeframe for achieving and accomplishing the Requirements - Scope of Work in Section II.

### **3.8 PROJECT COSTS (SECTION FOUR)**

Proposers shall provide project costs based on the proposed labor, materials, tasks, activities, deliverables, and any other project related costs including travel. Total costs shall be itemized and submitted in a manner deemed most appropriate by Proposer and shall include but are not limited to billing rates for each proposed staff member (including subcontractors if applicable), task budget with breakdown/itemization, and direct and indirect costs.

## SECTION IV – EVALUATION AND SELECTION PROCESS

### 4.1 BASIS OF AWARD

YARTS intends to make an award to the responsive and responsible Proposer whose proposal is most advantageous to YARTS. Accordingly, YARTS may not necessarily make an award to the Proposer with the highest technical ranking nor award to the Proposer with the lowest price proposal if doing so would not be in the overall best interest of YARTS.

### 4.2 RIGHT TO REJECT PROPOSALS

YARTS reserves the right to reject any or all Proposals or any part thereof.

### 4.3 WAIVER OF IRREGULARITIES

YARTS reserves the right to waive any informalities or minor irregularities in the Proposals and to make an award on the basis of suitability, quality of services to be provided, and ability to perform the Requirements.

### 4.4 EVALUATION

Proposals will be evaluated by a selection committee based on the evaluation criteria outlined in Section 4.5. Proposers who best demonstrate the ability to deliver quality work on schedule consistent with the requirements of this RFP may be invited to interview. However, YARTS reserves the right to make a final selection without an interview.

### 4.5 EVALUATION CRITERIA

Proposals will undergo an initial administrative review prior to evaluation. Any Proposal which fails to meet the submission requirements may be considered non-responsive and may be rejected.

Proposals will be evaluated on a maximum point scale of 100 as follows:

<b>Proposal Evaluation Criteria</b>	<b>Possible Points</b>
Comprehensiveness of Project Approach	40
Experience with Similar Work	30
Schedule	20
Cost	10
<b>Total</b>	<b>100</b>

### 4.6 INTERVIEW PRESENTATION (VIRTUAL)

Top scoring Proposer(s) may be asked to participate in an interview. The Proposer's original response cannot be changed in any aspect at the interview presentation. Proposer(s) will be advised as to the time and place for such presentations, and they are to be prepared to discuss all aspects of their response.

#### **4.7 NEGOTIATIONS**

YARTS reserves the right to negotiate the terms of the contract, including the award amount, with the selected Proposer prior to entering into a contract. However, certain contract terms, including, but not limited to, Insurance, Indemnification, Termination for Convenience, and Liquidated Damages, are non-negotiable. If contract negotiations cannot be concluded successfully with the highest-ranking Proposer, the agency may choose to negotiate a contract with the next highest-ranking Proposer, etc.

#### **4.8 NOTICES - INTENT TO NEGOTIATE, INTENT TO AWARD, AND AWARD**

A Notice of Intent to Negotiate with the highest ranked proposer will be issued and sent via email to all participating proposers upon the evaluation committee's recommendation to initiate Agreement negotiations.

YARTS will issue a Notice of Intent to Award upon conclusion of negotiations and, where appropriate, place an item on the YARTS Governing Board agenda for approval. The Notice of Intent to Award will be sent via email to all participating proposers. Proposals shall remain confidential and shall not be made available in response to a Public Records Act Request until after the issuance of the Notice of Intent to Award.

Once the YARTS Governing Board has approved award of the Agreement, YARTS will issue a Notice of Award.

#### **4.9 DEBRIEFING**

A debriefing may be requested by unsuccessful Proposers after the Notice of Intent to Award has been issued and before the Notice of Award. Requestor shall submit questions via email to the Procurement Specialist, or her designee, within three (3) business days of issuance of the Notice of Intent to Award. The purpose of the debriefing shall be to receive information concerning the evaluation of the unsuccessful Proposer. Information regarding other agencies/proposers will not be covered. Debriefings shall be held via telephone conference. The time allotted for the debriefing shall be a maximum of one (1) hour.

#### **4.10 YARTS PROTEST PROCEDURES**

All protests shall reference the name of the project or procurement in question and the contract, bid or proposal reference number. Failure to comply with the time requirements specified below shall constitute grounds for YARTS to deny the protest without further consideration. YARTS has no obligation to delay or otherwise postpone an award of a contract based on a protest. Bids or Proposals shall remain confidential until after the Notice of Intent to Award is issued.

##### **Pre-Award Protest Procedures**

Any bidder or proposer who has submitted a bid or proposal to YARTS may file a protest of YARTS's intent to award a contract provided that:

1. The bid or proposal protest is in writing;
2. The bid or proposal protest is signed by the protestor or an individual legally

- entitled to act on his or her behalf;
3. The bid or proposal protest is received by YARTS's Deputy Executive Director not more than five business days following the date of issuance of YARTS's Intent to Award the Contract; and
  4. The bid or proposal protest sets forth, in detail, a statement of the reason(s) for the protest, all facts and documentation supporting the protest, and legal authorities and argument in support of the grounds for the protest. Any grounds for protest not identified in the pre-award protest are waived.

Protests of YARTS's Intent to Award must be personally delivered or sent by U.S. mail, postage prepaid, to:

Nav Bagri, Deputy Executive Director  
Yosemite Area Regional Transportation System  
357 W. 18th Street  
Merced, CA 95340

With Copy to:  
Stacie Guzman, Executive Director  
Yosemite Area Regional Transportation System  
357 W. 18th Street  
Merced, CA 95340

With Copy to:  
General Counsel, Haden Law Office  
2241 N Street  
Merced, CA 95340

Any protest not conforming with the foregoing shall be rejected by YARTS as invalid. Provided that the protest is filed in strict conformity with the foregoing, YARTS's Deputy Executive Director shall review and evaluate the basis for the bid or proposal protest. The Deputy Executive Director shall provide the protestor with a written statement concurring with or denying the protest. The written decision will then be provided to the protestor.

Use of the above procedures shall be a condition precedent to use of the post-award protest procedures detailed below and/or the institution of any legal or equitable proceedings relative to the bid or proposal. In the event that any such legal or equitable proceedings are instituted and YARTS is named as a party thereto, the prevailing party(ies) shall be entitled to recover all attorney's fees and costs incurred in connection with the proceeding.

**Post-Award Protest Procedures**

Within five (5) business days of the contract being awarded, a bidder or proposer who has complied with the pre-award protest procedures detailed above may file a post-award protest. The post-award protest must:

1. Be in writing;
2. Be signed and dated by the bidder/proposer or someone legally entitled to act on his or her behalf; and

3. Include a detailed statement of the reason for the post-award protest and all facts and documentation supporting the bidder or proposer's position, including any legal authorities or argument.

Post-award protests must be personally delivered or sent by U.S. mail, postage prepaid, to:

Nav Bagri, Deputy Executive Director  
Yosemite Area Regional Transportation System  
357 W. 18th Street  
Merced, CA 95340

With Copy to:  
Stacie Guzman, Executive Director  
Yosemite Area Regional Transportation System  
357 W. 18th Street  
Merced, CA 95340

With Copy to:  
General Counsel, Haden Law Office  
2241 N Street  
Merced, CA 95340

Failure to file a request for a pre-award protest shall constitute grounds for YARTS to deny the protest without further consideration of the grounds stated therein. Any grounds for protest that could have been, but were not, identified in the pre-award protest are deemed waived and will not be considered.

Provided that the protest is filed in strict conformity with the foregoing, YARTS's Executive Director or his or her designee shall review and evaluate the basis for the bid or proposal protest, together with the written statement issued by YARTS's Deputy Executive Director. YARTS's Executive Director or his or her designee shall issue a written statement concurring with or denying the protest. The decision of YARTS's Executive Director shall be final and not subject to appeal or reconsideration.

Use of the above procedures shall be a condition precedent to the institution of any legal or equitable proceedings relative to the bid or proposal. In the event that any such legal or equitable proceedings are instituted and YARTS is named as a party thereto, the prevailing party(ies) shall be entitled to recover all attorney's fees and costs incurred in connection with the proceeding.

**CERTIFICATION**

To: Yosemite Area Regional Transportation System  
Attn: Jose Perez, Assistant Transit Manager  
357 W. 18<sup>th</sup> Street  
Merced, CA 95340  
Re: Consultant to Prepare a Short-Range Transit Plan No. RFP20240315YARTS

In compliance with the submittal requirements of which this Certification is a part, the undersigned proposes to furnish all services for the cost presented in the enclosed submittal package for the following amount:

Total Cost: \$ \_\_\_\_\_

The undersigned acknowledges receipt of the following addenda to the RFP:

Addendum No. \_\_\_\_\_, dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_, dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_, dated \_\_\_\_\_

.....  
I am the authorized representative with authority to sign this certification and agree that:

1. The Response has been arrived at by the Proposer independently and has been submitted without collusion, and without any agreement, understanding, or planned common course of action, with any other party which would obstruct fair and open competition;
2. The Proposer is legally entitled to enter into contract with YARTS and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of state and federal law;
3. The Proposer is fully informed regarding the accuracy of the above statements.

**NOTICE:** Any agreement or collusion among Proposers or prospective Proposers which restrain, tend to restrain, or are reasonably calculated to restrain competition by agreement to respond, or to refrain from responding, or otherwise, is prohibited.

\_\_\_\_\_  
Name of Individual, Partnership, or Corporation

\_\_\_\_\_  
Address Email Address

\_\_\_\_\_  
Authorized Person (Print or Type) Authorized Signature

\_\_\_\_\_  
Title of Authorized Person Date Phone Number



## NONDEBARMENT CERTIFICATION

### Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

#### Instructions for Certification

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

**NONDEBARMENT CERTIFICATION (CONTINUED)**

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  
8. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature of Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name of Organization/Business: \_\_\_\_\_

**LOBBYING CERTIFICATION**

This form is to be submitted with an offer exceeding \$100,000.

The Proposer or Bidder certifies, to the best of its 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 a federal department or agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a member of the U.S. 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 thereof.
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 instruction, as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). \*
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, USC § 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.

**THE PROPOSER OR BIDDER, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE PROPOSER OR BIDDER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 USC §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.**

Name of the Proposer’s or Bidder’s authorized official: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\* **NOTE:** Per paragraph 2 of the included form Lobbying Certification, add Standard Form–LLL, "Disclosure Form to Report Lobbying," ***if applicable.***



DBE PROGRAM BIDDERS LIST FORM

The Yosemite Area Regional Transportation System (YARTS) receives Department of Transportation (DOT), Federal Transit Administration (FTA) federal financial assistance passed through the Merced County Association of Governments (MCAG). MCAG as a designated recipient of DOT federal financial assistance funding is required to: 1) Create and maintain a comprehensive DBE bidders List {49 CFR Part 26.11(c)}; and 2) Monitor subrecipient compliance. The Bidders List Form will be used to determine the relative availability of Disadvantaged Business Enterprise (DBE) and non-DBEs participation in contracting opportunities for MCAG and subrecipients. This information will assist with establishing MCAG’s triennial DBE goal. Each Bidders List is a compilation of Bidders, proposers, quoters, subcontractors, manufacturers, and suppliers of materials and services who have submitted bids during the advertising period of a specific acquisition

Certified DBE’s must be verifiable and currently listed on the following website to be considered a certified DBE:

https://californiaucp.dbesystem.com/

Providing the following information is mandatory regardless of DBE status:

PART A: BUSINESS DATA

1. Business Name: \_\_\_\_\_

2. Business Address: \_\_\_\_\_  
Street City State Zip

3. County Business is located in: \_\_\_\_\_

4. Name of Contact Person: \_\_\_\_\_

5. Phone: ( ) \_\_\_\_\_ 6. Fax: ( ) \_\_\_\_\_

7. Email address: \_\_\_\_\_

8. Is this business a certified Disadvantaged Business Enterprise (DBE)? a.  Yes \* b.  No

\*If “yes”, YARTS will verify via the following website: https://californiaucp.dbesystem.com/

9. Business Annual Gross Receipts:

- a.  Less than \$500,000 b.  \$500,000 to \$1,000,000 c.  \$1,000,000 to \$2,000,000
d.  \$2,000,000 to \$5,000,000 e.  Over \$5,000,000

10. Age of Business: \_\_\_\_\_ Years \_\_\_\_\_ Months

(continued on next page)

**DBE PROGRAM BIDDERS LIST FORM (CONTINUED)**

**PART B: PROJECT AND WORK DESCRIPTION**

11. RFQ, RFP, OR IFB#: \_\_\_\_\_

12. Project Name: \_\_\_\_\_

13. Provide a brief description of scope of work, services, and/or materials to be performed/furnished:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Will you subcontract any of your work? a.  Yes \* b.  No

**\* If "yes", subcontractor(s) also required to complete the mandatory Bidders List Form, regardless of DBE status and will also be verified on following website: <https://californiaucp.dbesystem.com/>**

**PART C: SIGNATURE**

**The undersigned declares that the information set forth on this page is current, complete, and accurate.**

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title : \_\_\_\_\_

**REFERENCE LIST**

Complete and return with the submittal package. Three references required.

**REFERENCE NO. 1 - AGENCY NAME:** \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

SERVICE DESCRIPTION: \_\_\_\_\_

CONTRACT DATE & AMOUNT: \_\_\_\_\_

**REFERENCE NO. 2 - AGENCY NAME:** \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

SERVICE DESCRIPTION: \_\_\_\_\_

CONTRACT DATE & AMOUNT: \_\_\_\_\_

**REFERENCE NO. 3 - AGENCY NAME:** \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

SERVICE DESCRIPTION: \_\_\_\_\_

CONTRACT DATE & AMOUNT: \_\_\_\_\_

## SAMPLE AGREEMENT

THIS AGREEMENT is made and entered into this 1<sup>st</sup> day of August 2024 by and between the Yosemite Area Regional Transportation System, a California joint powers authority within the meaning of Government Code § 6500 et seq (hereinafter referred to as "YARTS"), and *To Be Determined*, (hereinafter referred to as "CONSULTANT").

It is agreed between the parties that:

### Section One – Scope of Work

CONSULTANT agrees to perform all work necessary to complete, in a manner satisfactory to YARTS, those items described in EXHIBIT A – SCOPE OF WORK and incorporated herein by this reference as if set forth in full.

### Section Two – Notice to Proceed

YARTS shall serve an email notice to proceed upon full execution of this Agreement. Upon receipt of such notice, CONSULTANT shall diligently proceed with the work authorized and complete it within the agreed time period.

### Section Three – Term

CONSULTANT shall commence work immediately following notice of execution of this Agreement. CONSULTANT shall complete the performance of its obligations under this Agreement by July 31, 2025. All work is contingent upon agreed upon services, available funding, and successful performance. The contract may be extended by YARTS for an additional one-year term and shall be based on available funding and successful performance. The contract will be a fixed price contract for the full-term including extension.

### Section Four – Compensation and Invoicing

For services performed pursuant to this Agreement, YARTS agrees to pay, and CONSULTANT agrees to accept as payment in full, the amounts as identified on the cost summary provided in EXHIBIT B – COST SUMMARY. CONSULTANT shall be reimbursed no later than 30 days following receipt of a written, acceptable billing to YARTS. Invoice shall include details of tasks and/or work completed relevant to the billing payment request.

In each invoice, CONSULTANT shall include Agreement Number 20240315JP, the full agreement amount, the previously billed dollar amount, the current invoice dollar amount, and the remaining agreement balance.

In the event YARTS disputes all or any part of a bill submitted by CONSULTANT pursuant to this Agreement, YARTS shall pay the undisputed portion of the invoice when due and shall notify CONSULTANT of the disputed amount in writing at least 10 days prior to the due date of the disputed invoice. The Parties shall use best efforts to resolve the dispute amicably and promptly. Upon determination of the correct billing amount, YARTS shall pay such amount within 10 days of such determination.

## **Section Five – Insurance**

CONSULTANT shall, for the duration of this Agreement, purchase and maintain insurance to protect against loss resulting from the performance of its duties under this Agreement. Said insurance coverage shall comply with the following minimum requirements:

- A. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or any other policy with a general aggregate limit is used, either the aggregate limit shall be endorsed to apply separately to this project, or the aggregate limit shall be twice the above occurrence limit.
- B. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- C. Professional Liability or Errors and Omissions Insurance: \$1,000,000.

Original certificates of such insurance shall be filed with YARTS. Said certificates shall evidence coverage through the term of this Agreement, reference Agreement Number 20240315JP, and shall name YARTS as an additional insured, with the exception of Professional Liability or Worker's Compensation. Modifications to insurance requirements must be approved by YARTS in writing. CONSULTANT is responsible for providing YARTS updated insurance documents annually.

CONSULTANT shall maintain worker's compensation coverage sufficient to comply with statutory requirements and limits as required by the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident.

All policies shall be endorsed to waive the insurer's subrogation rights against YARTS.

## **Section Six – Changes to Scope**

YARTS may at any time, and upon a minimum of 10 days written notice, modify the scope of basic services to be provided under this Agreement. CONSULTANT shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify YARTS in writing. Upon agreement between YARTS and CONSULTANT as to the extent of said impacts on time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by YARTS and CONSULTANT shall constitute the CONSULTANT's notice to proceed with the changed scope.

## **Section Seven – Compliance with Laws, Rules, and Regulations**

All services performed by CONSULTANT pursuant to this Agreement shall be undertaken with usual and customary professional care to be performed in accordance and full compliance with all applicable federal, state or city statutes, and any rules or regulations promulgated thereunder.

## **Section Eight – Responsibility of CONSULTANT**

By executing this Agreement, CONSULTANT warrants to YARTS that it possesses, or will arrange to secure from others, all the necessary professional services, resources and facilities to provide YARTS with the services contemplated under this Agreement. CONSULTANT further warrants that it will follow the best



current, generally accepted practice of the profession to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the project for which services are rendered under this Agreement.

### **Section Nine – Responsibility of YARTS**

To the extent appropriate to the Project contemplated by this Agreement, YARTS shall:

- A. Assist CONSULTANT by placing at its disposal all available information pertinent to the project;
- B. Examine all studies, reports, proposals, and other documents presented by CONSULTANT, and render verbally or in writing, as may be appropriate, decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT; and,
- C. The Assistant Transit Manager, or designee, will act as YARTS's representative with respect to all work to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define YARTS's policies and decisions with respect to materials, equipment, elements, and systems pertinent to CONSULTANT's services.

### **Section 10 – Termination for Convenience of YARTS**

YARTS may terminate this Agreement, with or without cause, at any time by giving CONSULTANT 10 days written notice of such termination. If this Agreement is terminated by YARTS as provided herein, CONSULTANT shall be paid a total amount that is the ratio of completed tasks to total services as determined by YARTS, less payments already made under this Agreement. This proration shall be extended to cover any fixed fee charged for a fully completed product. Upon termination, CONSULTANT will give YARTS all its work product.

### **Section 11 – Termination of Agreement for Cause**

- A. YARTS may, by written notice to CONSULTANT, terminate the whole or any part of this Agreement in any one of the following circumstances:
  1. If CONSULTANT fails to perform the services called for by this Agreement within the time(s) specified herein, or any extension thereof; or
  2. If CONSULTANT fails to perform the services called for by this Agreement or so fails to make the progress as to endanger performance of this Agreement in accordance with its terms and in either of these two circumstances does not correct such failure within a period of 10 days (or such longer period as YARTS may authorize in writing) after receipt of notice from YARTS specifying such failure.
- B. In the event YARTS terminates this Agreement in whole or in part as provided in Paragraph A above, YARTS may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.
- C. Except with respect to defaults of subcontractors, CONSULTANT shall not be liable for any excess costs if the failure to perform arises out of causes beyond the control and without the fault or negligence of CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, acts of government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather. In the event the failure to timely perform is caused by the default of a subcontractor that is mandated, required, or otherwise imposed on CONSULTANT by YARTS, CONSULTANT shall not be liable for failure to

perform the services.

- D. Should the Agreement be terminated as provided in Paragraph A above, CONSULTANT shall provide YARTS with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by CONSULTANT pursuant to this Agreement. Upon termination as provided in Paragraph A above, CONSULTANT shall be paid the value of the work performed, as determined by YARTS less payments of compensation previously made. Payments previously made by YARTS to CONSULTANT shall be credited to the amount payable to CONSULTANT for allowable costs as provided herein, except, however, CONSULTANT shall be entitled to a proportionate fixed fee, if any, which, in the opinion of YARTS, it has legitimately earned and was not related to the cause for which this Agreement was terminated.
- E. If after notice of termination of this Agreement as provided for in this Section, it is determined for any reason that CONSULTANT was not in default under the provisions of this Section or that the default was excusable under the provisions of this Section, then the rights and obligations of the parties shall be the same as if the Agreement had been terminated for the convenience of YARTS.
- F. Failure to pay subcontractors may, at the discretion of YARTS, constitute a material breach of this Agreement.

#### **Section 12 – Interest of Officials and CONSULTANT**

- A. No member of or delegate to the Congress of the United States of America nor any Resident Commissioner shall be admitted to any share or part hereof or to any benefits to arise herefrom.
- B. CONSULTANT hereby covenants that it has, at the time of the execution of this Agreement, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

#### **Section 13 – Subcontracting**

- A. CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of YARTS.
- B. All subcontracts shall be subject to the provisions contained in this Agreement between YARTS and CONSULTANT.
- C. If the subcontractor is a Disadvantaged Business Enterprise, prompt payment and return of retainage requirements apply, as referenced in 49 CFR 26.29. CONSULTANT will provide payment records upon YARTS's request.
- D. CONSULTANT cannot terminate a subcontractor, including a DBE subcontractor, for convenience if CONSULTANT listed the subcontractor in response to the RFP, and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without YARTS's prior written consent.

#### **Section 14 – Negotiated Agreement**

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and

represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

### **Section 15 – Successors and Assigns**

This Agreement shall be binding upon and inure to the benefit of any successors or assigns.

### **Section 16 – Independent Contractor**

YARTS and CONSULTANT agree that CONSULTANT is an independent contractor, and that no employer-employee relationship exists between YARTS and CONSULTANT or any of its subcontractors. CONSULTANT shall be solely responsible for the work performed under this Agreement and for the conduct and control of its employees and/or subcontractors. CONSULTANT shall be free to render services to others during the term of this Agreement so long as such activities do not interfere with or diminish CONSULTANT's ability to fulfill the obligations established herein to YARTS.

### **Section 17 – Dispute Resolution, Attorney Fees, Jurisdiction, and Venue**

In any action, suit or proceeding arising out of or in any way connected with the performance of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. Notwithstanding any other provision of this Agreement, any disputes concerning any question of fact or law relating to this Agreement or any litigation or arbitration arising out of this Agreement shall be interpreted pursuant to California law, subject to the jurisdiction of the Superior Court of California, and venued in the County of Merced. CONSULTANT expressly waives federal jurisdiction.

### **Section 18 – Publication**

No reports relating to this work shall be published by CONSULTANT without written permission of YARTS.

### **Section 19 – Indemnification**

CONSULTANT shall indemnify and defend YARTS and hold it harmless from and against any and all claims, demands, or liability arising out of or in any way connected with the performance of this Agreement. Indemnity shall apply to any acts, omissions, willful misconduct, or negligent conduct, whether active or passive, unless liability is caused solely by the negligent or willful misconduct of YARTS. CONSULTANT will, on request and at its own expense, defend any action, suit, or proceeding arising hereunder and shall reimburse and pay YARTS for any loss, cost, damage, or expense, including attorney's fees suffered by it hereunder.

### **Section 20 – Patent Protection**

To the extent the subject articles are not manufactured pursuant to design originated by YARTS, CONSULTANT agrees it will indemnify and hold YARTS and its officers, agents, and employees harmless from any loss, damage or liability which may be incurred on account of any alleged infringement of any United States patent with respect to such articles or materials, and that it will, at its own expense, defend any action, suit, or claim in which such infringement is alleged. YARTS agrees to notify CONSULTANT

promptly of any suit or claim against YARTS for any alleged infringement of patent.

### **Section 21 – Ownership of Documents**

All documents, methodological explanations, computer programs, drawings, designs, and reports generated as a result of work on this Agreement shall be the property of YARTS.

### **Section 22 – Documentation/Access to Records**

CONSULTANT shall document the results of the work with each billing, to the satisfaction of YARTS. Such documentation shall include a progress summary, listing attainment of Agreement objectives. CONSULTANT shall work with YARTS to ensure that all paperwork requirements are met.

CONSULTANT shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred, and make such materials available at their respective offices at all reasonable times during the Agreement period and for three years after final payment is made and all other matters are closed with CONSULTANT. Such materials shall be available for inspection by authorized representatives of YARTS, or the copies thereof shall be furnished if requested. The FTA, FHWA, Comptroller General of the United States, or any authorized representative, shall have access to any books, documents, papers, and records of the CONSULTANT, that are directly pertinent to this specific Agreement, for the purpose of an audit, examination, excerpt, and transcriptions.

### **Section 23 – Waiver**

No waiver by either party of any default, breach, or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach, or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent, or any other right hereunder.

In no event shall the making, by YARTS, of any payment to CONSULTANT constitute, or be construed as, a waiver by YARTS of any breach of covenant, or any default which may then exist, on the part of CONSULTANT. The making of any such payment by YARTS while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving CONSULTANT from its full obligations under this Agreement.

### **Section 24 – Notices**

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

- A. To YARTS: Stacie Guzman, Executive Director  
Yosemite Area Regional Transportation System  
357 W. 18<sup>th</sup> Street  
Merced, CA 95340

