

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



712

FROM: Community Health Agency/Department of Public Health

SUBMITTAL DATE:
April 17, 2012

SUBJECT: Approval of the Agreement with the City of Hemet and the County of Riverside, Department of Public Health, Injury Prevention Services (IPS). Contract #12-057.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve the Agreement with the City of Hemet, a municipal corporation and the County of Riverside/Department of Public Health/Injury Prevention Services (IPS) for the period of July 1, 2012 to June 30, 2013 in the amount of \$55,000; and
- 2) Accept and file: Exhibit A, State-Legislated Safe Routes To School (SR2S) Program Application and Consultant Services Agreement; and

MOTIONS: Continued on Page 2

BACKGROUND: On Page 2

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 JA:cg/ys BY Samuel Wong 4/26/12
 SAMUEL WONG

Susan Harrington, Director
 Department of Public Health

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 55,000	In Current Year Budget:	YES
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	12/13

SOURCE OF FUNDS: 100% funded by City of Hemet	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY:
 Debra Cournoyer
County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Tavaglione and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone and Benoit
Nays: None
Absent: Ashley
Date: May 8, 2012
xc: CHA-Public Health, Purchasing, Auditor

Kecia Harper-Ihem
 Clerk of the Board
 BY:
 Deputy

FORM APPROVED COUNTY COUNSEL
 BY:
 NEAL R. KIPNIS
 DATE: 4/25/12
 Departmental Concurrence

Mark Seiler, Assistant Director
 Purchasing

Policy Policy
 Consent Consent
 Dept's Recomm.:
 Per Exec. Ofc.:

3.5

SUBJECT: Approval of the Agreement with the City of Hemet and the County of Riverside, Department of Public Health, Injury Prevention Services (IPS). Contract #12-057.

MOTIONS: Continued

- 3) Approve and Direct the Purchasing Agent to sign subsequent amendments that make only ministerial changes to the Agreement not to exceed the amount stated of \$55,000; and
- 4) Authorize the Chairperson to sign four (4) originals of said Agreement, Contract 12-057, on behalf of the County.

BACKGROUND: The County of Riverside, Department of Public Health, Injury Prevention Services, is subcontracted for one year to conduct Education and Encouragement activities in the City of Hemet.

Injury Prevention Services will work with three (3) school sites in the City of Hemet (Cawston Elementary School, Rancho Viejo Middle School and Tahquitz High School) to conduct educational walking and bicycling safety activities and coordinate walking and biking to school encouragement events. Parents, school staff, community volunteers, and agency representatives associated with Hemet Unified School District and the City of Hemet will participate in an existing SRTS community coalition. IPS will offer SRTS workshops, training, resources, and networking opportunities to schools and the community to promote safe walking and biking to school.

FINANCIAL INFORMATION: The \$55,000 has been included as part of the FY 12/13 budget process.

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

CONSULTANT SERVICES AGREEMENT

By and Between

**THE CITY OF HEMET,
a municipal corporation**

and

**COUNTY OF RIVERSIDE,
Department of Public Health,
Injury Prevention Services (IPS)**

July 1, 2012 to June 30, 2013

CONTRACT #12-057

**AGREEMENT TO IMPLEMENT CYCLE 8 SAFE ROUTES TO SCHOOL PROJECT
BETWEEN
THE CITY OF HEMET, CALIFORNIA
AND
COUNTY OF RIVERSIDE, DEPARTMENT OF PUBLIC HEALTH,
INJURY PREVENTION SERVICES BRANCH**

This Agreement is to implement the **Cycle 8 Safe Routes to School Project** ("Agreement"), between the City of Hemet, a municipal corporation ("CITY") and County of Riverside, through the Department of Public Health, Injury Prevention Services Branch (IPS) ("COUNTY"). CITY and COUNTY are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. Whereas, the CITY and COUNTY recognize that it is in the public interest to utilize an integrated approach in implementing a program to make walking and bicycling to school safer for more children in the City of Hemet, and;

B. Whereas, the CITY has been approved for funding under Cycle 8 of the State of California-legislated Safe Routes to School Program to implement a project to provide infrastructure improvements adjacent to Cawston Elementary School, Rancho Viejo Middle School, and Tahquitz High School and to provide non-infrastructure education and encouragement activities at Cawston Elementary School, Rancho Viejo Middle School, and Tahquitz High School, and;

C. Whereas, the COUNTY has experience implementing non-infrastructure (education, encouragement, and evaluation) Safe Routes to School activities for schools and school districts in other municipalities and has developed a successful education and encouragement model which can be implemented in the city of Hemet, and;

D. Whereas, the Parties have agreed to collaborate on the implementation the Cycle 8 Safe Routes to School project in five component areas—Engineering, Education, Encouragement, Enforcement, and Evaluation, and;

E. Whereas, the COUNTY will be responsible for the Education and Encouragement and Evaluation components of the project, and;

F. Whereas, the CITY will be responsible for the Engineering and Enforcement components of the project;

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Period of Performance is from July 1, 2012 through June 30, 2013 and is subject to the provisions of Section 20 "Termination of Agreement" of this Agreement, the scope of services set forth in Exhibit "A" "Scope of Services" shall be completed pursuant to the schedule specified in Exhibit "A." Should the scope of services not be completed pursuant to that schedule, the IPS shall be deemed to be in Default of this Agreement pursuant to Section 21 of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow IPS to continue performing the scope of services until such services are complete.

SECTION 2. SCOPE OF SERVICES.

IPS agrees to perform the services set forth in Exhibit "A" "Scope of Services" and made a part of this Agreement.

SECTION 3. ADDITIONAL SERVICES.

IPS shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or listed in Exhibit "A" "Scope of Services," unless such additional services are authorized in advance and in writing by the City Council or City Manager of City. IPS shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Council or City Manager.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

(a) Subject to any limitations set forth in this Agreement, City agrees to pay IPS the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement. The total compensation, including reimbursement for actual expenses, shall not exceed fifty-five thousand dollars (\$55,000), unless additional compensation is approved in writing by the City Council or City Manager.

(b) On a quarterly basis, IPS shall furnish to City an **original** invoice for all work performed and expenses incurred during the preceding quarter. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. City shall independently review each invoice submitted by the IPS to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to IPS for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by IPS which are disputed by City, City will use its best efforts to cause IPS to be paid within forty-five (45) days of receipt of IPS's correct and undisputed invoice.

(d) Payment to IPS for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by IPS.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of IPS's work under this Agreement, either during performance or when completed. City shall reject or finally accept IPS's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise IPS's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of IPS's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, sections 16 and 17, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by IPS in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of IPS. Upon completion, expiration or termination of this Agreement, IPS shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by IPS in the course of providing any services pursuant to this Agreement, IPS's guarantees and warrants related to Standard of Performance and found in Section 9 of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. IPS'S BOOKS AND RECORDS.

(a) IPS shall maintain any and all documents and records demonstrating or relating to IPS's performance of services pursuant to this Agreement. IPS shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by IPS pursuant to this Agreement. Any and all such documents or records shall be maintained for three years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at County's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of County's business, City may, by written request, require that custody of such documents or records be given to the City and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to City, as well as to its successors in interest and authorized representatives.

SECTION 8. STATUS OF IPS.

(a) IPS is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. IPS shall have no authority to bind City in any manner or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this AGREEMENT or is otherwise expressly conferred in writing by City.

(b) The personnel performing the services under this Agreement on behalf of IPS shall at all times be under IPS's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of IPS or any of IPS's officers, employees, or agents except as set forth in this Agreement. IPS shall not at any time or in any manner represent that IPS or any of IPS's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither IPS, nor any of IPS's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. IPS expressly waives any claim IPS may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

IPS represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. IPS shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, IPS shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of IPS under this Agreement.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by IPS in the course of providing any services pursuant to this Agreement, IPS's guarantees and warranties related to Standard of Performance shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

IPS shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. IPS shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of IPS to comply with this section.

SECTION 11. PREVAILING WAGE LAWS

It is the understanding of City and IPS that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated there under: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NON-DISCRIMINATION.

IPS shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. UNAUTHORIZED ALIENS.

IPS hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should IPS so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, IPS hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) IPS covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder IPS's performance of services under this Agreement. IPS further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. IPS agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City understands and acknowledges that IPS is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. IPS is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that IPS will, perform non-related services for other governmental agencies and private parties following the completion of the scope of work under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by IPS in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to IPS. IPS shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) IPS, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided IPS gives City notice of such court order or subpoena.

(c) If IPS, or any officer, employee, agent or subcontractor of IPS, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from IPS for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of IPS's conduct.

(d) IPS shall promptly notify City should IPS, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent IPS or be present at any deposition, hearing or similar proceeding. IPS agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by IPS. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for IPS's Services, to the fullest extent permitted by law, IPS shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of IPS, its officers, agents, employees or sub-consultants (or any entity or individual that IPS shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, IPS shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by IPS or by any individual or entity for which IPS is legally liable, including but not limited to officers, agents, employees or sub-contractors of IPS.

(c) General Indemnification Provisions. IPS agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of IPS in the performance of this Agreement. In the event IPS fails to obtain such indemnity obligations from others as required here, IPS agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of IPS and shall survive the termination of this Agreement or this section.

(d) Limitation of Indemnification. Notwithstanding any provision of this Section 16 [Indemnification] to the contrary, design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code Section 2782.8, which limits the liability of a design professional to claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The term "design professional," as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(e) The provisions of this section do not apply to claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

SECTION 17. INSURANCE.

IPS agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. IPS agrees to provide City with copies of required policies upon request.

SECTION 18. ASSIGNMENT.

The expertise and experience of IPS are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon IPS under this Agreement. In recognition of that interest, IPS shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of IPS's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. City acknowledges, however, that IPS, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 19. CONTINUITY OF PERSONNEL.

IPS shall make every reasonable effort to maintain the stability and continuity of IPS's staff and subcontractors, if any, assigned to perform the services required under this Agreement. IPS shall notify City of any changes in IPS's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to IPS. In the event such notice is given, IPS shall cease immediately all work in progress.

(b) IPS may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either IPS or City fails to perform any material obligation under this Agreement, then, in addition to any other remedies, either IPS, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either IPS or City, all property belonging exclusively to City which is in IPS's possession shall be returned to City. IPS shall furnish to City a final invoice for work performed and expenses incurred by IPS, prepared as set forth in Section 4 of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 of this Agreement.

SECTION 21. DEFAULT.

In the event that IPS is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating IPS for any work performed after the date of default. Instead, the City may give notice to IPS of the default and the reasons for the default. The notice shall include the timeframe in which IPS may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that IPS is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If IPS does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20. Any failure on the part of the City to give notice of the IPS's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

IPS shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of IPS. Such causes include, but are not limited to, acts of God, acts of the public enemy, and acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit "A" "Scope of Services," shall be furnished to IPS in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 24. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopy or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Hemet
Attn: City Manager
445 E. Florida Avenue
Hemet, CA 92543

To IPS: Riverside County Department of Public Health
Injury Prevention Services
3900 Sherman Drive, Ste. 1E
Riverside, CA 92503

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of IPS represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind IPS to the performance of its obligations hereunder.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 27. MODIFICATION OF AGREEMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the IPS and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by IPS shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or entered into between IPS and City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party which is not embodied herein shall be valid and binding. No amendment to this Agreement shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 31. SEVERABILITY.

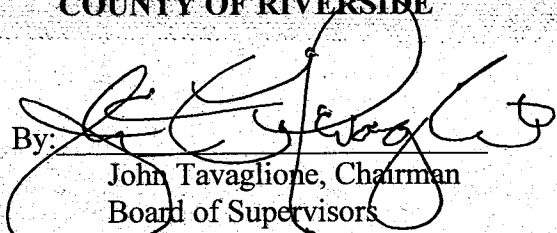
If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

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

CITY OF HEMET

COUNTY OF RIVERSIDE

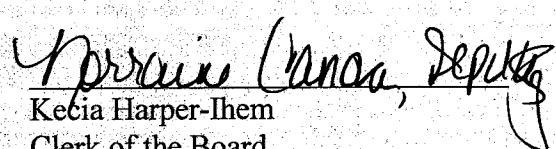
By: _____
Brian Nakamura, City Manager

By: 
John Tavaglione, Chairman
Board of Supervisors

ATTEST:

ATTEST:

Sarah McComas
City Clerk


Kecia Harper-Ihem
Clerk of the Board

APPROVED AS TO FORM

FORM APPROVED COUNTY COUNSEL

By: _____
Eric S. Vail
City Attorney


BY:  4/25/12
NEAL R. KIPNIS DATE

EXHIBIT "A"

SCOPE OF SERVICES

I. COUNTY will perform the following Services:

- A. Develop a comprehensive safety education and encouragement strategy, including but not limited to the following elements:

Outreach efforts – Conduct a Safe Routes to School Workshop to bring all stakeholders together to learn at the program; dissemination of age-appropriate pedestrian and bicycle education materials to K-6 grade studies during school functions such as Back to School Night and Open House

Encouragement activities – Convening meetings with PTA, parents and school councils to help coordinate Walk to School Day event and create sustainable programs such as Frequent Walker Programs, establishing Walking School Bus Routes, and Student Walk Audits

Educational activities – Conducting on-site pedestrian and bicycle safety education assembly and/or in-class presentations; organization of a mini-pedestrian city activity for K-6 students

Evaluation efforts – Conduct Student Travel Survey to collect travel behavior data at the beginning and end of the project period to evaluate program effectiveness

II. as part of the Services, IPS will prepare and deliver the following tangible work products to the City:

- A. Surveys: Pre and Post Evaluation Transportation Mode Surveys.
- B. Coalition Meetings and Outreach: Agendas, Flyers, Meeting Minutes, Photos, Outreach Event Summary.
- C. Educational Events: Flyers, Notices, Photos, Schedules.
Encouragement Events: Flyers, Notices, Photos, Schedules.

III. during performance of the Services, IPS will keep the City apprised of the status of performance by delivering the following status reports:

- A. Status Report.
- B. Final Report.

IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:

- A. Quarterly or every three months.
- B. Final Closeout Report no later than six months after end of project period.

V. IPS will utilize the following personnel to accomplish the Services:

- A. Public Health Program Coordinator
- B. Health Services Assistant(s)

VI. IPS will utilize the following subcontractors to accomplish the Services:

- A. Bicycle Education Coach – to be determined.

VII. AMENDMENT

The Scope of Services, including services, work products, and personnel, are subject to change by mutual Agreement. In the absence of mutual Agreement regarding the need to change any aspects of performance, IPS shall comply with the Scope of Services as indicated above.

EXHIBIT "B"

COMPENSATION

I. IPS shall use the following rates of pay in the performance of the Services:

- A. Project Management \$50.00/hr
- B. Program Implementation \$30.00/hr
- C. Evaluation \$40.00/hr

H. IPS may utilize subcontractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed \$ 100.00 per hour without written authorization from the City Manager or his designee.

III. The CITY will compensate IPS for the Services performed upon submission of a valid invoice. Each invoice is to include:

- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- B. Line items for all supplies properly charged to the Services.
- C. Line items for all travel properly charged to the Services.
- D. Line items for all equipment properly charged to the Services.
- E. Line items for all materials properly charged to the Services.
- F. Line items for all subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for the Services shall not exceed \$55,000, as provided in Section 4 of this Agreement.

EXHIBIT "C"

INSURANCE

A. Insurance Requirements. County shall provide and maintain insurance, acceptable to the City Manager or City Counsel, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by County, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII. County shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

(1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

(2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.

(3) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the County and all risks to such persons under this Agreement.

(4) Professional liability insurance appropriate to the County's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 3 consecutive years following the completion of County's services or the termination of this Agreement. During this additional 3-year period, County shall annually and upon request of the City submit written evidence of this continuous coverage.

2. Minimum Limits of Insurance. County shall maintain limits of insurance no less than:

(1) General Liability: \$1,000,000 general aggregate for bodily injury, personal injury and property damage.

(2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage. A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits set forth above.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of not less than \$1,000,000 per accident.

(4) Professional Liability: \$1,000,000 per occurrence.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Policies. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to City.

2. General Liability and Automobile Liability Coverage's.

(1) City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insured's as respects: liability arising out of activities County performs; products and completed operations of County; premises owned, occupied or used by County; or automobiles owned, leased, hired or borrowed by County. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

(2) County's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, County's insurance.

(3) County's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by County.

C. Other Requirements. County agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that County furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. County shall furnish certificates and endorsements from each subcontractor identical to those County provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the County shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit County's liability hereunder or to fulfill the indemnification provisions and requirements of this Agreement.