

Attachment 1
AGREEMENT BETWEEN THE VENTURA COUNTY TRANSPORTATION
COMMISSION AND Eide Bailly, LLP FOR PROFESSIONAL SERVICES

This is an agreement (“Agreement”) by and between the Ventura County Transportation Commission, hereinafter referred to as VCTC, and Eide Bailly, LLP hereinafter referred to as CONTRACTOR, to provide professional Financial Auditing services is entered into this _____ day of _____ January _____, 2022 (“Effective Date”).

VCTC and CONTRACTOR agree as follows:

1. STATEMENT OF AGREEMENT

VCTC hereby engages CONTRACTOR, and CONTRACTOR hereby accepts such engagement, to perform the services on the terms and conditions herein described, and as set forth in this Agreement. CONTRACTOR hereby warrants that it has the professional qualifications, experience, and facilities to properly perform said services and hereby agrees to undertake and complete the performance thereof.

2. DESCRIPTION OF SERVICES

The services to be performed by CONTRACTOR are those set forth and incorporated herein in Attachment 1 (“Scope of Services”) and Attachment 2 (Request for Proposals for Professional Financial Auditing Services dated November 5, 2021) of this Agreement, and the specifications attached thereto and as further described in Contractor’s proposal December 1, 2021, set forth and incorporated herein in Attachment 3 to this Agreement. In the event of a conflict between any specific provision of this Agreement and any provision of Attachment 1, Attachment 2 or Attachment 3, the provisions of this Agreement shall prevail. In the event of a conflict between any specific provision of Attachment 1, Attachment 2, and Attachment 3, the provisions of Attachment 1 shall prevail over conflicting provisions of Attachment 2 and Attachment 3, and the provisions of Attachment 2 shall prevail over conflicting provisions of Attachment 3. All work performed by the CONTRACTOR shall be performed in a good and workmanlike manner.

3. TERM

The term of this Agreement shall commence on the Effective Date and shall continue for one (1) year from the Effective Date (“Initial Term”).

4. CHANGES IN THE WORK

The VCTC may, at any time, by written order to CONTRACTOR make changes within the general Scope of Services, including but not limited to revising or adding to the work or deleting portions thereof. Upon agreement of the parties and receipt of notice of change to the Scope of Services, CONTRACTOR shall immediately take all necessary steps to comply therewith.

5. COMPENSATION/INVOICING

5.1 - The total compensation payable by VCTC, to CONTRACTOR, for completion of the Scope of Services for the Inspection and listing of leases, including assistance inspecting leases for potential terms that trigger Governmental Accounting Standards Board (GASB) 87 recognition shall not exceed \$15,000 journal entries and note disclosures for leases that meet criteria for reporting under GASB as approved by VCTC. Estimated leases to be reviewed is 103; therefore, contract not to exceed \$46,000.

5.2 - CONTRACTOR will bill VCTC monthly for completed work. VCTC will pay CONTRACTOR within thirty (30) days of receipt of a satisfactory invoice. Each invoice shall be supported by employee name or position, labor category, hours worked, etc. in the performance of the Agreement during the period covered by each invoice.

6. REVIEW STANDARDS

The GASB 87 lease review and associated reports and journal entries performed pursuant to the Scope of Services shall be performed using the most current version of each of the following:

- i. Generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants.
- ii. Guidance and requirements of Government Accounting Standards Board.

7. PROGRESS AND COMPLETION

CONTRACTOR shall commence work on the Scope of Services to be performed upon full execution of this Agreement and shall consider full execution of this Agreement as Notice to Proceed. All services shall be completed as mutually agreed upon by both parties; deviations from the schedule shall be approved by VCTC. Progress reports, which include a summary of work completed during the billing period, will be provided by the CONTRACTOR with each invoice.

8. ASSIGNMENT AND SUBCONTRACTING

8.1 - This Agreement is for professional services and CONTRACTOR may not assign its rights under this Agreement nor delegate the performance of its duties without the VCTC's prior written consent.

8.2 - CONTRACTOR shall complete all work under this Agreement. Contractor may assign duties to another contractor or to any subcontractor only upon prior written consent of the VCTC. Any assignment or delegation without VCTC's prior written consent shall be void.

8.3 – CONTRACTOR will act as an independent contractor and is not an employee, officer, agent, partner or joint venture of VCTC by virtue of this Agreement. CONTRACTOR agrees that its workers performing services under this Agreement shall be either (1) employees of CONTRACTOR, or (2) shall meet all of the following three requirements to qualify as independent contractors: (a) be free from control and direction of CONTRACTOR; (b) perform work that is outside the usual course of CONTRACTOR's business; and (c) be customarily engaged in an independently established trade, occupation or business of the same nature as the work the individual performs for the CONTRACTOR. CONTRACTOR will defend, indemnify, and hold VCTC harmless from any claims, demands, liabilities, costs, and expenses arising from CONTRACTORS misclassification of workers providing services as independent contractors under this Agreement.

9. RELATIONSHIP OF THE PARTIES

CONTRACTOR is, and at all times retains the status of, an independent contractor and shall represent the will of VCTC only as to the results of the subject matter of this Agreement, and not as to the manner in which the services herein are performed. CONTRACTOR shall have complete control and responsibility over the details and performance of the services herein required to complete the Agreement, and in no event shall CONTRACTOR be considered an officer, agent, servant, or employee of VCTC.

10. KEY PERSONNEL

Jessica Andersen, Engagement Partner, Roger Alfaro, Review Partner, and Erika Partida, Senior Manager, are considered essential to the work being performed under this Agreement; unless required by professional government auditing standards (GAS) substitution for these individuals will not be made without the prior written consent of the VCTC.

11. INSURANCE

CONTRACTOR shall procure and maintain for the duration of the contract insurance 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 the CONTRACTOR, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- i. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- ii. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- iii. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. (Not required if CONTRACTOR provides written verification that it has no employees)
- iv. Professional Liability (Errors and Omissions) Insurance appropriate to the CONTRACTOR's profession, with limit no less than \$2,000,000 per occurrence or claim, \$4,000,000 aggregate.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The VCTC, its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CONTRACTOR; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the CONTRACTOR's insurance coverage shall be primary insurance as respects the VCTC, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the VCTC, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

Notice of Cancellation

CONTRACTOR may not permit coverage under the policies described above to be canceled without notice to the VCTC.

Waiver of Subrogation

CONTRACTOR hereby grants to VCTC a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the VCTC by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the VCTC has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the VCTC.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage

CONTRACTOR shall furnish the VCTC with original certificates and amendatory endorsements. All certificates and endorsements are to be received and approved by the VCTC before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The VCTC reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

VCTC reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Self-Insured Retentions

Any insurance policy required by this Agreement that includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such policies shall not have an express prohibition on the payment of the self-insured retention by a person other than the named insured. -

12. PERMITS

To the extent applicable, CONTRACTOR shall, at CONTRACTOR's expense, obtain all necessary permits and licenses necessary to perform and complete the work under this Agreement, give all notices, and pay all fees and taxes required by law. Any permits required from VCTC shall be granted to CONTRACTOR at no cost.

13. INDEMNIFICATION

Notwithstanding the existence of insurance coverage required of CONTRACTOR pursuant to this Agreement, CONTRACTOR shall save, keep, indemnify, hold harmless and defend VCTC and its appointed and elected officials, officers, employees and agents, from every claim or demand made and every liability, loss, damage or expense of any nature whatsoever and all costs or expenses incurred in connection therewith, which arise at any time and occur or arise out of CONTRACTOR's performance pursuant to this Agreement. CONTRACTOR's indemnification obligations extend to any actions by CONTRACTOR, its officers, agents or employees, including but not limited to, its subcontractors, in performance of the work required pursuant to this agreement. CONTRACTOR's indemnification obligations include any such liability imposed by reason of any infringement or alleged infringement of rights of any person or persons, firm or corporation, in the performance of the work hereunder or of any article or material supplied, utilized or installed pursuant to this Agreement. Notwithstanding the foregoing, Contractor's indemnity obligations hereunder shall apply only to the extent that liability arises from Contractor's negligence or wrongful acts or omissions. Contractor shall not be required to indemnify and hold harmless VCTC, its officers, agents or employees (VCTC Indemnitees) for any such claims, damages, penalties, obligations or liabilities attributable to the negligence of VCTC Indemnitees.

14. NON-DISCRIMINATION

CONTRACTOR shall not discriminate in the hiring of employees or in the employment of subcontractors on the basis of sex, race, religion, age, natural origin, handicap, or any other basis prohibited by law. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act and applicable laws promulgated thereunder.

15. RECORDS AND AUDITS

The CONTRACTOR's accounting systems shall conform to generally accepted accounting principles (GAAP), enable the determination of costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers, including audit working papers, of CONTRACTOR connected with performance under this Agreement shall be maintained for a minimum of seven years from the date of final payment to CONTRACTOR and shall be held open to inspection and audit by representatives of the the Ventura County Transportation Commission (or its designee) and auditors of entities of which the VCTC is a subject to.

In addition, the CONTRACTOR shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance for VCTC.

16. VCTC USE OF GASB 87 INFORMATION

VCTC shall be free to publish its' GASB 87 information (including the reports of CONTRACTOR) as it sees fit – whether it is in an offering statement, on VCTC or another government's web site, or somewhere else – without having to obtain prior permission from the CONTRACTOR, provided that all of the following conditions have been met:

- i. The GASB 87 information is not used in a potentially misleading manner.
- ii. No material subsequent event has occurred that might render the GASB 87 information potentially misleading.

17. ATTORNEY'S FEES

In the event an action is filed by either party to enforce rights under this Agreement, the prevailing party shall be entitled to recover a reasonable attorney's fee in addition to any relief granted by the court.

18. TERMINATION BY VCTC

This Agreement may be terminated by the VCTC at any time upon thirty (30) days' written notice. In full discharge of any obligation to CONTRACTOR in respect of this Agreement and upon such termination, the VCTC shall pay for the costs and noncancelable commitments incurred prior to the date of termination and fair closeout costs in accordance with the Annual Rates, not to exceed amounts specified in Article 5, and any applicable hourly rates in the event of partial completion of a task at the time of termination. CONTRACTOR shall take all reasonable steps to minimize termination costs. In no event, however, shall the VCTC be obligated to pay CONTRACTOR any amount in excess of the total funds committed by the VCTC up to the time of termination to support the work.

19. NOTICES

19.1 - All notices to the VCTC under this Agreement shall be in writing and sent to:

Ms. Sally DeGeorge, Director of Finance
Ventura County Transportation Commission
751 East Daily Drive, Suite 420
Camarillo, CA 93010

19.2 - All notices to CONTRACTOR under this Agreement shall be in writing and sent to:

Ms. Jessica Andersen, Engagement Partner
Eide Bailly, LLP
25231 Paseo De Alicia, St. 100
Laguna Hills, CA 92653-4615

20. ENTIRE AGREEMENT, MODIFICATION, AND EFFECTIVE DATE

20.1 - This Agreement constitutes the entire Agreement between the parties and supersedes all previous agreements and understandings related to the work performed under this Agreement. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by a party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, statement or promise not contained in the Agreement shall not be valid or binding.

20.2 - This Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representative of both parties.

20.3 - This Agreement shall be effective upon full execution by both VCTC and CONTRACTOR in accordance with Article 3 above, such full execution shall be considered a Notice to Proceed.

21. GOVERNING LAW/VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of California with venue in the County of Ventura. This Agreement is executed and to be performed in the County of Ventura.

22. BREACHES AND DISPUTE RESOLUTION PROCEDURE

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

Remedies - Unless this Agreement provides otherwise, all claims, counterclaims, disputes, and other matters in question between the VCTC and the Contractor arising out of or relating to this Agreement, or its breach will be decided in a court of competent jurisdiction within the State of California with venue in the County of Ventura.

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

23. SEVERABILITY

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

VENTURA COUNTY TRANSPORTATION COMMISSION

Kelly Long, Chair

Date

APPROVED AS TO FORM:

Steven T. Mattas, General Counsel

Date

CONTRACTOR – Eide Bailly, LLP

Jessica Andersen, CPA

Date

ATTACHMENT 1

SCOPE OF SERVICES

The CONTRACTOR is required to complete the following services:

CONTRACTOR is required to review all leases and business areas of VCTC in accordance with Government Accounting Standards Board (GASB) 87 for potential qualifying lease arrangements.

CONTRACTOR is required to provide a comprehensive list of all contracts reviewed and indicate whether they meet the GASB 87 definition for lessee/lessor and provide reason and documentation to support the decision. For leases that meet the GASB 87 definition, gather and include in the list key data and information to determine, at a minimum, the lease term, payment terms, calculated lease liability/asset and deferred outflow/inflow for GASB 87 calculations.

CONTRACTOR is required to provide a master schedule summarizing the calculation and other relevant information used to determine the value for each lease including prior year expense, current year expense and remaining life expense.

CONTRACTOR shall prepare and provide the appropriate journal entries for the yearend implementation of GASB 87 for VCTC to consider, review, and post to the general ledger (Fiscal Year 2021/2022 – including current year and prior years restatement entries) and the proposed footnote disclosures for the annual comprehensive financial report.

CONTRACTOR shall develop a matrix to track leases going forward and provide ability for finance staff to maintain and use a tool for yearend journal entries/accruals.

CONTRACTOR shall assist in developing on-going process and controls recommendations to maintain the lease inventory and incorporated into the accounting and reporting process. Specific procedures adopted will be at VCTC discretion.

CONTRACTOR shall respond to VCTC's follow-up audit questions and provide additional information as needed to complete GASB 87 lease accounting and disclosures during the Fiscal Year 2021/2022 audit.

CONTRACTOR shall provide an electronic file of reports, journal entries and information above. Eide Bailly will not be the sole host of this information.

If CONTRACTOR becomes aware of any irregular or illegal acts or indications of any illegal acts committed by the Executive Director, General Counsel, and/or the Finance Director, CONTRACTOR shall make an immediate, written report of all irregularities and illegal acts or indications of illegal acts.

ATTACHMENT 2

Request for Proposal for Professional Services GASB 87

ATTACHMENT 3

Contractor's Proposal for Professional Services GASB 87