

**VCTC CONTRACT #2023-SVDT-01**  
**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**VENTURA COUNTY TRANSPORTATION COMMISSION**  
**AND**  
**SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY**  
**STA FUNDING FOR THE**  
**SIMI VALLEY DOUBLE TRACK AND STATION IMPROVEMENT PROJECT**

This Memorandum of Understanding ("MOU") is executed and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (Effective Date) by the Ventura County Transportation Commission (VCTC) and the Southern California Regional Rail Authority (SCRRA) which may be referred to individually as "PARTY" or collectively as "PARTIES".

The Term of this MOU will commence on the date first specified above and terminate when construction commences, or December 31, 2026, whichever is earlier.

**RECITALS**

**WHEREAS**, VCTC is the transportation commission, transportation authority and transportation planning agency for the County of Ventura, California, with the power to contract for the SERVICES described in this Contract;

**WHEREAS**, SCRRA is a joint powers authority that provides rail services, including capital improvements, project management, railroad protective services (e.g., "flagging") and railroad facilities inspections in Los Angeles, Orange, Riverside, San Bernardino and Ventura Counties pursuant to a Joint Exercise of Powers Agreement among the Los Angeles County Metropolitan Transportation (as successor to the Los Angeles County Transportation Commission), the Orange County Transportation Authority, the Riverside County Transportation Commission, San Bernardino County Transportation Authority (as successor to the San Bernardino Associated Governments), and the Ventura County Transportation Commission;

**WHEREAS**, SCRRA and its Member Agencies, in partnership with BNSF, California High

Speed Rail Authority (CHSRA) and the Los Angeles-San Diego-San Luis Obispo Rail Corridor Agency (LOSSAN), submitted a request to California State Transportation Agency (CalSTA) for \$3.7 billion of 2018 Transit and Intercity Rail Capital Program (TIRCP) grant funding for a program of Projects known as the Southern California Optimized Rail Expansion (SCORE) Program. The SCORE Program is a series of system wide improvement Projects that combined will allow increases to service across the Metrolink System;

**WHEREAS**, SCRRA was awarded an \$875,708,000 TIRCP grant by CalSTA in April 2018 for the SCORE Program. A key component of the SCORE Program is the “Simi Valley Double Track and Station Improvement Project” (PROJECT), which is eligible for funding under the TIRCP grant and for which SCRRA serves as the lead agency;

**WHEREAS**, the PROJECT consists of the addition of approximately 2.15 miles of railroad track between MP 436.08 and MP 438.35, construction of a second platform and new pedestrian underpass at Simi Valley Station, and upgrade of Sequoia Avenue, Tapo Canyon Road, Tapo Street, E. Los Angeles Avenue, and Hidden Ranch Drive grade crossings. VCTC is the owner of the right-of-way for certain areas in the PROJECT and certain other assets collectively defined as the VCTC-owned and SCRRA-maintained rights-of-way and associated railroad infrastructure in the City of Simi Valley, and VCTC is willing to provide certain support services to SCRRA for the PROJECT;

**WHEREAS**, SCRRA, as lead agency primarily responsible for all environmental clearance, design, and construction of the PROJECT, has funded and has contracted for capital improvements for the PROJECT. In December 2020, VCTC and SCRRA executed an MOU Agreement under which VCTC would provide support services to SCRRA during the delivery of the PROJECT, such as assistance with utility relocations, public outreach, and right-of-way acquisitions;

**WHEREAS**, at its January 12, 2018 Commission meeting, VCTC took action to support SCRRA’s TIRCP application including contributing \$2,000,000 local match if the project was awarded. Accordingly, VCTC allocated \$2,000,000 of State Transit Assistance (STA) funding for the PROJECT in the Fiscal Year 2022/2023 budget (STA FUNDING).

**WHEREAS**, VCTC wishes to provide the STA FUNDING to SCRRA in order to facilitate the delivery of the PROJECT.

**WHEREAS**, SCRRA will utilize the STA FUNDING on construction activities for the PROJECT. The total estimated cost of the PROJECT is \$86,280,000, and the estimated Base Construction Cost of the PROJECT is \$41,625,861. The STA FUNDING will serve as a

contribution towards the Base Construction Cost of the PROJECT. SCRRRA will undertake Construction activities as described in ATTACHMENT A (SERVICES).

**WHEREAS**, the PARTIES desire to enter into this MOU for the purpose of documenting the terms and conditions of cooperation between the PARTIES with regard to the STA FUNDING to be utilized for the PROJECT.

NOW, THEREFORE, it is mutually understood and agreed by VCTC and SCRRRA as follows:

**I. SCRRRA'S RESPONSIBILITIES**

- A. SCRRRA will be the lead agency for the environmental clearance, design, and construction of the PROJECT and designate a Project Manager as its single point of contact to manage the PROJECT and coordinate with VCTC for all SERVICES under this MOU.
- B. SCRRRA will design, construct, and implement the PROJECT in accordance with all applicable state, federal and local laws, regulations, policies, standards and procedures, and be responsible for 100% of all costs for the PROJECT, including but not limited to costs incurred in the preparation of contract documents, advertising for bids, awarding design and construction contracts, all construction capital and support costs required for satisfactory completion of the PROJECT.
- C. SCRRRA will undertake the coordination necessary to implement the PROJECT among all third parties, including public and private agencies, and will be solely responsible for obtaining all licenses, permits, rights-of-entry, and any statutorily required permission to facilitate implementation and construction of the PROJECT. SCRRRA will have sole responsibility for issuance of all notifications, and for obtaining all necessary agreements and approvals for any and all grade crossing modifications through the California Public Utilities Commission (CPUC) and any other interested parties or agencies.
- D. SCRRRA will coordinate directly with Union Pacific Railroad (UPRR) where UPRR operations and/or infrastructure may be affected, including obtaining any permits, agreements, and approvals to modify tracks and operations.
- E. SCRRRA will investigate potential hazardous material sites that could impact the PROJECT. If, as a result of activities related to the PROJECT, remediation or removal of hazardous materials is required, SCRRRA will be responsible at its sole expense for any remediation or removal, including the development of the necessary mitigation and remediation plans and designs. All remediation and disposal must be performed in accordance with all applicable

federal, state, and local laws and regulations.

- F. SCRRRA will comply and require its consultants/contractors, if applicable, to comply with all SCRRRA standards, recommended practices, operating rules, and safety requirements, and to comply with all requirements of the SCRRRA System configuration management program;
- G. SCRRRA will comply with all STA FUNDING requirements, terms, and conditions for those funds that will be used to pay for the SERVICES.

## **II. VCTC'S RESPONSIBILITIES**

- A. VCTC will authorize SCRRRA a total not-to-exceed amount of two million dollars (\$2,000,000) for all SERVICES to be performed for the PROJECT.
- B. VCTC will authorize SCRRRA only for the costs of approved SERVICES incurred by SCRRRA up to the not-to-exceed amount in connection with the SERVICES, which shall include direct and indirect overhead costs associated herewith.
- C. VCTC will review changes to the SERVICES and/or their costs within seven (7) business days from SCRRRA's submittal of such changes and provide SCRRRA with written approval, comments, and/or objections in writing.
- D. VCTC will review reports on a quarterly basis from SCRRRA.
- E. VCTC will appoint various personnel in writing to SCRRRA designating specific staff members for fulfilling duties under this MOU. VCTC will notify SCRRRA in writing of any personnel changes modifying any staff members designated to fulfill duties under this MOU.

## **III. PAYMENT FOR SCRRRA WORK**

- A. Except as provided below, VCTC will authorize SCRRRA up to the total amount of \$2,000,000 ("Expense Cap") as shown in ATTACHMENT A (SERVICES) for costs incurred by SCRRRA pursuant to this MOU.
- B. Within thirty (30) days of the execution of this Agreement, VCTC shall transfer to SCRRRA the state funds programmed for the PROJECT, consisting of \$2,000,000 in STA Funds.
- C. SCRRRA will send quarterly reports to VCTC. With each quarterly report, SCRRRA will include all back-up material, including but not limited to, detailed expenditures, timecards, invoices from third parties including consultants and contractors, and descriptions of activities

performed.

- D. SCRRA shall establish a separate, re-collectable account within SCRRA's finance system to record only costs SCRRA incurs fulfilling their obligations of this MOU.
- E. Upon agreement by SCRRA and VCTC that all SERVICES are complete, SCRRA will submit to VCTC a detailed statement of final costs incurred under this MOU. Based on the final accounting, SCRRA shall refund as necessary in order to satisfy the obligations of this MOU.
- F. SCRRA shall submit the detailed statement of final costs for SERVICES no later than December 31, 2026, unless this date is otherwise amended by both PARTIES in writing.

#### **IV. REPORTING AND AUDIT REQUIREMENTS**

- A. SCRRA shall be subject to and shall comply with all applicable requirements of VCTC and STA regarding reporting and audit requirements.
- B. SCRRA shall submit written progress reports to VCTC as specified to determine if SCRRA is performing to expectation, is on schedule, and is within funding cost limitations, to provide communication of interim findings and to afford occasions for airing difficulties respecting special problems encountered so that remedies can be developed. Should SCRRA fail to submit a complete report or project deliverables in accordance with the SERVICES schedule, VCTC may elect to not authorize STA FUNDING expenditures until submittal is determined by VCTC to be fully complete.
- C. VCTC shall have the right to conduct audits of this MOU, such as financial and compliance audits and performance audits. SCRRA shall make available and shall ensure its contractors make available, any records, information, material data and documentation needed by the auditors. SCRRA shall establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP).
- D. VCTC shall not authorize SCRRA for any expenditure not in compliance with the SERVICES or other terms and conditions of this MOU, or other applicable requirements of VCTC. The allowability of costs for SCRRA's own expenditures submitted to VCTC shall be in compliance with the STA FUNDING terms and conditions. The allowability of costs for SCRRA's contractor and consultant expenditures submitted to VCTC through SCRRA's invoices shall be in compliance with the STA FUNDING terms and conditions. VCTC shall have the right to

conduct a final audit, and the findings of the VCTC audit will be final. This section shall survive termination of this MOU.

- E. SCRRRA shall certify each report by reviewing all costs and maintaining internal control to ensure that all expenditures are allocable, allowable and reasonable and in accordance with the STA FUNDING terms and conditions, and the terms and conditions of this MOU.
- F. SCRRRA shall also certify final costs of the SERVICES to ensure that all costs are in compliance with the STA FUNDING terms and conditions, and the terms and conditions of this MOU.
- G. SCRRRA shall retain all original records and documents related to the SERVICES (RECORDS) for a period of three years after final payment. The RECORDS shall be open to inspection and subject to audit and reproduction by VCTC auditors or authorized representatives to the extent deemed necessary by VCTC to adequately permit evaluation of expended costs. The RECORDS subject to audit shall also include, without limitation, those records deemed necessary by VCTC to evaluate and verify, direct and indirect costs (including overhead allocations) as they may apply to costs associated with the SERVICES.
- H. SCRRRA shall cause all contractors and subcontractors to comply with the requirements of Section IV.G above. SCRRRA shall ensure all contractors and subcontractors to cooperate fully in furnishing or in making available to VCTC all records deemed necessary by VCTC auditors or authorized representatives related to the SERVICES.
- I. SCRRRA shall be responsible for ensuring its contractors and subcontractors for the SERVICES comply with the terms of the STA FUNDING terms and conditions. SCRRRA shall cooperate with VCTC Audit Department such that VCTC can meet its obligations under the STA FUNDING terms and conditions.

V. **MISCELLANEOUS**

- A. Indemnity by SCRRRA. Neither VCTC, the Operating Railroads, SCRRRA's board members, member agencies, nor their respective officers, agents, volunteers, contractors, and employees will be responsible for any damage or liability occurring by reason of any negligent, reckless, or willful acts, errors, omissions or misrepresentations committed by the SCRRRA under or in connection with the SERVICES or this MOU. To the fullest extent allowed by law, SCRRRA shall indemnify, defend, and hold harmless VCTC, its board members, member agencies, officers, agents, volunteers, contractors, and employees, and Operating Railroads

from any and all liability, loss, expenses (including reasonable attorneys' fees and other defense costs), demands, suits, liens, damages, costs, claims, including but not limited to, claims for bodily injury, death, personal injury, or property damage, arising or alleged to have arisen, in whole or in part, out of or in connection with SCRRA's negligent, reckless, or willful acts, errors, omissions or misrepresentations committed by SCRRA, its officers, employees, agents, contractors, subcontractors, or anyone under SCRRA's control, in connection with the SERVICES and this MOU. This indemnity shall survive expiration or termination of this MOU.

- B. Indemnity by VCTC. Neither SCRRA, nor its directors, officers, agents, contractors, or employees will be responsible for any damage or liability occurring by reason of the negligent, reckless, or willful acts, errors, omissions or misrepresentations committed by VCTC under or in connection with the SERVICES or this MOU. To the fullest extent allowed by law, VCTC shall indemnify, defend, and hold harmless SCRRA, as well as its directors, officers, agents, contractors, and employees from any and all liability, loss, expense (including reasonable attorneys' fees and other defense costs), demands, suits, liens, damages, costs, claims, including but not limited to, claims for bodily injury, death, personal injury, or property damage, arising or alleged to have arisen, in whole or in part, out of or in connection with VCTC's negligent, reckless, or willful acts, errors, omissions or misrepresentations committed by VCTC, its officers, employees, agents, contractors, subcontractors, or anyone under VCTC's control, in connection with this MOU. This indemnity shall survive expiration or termination of this MOU.
- C. Governing Law. This MOU will be governed by and construed in accordance with the laws of the State of California. Any action or proceeding brought to enforce any provision of this MOU shall be filed in the Superior Court of California for Ventura County.
- D. Attorneys' Fees. If either PARTY commences an action against the other PARTY arising out of or in connection with this MOU, the prevailing party in such litigation will be entitled to have and recover from the losing party reasonable attorneys' fees.
- E. Insurance. SCRRA warrants that its contractors and/or consultants ("Subcontractors and Subconsultants") will maintain coverage sufficient to cover any liability reasonably anticipated to arise from the performance of this AGREEMENT, and that SCRRA will require that such Subcontractors and Subconsultants will have such insurance as SCRRA ordinarily requires for SCRRA's agreements with Subcontractors and Subconsultants through the SCRRA Form 6 process. SCRRA will issue, and warrants that its contractors and/or consultants will issue evidence of such insurance to VCTC prior to beginning the PROJECT, including VCTC as

additional insured and waiver of subrogation as to said policies except for worker's compensation. Failure to obtain the required documents prior to commencement of the PROJECT shall not waive SCRRA's obligation to provide them to VCTC. Such evidence of insurance shall include, at a minimum, Statutory Workers' Compensation Insurance and Employer's Liability Insurance of not less than \$1,000,000 dollars per accident, Commercial General Liability with a minimum limit of \$2,000,000 per occurrence and \$4,000,000 in aggregate, and Automobile Liability insurance with a minimum limit of \$1,000,000 per accident and \$2,000,000 in aggregate. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

- F. Recitals. The Recitals stated above are integral parts of this MOU and are hereby incorporated into the terms of this MOU.
- G. Termination. Both VCTC and SCRRA shall have the right, at any time, to terminate this MOU by giving thirty (30) calendar days written notice to the other party, specifying the date of termination. Upon termination of this MOU, SCRRA shall return all unspent funds to VCTC. Such termination shall be subject to the continuing obligations of this MOU, including but not limited to reporting requirements.
- H. Notification. Each PARTY will designate a person to be responsible for day-to-day communications regarding work under the PROJECT. For SCRRA, that person will be the SCORE Program Design Manager. For VCTC, that person shall be the Regional Transit Manager. All notices and communications regarding this MOU, interpretation of the terms of this MOU, or changes thereto will be provided as follows:

Metrolink/Southern California Regional Rail Authority 900 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017 ATTN: General Counsel	Ventura County Transportation Commission 751 E. Daily Drive, Suite 420 Camarillo, CA 93010 ATTN: Executive Director CC: General Counsel
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- I. Amendment. In the event the PARTIES determine that the provisions of this MOU should be altered, the PARTIES may amend this MOU by writing signed by both PARTIES.
- J. Entire Agreement. This MOU constitutes the entire agreement between the PARTIES relating to its subject matter and supersedes any previous agreements or understandings.
- K. Execution in Counterpart. This MOU may be executed in counterparts and/or by facsimile or other electronic means, and when each PARTY to this MOU has signed and delivered at least



one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterpart, shall constitute one agreement, which shall be binding upon and effective as to all parties to this MOU.

- L. Severability. If any portion of this MOU shall be held invalid or unenforceable, the remainder of the MOU shall not be affected and shall be enforced to the greatest extent permitted by law.

IN WITNESS WHEREOF, the PARTIES have entered this AGREEMENT, which shall be effective on the Effective Date defined in the first paragraph hereof.

SOUTHERN CALIFORNIA  
REGIONAL RAIL AUTHORITY:

VENTURA COUNTY  
TRANSPORTATION COMMISSION:

By: \_\_\_\_\_  
Darren M. Kettle  
Chief Executive Officer

By: \_\_\_\_\_  
Martin Erickson  
Executive Director

Approved as to form:

Approved as to form:

By: \_\_\_\_\_  
Don O. Del Rio  
General Counsel

By: \_\_\_\_\_  
Steve Mattas  
General Counsel

## ATTACHMENT A

### SCOPE OF SCRRRA CONSTRUCTION SERVICES

SCRRA will utilize the STA FUNDING for Construction of the PROJECT, which includes but is not limited to, the following components as displayed in the diagram:

- New 2<sup>nd</sup> platform, along with a new pedestrian underpass, at Simi Valley Station
- Grade crossing improvements
- New 2<sup>nd</sup> track with associated turnouts and signals

