



VENTURA COUNTY TRANSPORTATION COMMISSION
751 E. DAILY DR., SUITE 420
CAMARILLO, CA 93010
(805) 642-1591

**REQUEST FOR PROPOSALS
TO PROVIDE CONSULTANT SERVICES TO
UPDATE THE SANTA PAULA BRANCH LINE
TRAIL MASTER PLAN AND
ENVIRONMENTAL IMPACT REPORT /
ENVIRONMENTAL IMPACT STATEMENT
LOCATED IN VENTURA COUNTY, CALIFORNIA**

**PROPOSAL RELEASE DATE: FRIDAY, DECEMBER 1, 2023
PROPOSALS DUE: 4:00 P.M. PST, FRIDAY, FEBRUARY 2, 2024**

I. PROCUREMENT SCHEDULE

Project Name	Santa Paula Branch Line Trail Master Plan Update and Environmental Impact Report/Environmental Impact Statement
Issuance Date	Friday, December 1, 2023
Project Period	VCTC anticipates plan completion and approval by November 2025
Pre-Proposal Conference (Optional)	Thursday, December 14, 2023 @ 11:00 PM (PST) via Microsoft Teams Meeting
Questions from Proposers Deadline	Friday, December 22, 2023 @ 4:00 PM (PST)
VCTC Responses to Questions	Friday, January 5, 2024
Proposal Submittal Due Date/Time	Friday, February 2, 2024 @ 4:00 PM (PST)
Interviews	February 21, 2024, via Microsoft Teams Meeting (If needed)
Proposal Submittal Location	Via hard copy to: Ventura County Transportation Commission Attn: Amanda Fagan 751 E. Daily Dr., Suite 420 Camarillo, CA 93010 Via email to afagan@goventura.org
Anticipated Contract Award*	March 1, 2024
Solicitation Contact	Amanda Fagan afagan@goventura.org
Contract Type	Firm, fixed fee compensated per task completion as identified in Scope of Work

All items contained in the procurement schedule above are subject to change. It is the Proposer's responsibility to check VCTC's website at <https://www.goventura.org/work-with-vctc/contracts/> for updates.

II. MINIMUM REQUIREMENTS

Proposer shall have completed at least three (3) trail master plans or similar projects (e.g., Active Transportation Plans, bicycle/pedestrian trail/path/route plans) with associated environmental review (Environmental Impact Report / Environmental Impact Study) within the last seven (7) years.

The proposer shall also provide a minimum of three (3) references from the last seven (7) years for completed trail master plans with environmental review or similar projects. Please ensure contact information for each reference is up to date.

III. PROPOSAL SUBMITTAL INSTRUCTIONS

The Ventura County Transportation Commission (VCTC), hereinafter referred to as VCTC or “Commission,” is soliciting proposals from qualified firms, hereinafter referred to as “Consultant”, to provide consultant services to update the Santa Paula Branch Line (SPBL) Recreational Trail Master Plan and Environmental Impact Report (EIR) / Environmental Impact Statement (EIS), for the portion of the trail from Saticoy to Piru, hereinafter referred to as “Project”, located in Ventura County, California. Interested Consultant(s) are to submit their proposals in accordance with the requirements outlined in this Request for Proposals (RFP).

The scope of work, in general, shall include professional planning and engineering services required for planning and environmental review of a multi-use path (trail) project along an active railroad corridor in the public sector. The scope of work includes the following tasks:

1. Project Management
2. Existing Conditions Analysis
3. Outreach and Engagement
4. Conceptual Planning
5. Plan Production and Approval
6. Project Definition
7. Technical Studies
8. Draft EIR/EIS
9. Public Participation
10. Final EIR/EIS
11. Regulatory Process

A. Proposal Submittal Instructions

Proposals shall be submitted in writing with one signed original and two (2) hard copies, along with one (1) original of the Fee Proposal in a separate sealed envelope, to:

Ventura County Transportation Commission
Attn: Amanda Fagan
751 E. Daily Dr., Suite 420
Camarillo, CA 93010

Proposals shall also be sent electronically to: Amanda Fagan, afagan@goventura.org

VCTC must receive both the electronic and hard copy versions to consider a proposal. Late proposals may not be accepted. Proposers are responsible for submitting their proposals completely and on time.

Proposals received after 4:00 PM (PST) on Friday, February 2, 2024, will be deemed non-responsive and will not be considered. Appendices may be included as part of the technical or cost proposal.

Any questions concerning this RFP should be directed to Amanda Fagan, VCTC Director of Planning and Sustainability, by email: afagan@goventura.org no later than 4:00 PM PST on Friday, December 22, 2023. All questions and responses will be posted on VCTC's website (<https://www.goventura.org/work-with-vctc/contracts/>) as an addendum to the RFP.

There is no expressed or implied obligation for VCTC to reimburse responding firms for any expenses incurred in the preparation or delivery of proposals in response to this request. VCTC reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected. All submissions are considered a matter of public record. All proposals must include the items listed below. VCTC reserves the right to deem any proposal(s) that do not adhere to any of the instructions contained in the RFP and/or addendums as non-responsive.

B. Proposal Information and Content

Proposals should be organized as follows and shall adhere to the following page limits for the proposal submittal:

1. **Cover Page** (*1 Page Maximum*) – Indicate RFP subject, name of proposer's firm, local address, telephone number, name of contact person, and date of proposal as well as the names and contact information of any subcontractors. Provide the names and titles of individuals authorized to make representations for the proposer.
2. **Table of Contents** (*1 Page Maximum*) – Include a clear identification of the material in the RFP by section and page number.
3. **Letter of Transmittal** (*1 Page Maximum*) – Briefly state the proposer's understanding of the work to be performed and illustrate commitment to perform the work within the specified duration.
4. **Profile of the Proposer** (*1 Page Maximum*) – State whether the firm is local, national, or international, and provide a summary of representative experience relevant to the work outlined in the RFP.
5. **Statement of Qualifications** (*4 Pages Maximum*) – Provide a brief statement of similar/relevant projects performed. Identify individuals who performed work on similar projects and individuals that will be assigned to this project. Provide a list of references for whom similar work has been performed, as well as references for any proposed subconsultants.
6. **Study Approach** (*6 Pages Maximum*) – Provide a detailed description of approaches to each task contained in the RFP. This should include potential challenges and methods to minimize or eliminate identified challenges.

7. **Project Team** (10 Pages Maximum) – Provide an organization chart with role descriptions and include key team member resumes.
8. **Innovative Approaches** (2 Pages Maximum) – Provide proposed innovative approaches to any tasks outlined in the RFP.
9. **Fee Structure** (See Cost Proposal Template – Attachment B) – Proposer shall submit a cost proposal by only utilizing the Excel template provided, refer to Attachment B. Note, in each section there are additional lines for any additional proposed costs. If necessary, proposers are allowed to add a single page explanation of costs to supplement their cost proposal and/or to clarify any costs.

In addition, the cost proposal shall be provided in two formats: 1) an Excel version with fields unlocked for ease of analysis and 2) a signed PDF version. These two cost proposal formats shall be submitted as separate documents, separate from the technical proposal. There are no formulas provided/contained in the Excel template and the proposer is responsible for any errors related to formulas or other inputs submitted to VCTC.

C. Proposal Evaluation Criteria

Proposals will be reviewed by an evaluation committee established by VCTC. At VCTC’s sole discretion, interviews will be arranged with some, all, or none of the proposers via Microsoft Teams on Tuesday, February 21, 2023. The time and date of interviews are subject to change. The following guidance is provided to help produce quality and concise proposals:

The study approach should effectively communicate the proposer’s understanding of the project and their management approach. In addition to describing or explaining the project, this section should include an identification of requirements and constraints to consider and address. It should demonstrate that the consultant has the knowledge required and the capability needed to perform the tasks described in the scope.

The list of relevant projects would benefit from descriptions of those projects and the relevant work that the proposing firm or its team members performed as a part of that project – especially for projects that VCTC staff may not be familiar with.

The project team organization chart descriptions should convey the expected roles, responsibility, and availability of the project manager and key staff. It should be clear who is doing what work. It should be clear that the project manager and team members have the necessary experience and qualifications to perform the work, including any certificates or licenses that may be appropriate.

Selection criteria and maximum points per category are as follows:

CRITERIA	POINTS
Understanding of Project (0 – 15 points)	
Proposed Team Qualifications & Resumes (0 – 25 points)	
Project Experience (0 – 25 points)	
Client References (0 – 10 points)	
Project and Schedule Management Approach (0 – 15 points)	
Cost Proposal and Fee Schedule (0 – 10 points)	
TOTAL (100 Points Possible)	

IV. RESERVATION OF RIGHTS

In conducting this Request for Proposals, VCTC reserves the right to:

1. Accept or reject any or all submittals, or any item or part thereof;
2. Issue subsequent Requests for Proposals;
3. Alter the Selection Process Dates;
4. Remedy technical errors in the Requests for Proposals process;
5. Request additional information from Proposers and investigate the qualifications of all firms under consideration;
6. Confirm any part of the information furnished by a Proposer;
7. Obtain additional evidence of managerial, financial or other capabilities;
8. Approve or disapprove the use of particular subcontractors;
9. Negotiate with any, all, or none of the Proposers;
10. Solicit best and final offers from all or some of the Proposers;
11. Award a contract to one or more Proposers;
12. Accept other than the lowest-priced Proposal;
13. Cancel or withdraw this Requests for Proposals at any time without prior notice and the VCTC makes no representations that any contract will be awarded to any Proposer responding to this RFP;
14. Waive informalities and irregularities in Proposals or the selection process.

V. FUNDING PARTNER AND OVERALL PROGRAM GOALS

This Project is funded by a grant from the Southern California Association of Governments (SCAG) Regional Early Action Planning (REAP) County Transportation Commissions Partnership Program. Program goals include Promoting Infill Development that Facilitates Housing Supply, Choice, and Affordability; Affirmatively Furthering Fair Housing, and Reducing Vehicle Miles Traveled. The Project will align with these goals.

VI. SANTA PAULA BRANCH LINE TRAIL MASTER PLAN UPDATE AND ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL IMPACT STATEMENT

SCOPE OF WORK

Background and Context

VCTC serves as the regional transportation planning agency for Ventura County. VCTC purchased the Santa Paula Branch Line (“SPBL”) railroad and associated right-of-way in 1995 for use as a multimodal transportation corridor. The SPBL consists of 32 miles of railroad right-of-way with 29 miles of serviceable track stretching from East Ventura/Montalvo within the City of Ventura to the unincorporated community of Piru within the Santa Clara River Valley (also known as Heritage Valley). In 2021, VCTC entered into a 35-year Railroad Lease and Operations Agreement with Sierra Northern Railway, which governs railroad operations and maintenance of the associated right-of-way. The railroad carries freight, tourist/excursion, railbikes, television and film production, and research and development rail services.

VCTC acquired the SPBL corridor with the intent to build a trail for active transportation and recreation. The 1996 SPBL Recreational Trail Master Plan documented preliminary design and environmental work. In 2000, VCTC adopted a Master Plan and Environmental Impact Report (EIR) for the SPBL Recreational Multi-Use Trail. The SPBL Trail project is identified within the Southern California Association of Governments (SCAG) Regional Transportation Plan/Sustainable Communities Strategy as RTP ID 5N011.

Sections of the SPBL Trail have been built out within the Cities of Santa Paula and Fillmore and within the Piru community.

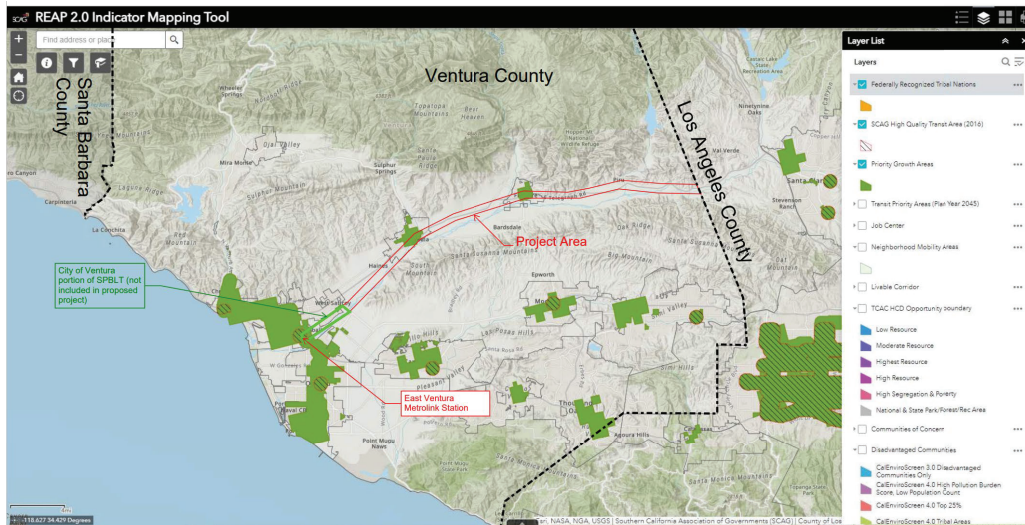
In April 2022, VCTC adopted a goal to “reinvigorate the process to complete the SPBL trail,” and in April 2023, VCTC adopted a new Strategic Plan that includes Strategy A8: “Update the Santa Paula Branch Line trail master plan, validate trail alignment, connections, and amenities, and update existing conditions to facilitate trail completion, with stakeholder engagement.”

To accomplish these goals, VCTC applied for and received a grant from the SCAG Regional Early Action Planning (REAP) County Transportation Commissions Partnership Program in July 2023. With funding from this grant award, this Request for Proposals (RFP) will result in an updated Master Plan and a new Environmental Impact Report/Environmental Impact Statement (EIR/EIS), hereinafter referred to as the “Project”. The Project will update existing conditions, phasing plans, and cost estimates, with a focus on equitable transportation investments in the Santa Clara River Valley, improving active transportation and connections to housing, transit, and job centers, and reducing Vehicle Miles Traveled (VMT) and Greenhouse Gas (GHG) emissions.

The original trail planning effort completed an EIR in compliance with the California Environmental Quality Act (CEQA) but did not include an Environmental Impact Statement (EIS) component to comply with the National Environmental Policy Act (NEPA). A NEPA / EIS component is included in this RFP and Trail Master Plan Update to open up the future possibility of applying for Federal funding opportunities to construct the trail.

Study Area

While the original SPBL Recreational Trail Master Plan adopted in 2000 covers the full railroad corridor from the East Ventura/Montalvo Metrolink Station to the area east of the unincorporated community of Piru, the focus of this Project will be from Saticoy Station through Piru. Design and construction of the approximately 4-mile trail section from East Ventura/Montalvo to Saticoy is currently advancing through a separate and distinct project effort led by the City of Ventura.



Past Plans, Studies, and Best Practices

Proposers are not required to read the following documents, but they provide context for the SPBL Trail Master Plan Update and EIR/EIS, and will serve as a foundation for the update to the Master Plan and environmental documents. These documents are available online as noted below:

- *Santa Paula Branch Line Master Plan (1996)*
[\[POST ONLINE AND INSERT LINK\]](#)
- *Santa Paula Branch Line Recreational Trail Master Plan and Environmental Impact Report (2000)*
[\[POST ONLINE AND INSERT LINK\]](#)
- *Santa Paula Branch Line Trail Compatibility Survey (2015)*
<https://americantrails.org/resources/santa-paula-branch-line-recreational-trail-compatibility-survey>
- *Best Practices and Lessons Learned for Rails with Trails (Federal Railroad Administration, 2021)*
<https://railroads.dot.gov/sites/fra.dot.gov/files/2021-06/Rails%20with%20Trails%20Best%20Practices%20and%20Lessons%20Learned.pdf>
- *Ventura County Bicycle Wayfinding Plan (2017)*
https://www.goventura.org/wp-content/uploads/2018/03/VCTC_Bicycle_Wayfinding_Plan_April_2017_FINAL.pdf

Agricultural Resource Protection

The Santa Paula Branch Line travels through a heavily agricultural area, particularly in the unincorporated areas between the corridor cities. Protection of agricultural resources has always been, and remains to this day, integral to SPBL Trail planning and design. As stated in the 1996 Santa Paula Branch Line Master Plan, “The Santa Paula Branch Line and its stations were an integral part of not only the development of the Santa Clara River Valley and its agricultural history as well. The discussions in the previous chapters illustrate that this Master Plan is based in large part on restoring and preserving the rail line’s place in the valley’s history and economy. The acquisition of the line by VCTC was not based solely on the use of the corridor for rail and rail-related purposes. The line was also purchased for the purpose of developing a recreational trail that would ultimately connect bicycle facilities in Santa Clarita to the beaches and the California Coastal Pathway (bike and hiking trail). ... It is recognized that despite all efforts to the contrary, conflicts between agricultural and recreational uses may sometimes be unavoidable. Because it is the agricultural activities that make the Santa Clara River Valley truly unique in Southern California, if not the country, it must be protected to the greatest extent possible. Therefore, an underlying principle of this Master Plan is that where there is a high potential for conflict between agricultural and planned recreational activities, all reasonable alternatives must be explored and all feasible mitigation measures implemented prior to construction of any recreational trail facilities.” Design Criteria and mitigation measures included in the 1996 Master Plan, 2000 Recreational Trail Master Plan and EIR, and 2015 Trail Compatibility Survey will be combined with the results of stakeholder engagement and application of modern design techniques and technologies to foster compatibility and minimize impacts to agriculture to the greatest extent possible through this Master Plan Update. As such, experience with commercial agriculture and planning to address impacts to agriculture will be an important aspect of a successful response to this Request for Proposals.

Deliverables

The Project includes two major deliverables – an updated Master Plan and a new combined EIR/EIS, which will include substantial public participation and technical studies, and will be conducted in parallel.

1. Project Management

1.1. Meetings

The Consultant shall report the status of the work effort, progress, and schedule on a monthly basis. Any modification to the frequency of project meetings (i.e. Project Development Team, or PDT) shall be approved by both VCTC and the Consultant. The Consultant shall use systems that are compatible with already established VCTC systems, policies, software, procedures, and practices. Reports shall provide the necessary information to assure VCTC that the work is being accomplished as required and to facilitate invoice review and approval. The Consultant’s project management system shall feature safeguards for the early identification of issues and their effective resolution.

1.2. Project Reporting

The Consultant’s Project Manager is responsible for monitoring project performance and, if necessary, adjusting project resources to accomplish activities in a manner consistent with the adopted scope, budget, and schedule. The Consultant’s Project Manager shall notify VCTC Project Manager or designee of any modification requests to the project scope, budget, and/or schedule and will adhere to the project requirements that are mutually agreed upon between VCTC and the Consultant. The base project schedule shall be submitted prior to the project kick-off meeting and will be reviewed and finalized within seven (7) business days of the kick-off meeting. The Consultant shall also report all corrective

measures to the VCTC Project Manager for review and approval. The deliverables are anticipated to be completed no later than November 30, 2025. An additional one (1) month will be allotted for completion of final drafts, reviews, formatting, and administrative tasks.

The Consultant shall provide a minimum of fourteen (14) calendar days to VCTC staff to thoroughly review each deliverable. More complex deliverables may require up to three (3) to four (4) additional weeks for VCTC review. A deliverable is not accepted until formal written notice is provided by VCTC's Project Manager or designee. This process shall ensure that quality is achieved through checking, reviewing, and the managing of work activities for both VCTC and the Consultant. The status of the work efforts shall be reflected in monthly progress reports documenting the Consultant's effort during the billing period, tasks to be accomplished over the next 30 days as well as any forthcoming challenges and issues and potential methods for resolution.

Prior to acceptance and finalization, **ALL** deliverables shall be submitted to VCTC at 90% completion for review. Work deliverables should be proofread before submission to VCTC and include minimal to no grammatical or spelling errors. Incomplete deliverables and/or deliverables submitted with excessive errors may be rejected until errors have been fixed.

DELIVERABLES:

1. Project schedule – Updated on monthly basis
2. Meeting agendas
3. Meeting minutes

2. Existing Conditions

2.1. Existing Conditions Analysis and Assessment. The purpose of this task is to gather existing conditions information that includes current mode share, description of land use and destinations, existing bicycle parking, existing wayfinding, and existing non-infrastructure programs.

2.2. Existing Bicycle and Pedestrian Facilities Map. The purpose of this task is to develop a map of existing pedestrian facilities and existing bicycle facilities within the corridor.

2.3. Equity Data and Analysis. The purpose of this task is to identify census tracts that are considered to be disadvantaged or low-income and identify the bicycle and pedestrian needs.

DELIVERABLES:

1. Existing Conditions Technical Memorandum
2. Map of existing pedestrian facilities and existing bicycle facilities
3. Equity Analysis Technical Memorandum

3. Outreach and Engagement

Outreach and engagement will be key to ensure buy-in and collecting input. The Consultant, in collaboration with VCTC staff, shall develop a universally accessible outreach plan that will establish comprehensive and meaningful strategies for engaging stakeholders and soliciting input. This outreach plan will be adjusted as conditions permit.

Key to Outreach and Engagement will be establishing two committees to help guide the SPBL Trail Master Plan Update and EIR/EIS preparation.

- 3.1 Technical Advisory Committee.** A Technical Advisory Committee (TAC) comprised of local agencies will be established. Schools involved in the project include Ventura Unified School District, Santa Paula Unified School District, Fillmore Unified School District. The local area agencies and groups include the County of Ventura Public Works, Parks, Agricultural Policy Advisory Committee (APAC), Supervisor District 1, District 3, Farmworker Resource Program Advisory Committee (FRPAC), Saticoy MAC, Cities of Ventura, Santa Paula, and Fillmore Public Works, Parks & Recreation, Community Development, and Police Departments, Caltrans District 7, and Sierra Northern Railway, among others. Present and gather feedback at municipal advisory council meetings, telephone, town hall meetings.
- 3.2 Citizens Advisory Committee.** A Citizen's Advisory Committee will be formed consisting of identified stakeholders to meet quarterly to guide the plan development. Potential project champions will be identified. Potential stakeholders and partner organizations include but are not limited to: Agricultural-oriented organizations such as Fillmore High School Farm, 4H clubs, Ventura County Fair; Community organizations include the Fillmore Association of Businesses, Santa Paula Rotary Club, The Mixteco/Indigena Community Organizing Project (MICOP), Santa Paula Latino Town Hall, and Ventura (County); Community Partners, such as Santa Paula Chamber of Commerce. Farm Bureau of Ventura County and CoLAB will also be invited to participate. Other stakeholders include cyclists such as Channel Islands Bike Club, Bike Ventura, CycleCalCoast, and Ventura County Recumbent Riders.
- 3.3 Targeted Stakeholder Meetings.** Meetings with other known agricultural stakeholders will also be conducted, including with the Ventura County Coalition of Labor, Agriculture, and Business (CoLAB), County Agricultural Commissioner, Ventura County Agriculture Association, California Avocado Commission Board, Ventura County Chapter of California Women for Agriculture, Ventura County Spray Safe Committee, and approximately 25 companies or major landowners. These meetings will be to solicit feedback on a 1:1 basis.
- 3.4 Website, Social Media Page, and Surveys.** This task will include creation of a website and social media page for plan announcements and documents to be posted. This task also includes graphic design for these media outlets. Also include an advertisement campaign, online surveys and e-newsletters.
- 3.5 Community Workshop.** This task includes hosting three (3) community workshops in various parts of the county and varying times to gain community input on new bicycle and pedestrian facilities. The community meetings will include a Spanish translator. TAC member agencies will be invited to up to two (2) design charettes.
- 3.6 Attend Community Events.** Attend at least 10 different community events to gather public input. Events will include community ride-alongs on built portions, listening sessions, sharing project materials and information for their dissemination, "pop-ups" at stakeholder events, presentations, and interacting with youth and caretakers at family events, cultural events, libraries, health fairs, on-trail QR code surveys, interactive feedback mechanisms, demonstration projects, and farmers markets/swap meets. This task will also involve schools and offer learning opportunities for kids through school, conduct listening sessions with parents at school and PTA events, appoint student advisors/liaisons, and create a public comment database.

The outreach will focus on gathering the data needed to update the Santa Paula Branch Line Trail Master Plan and Environmental Impact Report / Environmental Impact Statement. Specific questions at key milestones in the project will allow members of the diverse communities and stakeholders to give insightful and

meaningful input into the planning process. Maps, graphics, pictures and results will be posted in accessible formats online to solicit input.

DELIVERABLES:

1. TAC formation and meetings, Meeting Agendas and Minutes
2. CAC formation and meetings, Meeting Agendas and Minutes
3. Targeted Stakeholder Meetings, Meeting Agendas and Minutes
4. Website, Surveys, Advertisements
5. Workshops and Charettes, Meeting Agendas and Minutes
6. Attendance at events, Notes from Input Received
7. Presentations, Notes from Input Received

4. Conceptual Planning

The purpose of this task is to identify constraints and opportunities, develop proposed alternatives, prepare concept-level cost estimates, evaluate alternatives, identify and evaluate risks, financial needs, and create an implementation strategy.

4.1. Identify Constraints and Opportunities.

The Consultant shall identify "low hanging fruit", consider institutional constraints on reasonability, develop Impact Avoidance and Minimization strategies, review disadvantaged community and geographical sharing of benefits and risks.

4.2 Proposed Alternatives Development.

The purpose of this task is to create maps of the proposed pedestrian and bicycle facilities, and potential NI programs based on the community and stakeholder input and the TAC. Description will include estimated mode shift from identified projects and programs.

4.3 Develop Concept-Level Programmatic Cost Estimates. The purpose of this task is to prepare order of magnitude cost estimates including PS&E, Right of Way acquisition, Tenant Eviction costs, major utility relocation, construction engineering, and closeout.

4.4 Alternative Evaluation. Develop a methodology for project evaluation and conduct analysis.

4.5 Risk Register. The purpose of this task is to enumerate risks and assign probability, and to develop potential contingency plans to keep project construction on schedule.

4.6 Identify Financial Needs. This task includes identifying the financial needs for future projects and programs by listing anticipated costs, revenue sources and potential grant funding.

4.7 Create an Implementation Strategy. The purpose of this task is to prepare a description of steps necessary to implement the plan and the reporting process that will be used to keep the adopting agency and community informed of the progress being made in implementing the plan. This strategy includes maintenance considerations and a proposed timeline for implementation.

DELIVERABLES:

1. Constraints and Opportunities Technical Memorandum
2. Alternative conceptual layouts
3. Programmatic cost estimates
4. Alternative Evaluation Technical Memorandum
5. Master Project Risk Register
6. Funding Strategies Technical Memorandum
7. Implementation Schedule

5. Plan Production and Approval

- 5.1. Draft Plan.** The Consultant shall prepare a draft plan and receive comments.
- 5.2. Draft Final Plan.** The Consultant shall prepare a draft final plan and receive comments.
- 5.3. Final Plan.** The Consultant shall prepare the final plan.
- 5.4. Resolution.** The Consultant shall, in collaboration with VCTC staff, present the final plan to VCTC Board for approval.

DELIVERABLES:

1. Draft Master Plan
2. Draft Final Master Plan
3. Final Master Plan
4. Presentation
5. Resolution from VCTC Board

6. Project Definition

The consultant will contact public agencies and tribal governments and include correspondence with agencies. A Notice of Preparation (NOP) with Initial Study will be prepared as well as a Notice of Intent (NOI). A public scoping meeting will be conducted by VCTC with support from the consultant team. The consultant will describe the public participation method used for the proposed project and the process.

DELIVERABLES:

1. Notice of Intent
2. Notice of Preparation

7. Technical Studies

7.1. Section 4(f) and 6(f)

The Consultant shall develop a technical study that discusses parks, recreational facilities, wildlife refuges, and historic properties found within or next to the project area that do not trigger Section 4(f) protection. Analyze all archaeological and historic sites within the Section 106 area of potential effects (APE) and all parks, recreational facilities, and wildlife and waterfowl refuges within the Section 4(f) study area to determine whether they are protected Section 4(f) properties. The Section 4(f) study area should include properties within and immediately adjacent to the project limits, and nearby properties to ensure that proximity impacts can be considered. The project should include a special focus on Saticoy Depot, which is on the National Register. Section 6(f) may also be required due to proximity to the Santa Clara River watershed and possible conversion of non-transportation properties.

7.2 Human Environment Technical Studies

The Consultant shall develop a technical study that includes Land Use, Community Impacts (Employment and Income, Jobs/Housing Balance, Public Transportation, Agriculture),

Utilities/Emergency Services, Traffic and Transportation/Pedestrian and Bicycle Facilities (Traffic Impact Analysis), Cultural Resources.

7.3 Physical Environment Technical Studies

The Consultant shall develop physical environment technical studies that include Geologic Hazards, Hazards Waste/Materials, Geology and Soils, Hydrology, and Phase 1 Environmental Site Assessment.

7.4 Biological Environment Technical Studies

The Consultant shall prepare physical environment technical studies that include Natural Environment Study (NES) for the proposed project, develop Natural Communities and Plant Species sections.

7.5 Climate Change

The Consultant shall identify and assess vehicle miles traveled (VMT) and greenhouse gas emissions.

DELIVERABLES:

1. Section 4(f) Individual, Programmatic, or De minimis determination
2. Transportation Impact Analysis
3. Cultural Resources Study
4. Community Impact Assessment
5. Phase 1 Environmental Site Assessment
6. Geology and Soils Report
7. Hydrology Study
8. Natural Environment Study
9. Climate Change Study

8. Draft EIR/EIS

8.1. Alternatives

The Consultant shall develop a range of reasonable alternatives, in coordination with preparation of the Master Plan Update. Alternatives shall incorporate Impact Avoidance and Minimization Features. Comparison of alternatives will focus on the criteria used for evaluating the alternatives and explain how the criteria were developed and how the criteria will be used to reach a decision. Alternatives shall include the no-build alternative in the comparison discussion. Identify and explain the rationale for identifying the locally preferred alternative. The identification decision shall be structured, analytical, and clearly address the specific evaluation criteria developed for the project. Explain rationale for no further study of eliminated alternatives.

8.2. Cumulative Impacts

The Consultant shall evaluate cumulative impacts by considering the direct and indirect effects of the proposed project.

8.3. Determining Significance under CEQA/NEPA

The purpose of this task is to make a significant impact determination and identify mitigations. NEPA requires that an EIS be prepared when the proposed project as a whole has the potential to "significantly affect the quality of the human environment." NEPA does not require that a

determination of significant impacts be stated in the environmental documents. CEQA does require the identification of each "significant effect on the environment" resulting from the project and ways to mitigate each significant effect.

8.4. CEQA Environmental Checklist and MMRP

The consultant shall identify physical, biological, social and economic factors that might be affected by the proposed project. This task also includes preparation of a Mitigation and Monitoring Plan (MMRP).

8.5. Section 4(f) and 6(f) Evaluations

The consultant shall analyze all public and private parks, recreational facilities, and wildlife refuges within the Section 4(f) study area to determine whether they are protected Section 4(f) properties.

8.6. Draft EIR/EIS

The consultant shall prepare a draft Environmental Impact Report/Environmental Impact Statement.

DELIVERABLES:

1. Narrative on alternatives, affected environment, environmental consequences
2. Narrative on cumulative impacts
3. Significant impact determination, identification of mitigations
4. CEQA Checklist
5. Mitigation and Monitoring Plan (MMRP)
6. Section 4(f) and 6(f) evaluation sections
7. Draft EIR/EIS Document

9. Public Participation

9.1. Public Outreach meetings

These meetings will be focused on satisfying the specific regulatory requirements of NEPA and CEQA. Additional public and stakeholder meetings will take place as part of the Master Plan development.

9.2. Circulation to Reviewing Agencies

The Consultant shall circulate the Draft EIR/EIS to reviewing agencies, including California Department of Conservation (DOC), California Department of Fish and Wildlife, South Coast Region 5 (CDFW), California Department of Parks and Recreation, California Department of Transportation, District 7 (DOT), California Highway Patrol, California Native American Heritage Commission (NAHC), California Regional Water Quality Control Board, Los Angeles Region 4 (RWQCB), California State Lands Commission (SLC), Office of Historic Preservation, Resources Agency, and other agencies as determined appropriate.

9.3. Comments and Responding to Comments

The Consultant shall conduct a mandatory public comment period, and modify the Draft EIR/EIS document to reflect all comments and responses to comments.

DELIVERABLES:

1. Up to three (3) geographically spaced and noticed public outreach meetings
2. Distribution to agencies
3. Incorporation of and response to comments

10. Final EIR/EIS

The purpose of this task is to prepare a final EIR/EIS document.

10.1. Final EIR/EIS.

The Consultant shall prepare a Final EIR/EIS that includes response to comments received on the Draft EIR/EIS and identify the preferred alternatives.

10.2. Supplemental Technical Study Updates

The Consultant shall include potential effort required for supplemental study updates.

DELIVERABLES:

1. Final EIR/EIS
2. Supplemental Technical Studies

11. Regulatory Process

11.1. Findings and Statement of Overriding Considerations

The Consultant shall prepare Findings and Statement of Overriding Considerations.

11.2. Permits: USACE, RWQCB, CDFW

The Consultant shall identify necessary environmental regulatory permits, and prepare and assist VCTC to secure permits from the U.S. Army Corps of Engineers, Regional Water Quality Control

Board, and California Department of Fish and Wildlife, if/as required. The Santa Clara River and certain tributaries may be under the jurisdiction of these agencies.

11.3. Record of Decision/Notice of Determination

The Consultant shall prepare a Record of Decision (ROD) / Notice of Determination (NOD) and required regulatory approvals.

DELIVERABLES:

1. Findings and Statement of Overriding Considerations
2. 404 Permit (if required)
3. 401 Certification (if required)
4. 1602 Agreements (if required)
5. Section 408 Permit (if required)
6. ROD/NOD

VII. VCTC'S PROTEST PROCEDURES

A. General

1. This policy specifies procedures for Interested Parties (as hereinafter defined) protesting the following staff actions:
 - a) A written notice, by, or on behalf of, the Executive Director denying a bidder's or proposer's request for a change in contract requirement; and
 - b) A written recommendation to Ventura County Transportation Commission ("VCTC") or a decision made by, or on behalf of, the Executive Director to disqualify a proposer, bidder or subcontractor; and
 - c) A written recommendation by, or on behalf of, the Executive Director that VCTC award a contract to a particular bidder or proposer.
2. This policy does not govern any VCTC staff decision not listed in this Section.
3. When a protest has been properly filed, pursuant to the procedures hereinafter set forth, prior to contract award, the VCTC shall not award the contract prior to deciding the protest. When a protest has been properly filed before the opening of bids, bids shall not be opened prior to the VCTC decision on the protest. When a protest has been filed properly after the contract is awarded, the contract shall not be executed until the protest is resolved by the VCTC.
4. Materials submitted as a part of the protest resolution process will be available to the public except to the extent that:
 - a) The information is designated proprietary by the person submitting the information to VCTC. If the person submitting material to VCTC considers that the material contains proprietary material which should be withheld, a statement advising of this fact shall be affixed to the front page of the material submitted and the alleged proprietary information must be specifically identified in the body of the materials wherever it appears.

B. Filing a Protest

1. Protests may be filed only by "Interested Parties". "Interested Parties" are defined as (a) bidders who have responded, and prospective bidders who may respond, to a request for bids, (b) prospective professional services contractors who may respond, and professional service contractors who have responded, to a request for proposals on a VCTC contract and/or a generally funded contract, and (c) subcontractors or suppliers at any tier who have a substantial economic interest in an award, a provision of the specifications, or a bid or proposal submitted to VCTC by a prime contractor, or in the interpretation of the provisions of such documents.
2. Protests to a contract requirement must be filed at least ten (10) working days prior to bid opening or the deadline for receiving proposals. Protests to VCTC staff actions must be filed within five (5) working days of receipt by the bidder or proposer from the Executive Director, or a person authorized to act on behalf of the Executive Director, or written notice of the VCTC staff action.
3. Protests shall be addressed to Ventura County Transportation Commission, 751 E. Daily Drive, Suite 420, Camarillo CA 93010, or such other address as may appear on the request for proposal for bid solicitation.
4. Protests shall be in writing and contain a statement of the ground(s) for protest. At least ten (10) copies of the protest shall be submitted by the protestor in the time and manner specified in this section.
5. The Executive Director, or an authorized person acting on behalf of the Executive Director, shall provide notice, by telephone, telephone facsimile (FAX) or by letter, to all bidders and/or persons who have submitted proposals on the contract which is subject to the protest known to VCTC. Such notice shall state that a protest has been filed with VCTC and identify the name of the protestor. The notice shall be given not more than five (5) working days after receipt of a properly filed protest. The notice shall state that bidders will receive further information relative to the protest only by submitting a written request for further information to the Executive Director.

C. VCTC Preliminary Response to a Protest: Meeting with Staff to Attempt Early Resolution of the Protest

1. Not more than ten (10) working days after receipt of a properly filed protest, the Executive Director, or a person authorized to act on his or her behalf, shall prepare and distribute to the protestor and to all persons specified in Section B.5, above:
 - a) A written preliminary response to the protest. This response shall include a brief explanation of the reasons why the protested VCTC staff action is justified; and
 - b) The time, date and place of the meeting described in Section C.2, below.
2. The Executive Director and/or appropriate VCTC staff shall meet with the protestor to discuss and attempt to resolve the protest within thirty (30) days of the response required by C.1 (a) above.
3. After the meeting required by Section C.2, above the protestor shall within five (5) working days give the Executive Director written notice that either the protest is withdrawn or, alternately, that the protestor requests further consideration of the protest. In the event that the protestor fails to file the notice required by this Section C.3 at the office of the Executive Director within five (5) working days after the meeting, the protest shall be deemed withdrawn.

D. Further Investigation

1. If a protest is not withdrawn pursuant to Section C.3, above, the Executive Director shall, within thirty (30) days of receipt of the notice from the protestor described in Section C.3, above, further investigate the protest with the assistance of the VCTC staff.

2. The Executive Director may contract for third-party consulting services when necessary to investigate a protest. The Executive Director may negotiate with the protestor and other interested parties the sharing of the cost of such consulting services.
3. As part of the investigation, the Executive Director shall establish a reasonable time within which VCTC, the protestor, and other interested parties shall exchange all documents and arguments relevant to the protest; provided, however, that such time shall not exceed thirty (30) days without the concurrence of the protestor and the Executive Director.

E. Intended Decision: Comments by Protestor and Other Parties

1. Following investigation, the Executive Director shall, within thirty (30) days, prepare and distribute to the protestor and all persons specified in Section B.5:
 - a) An intended decision recommending actions which the Executive Director believes the VCTC should take to resolve the protest and specifying the reasons for the recommended action of the VCTC.
 - b) A statement of the date within which the protestor and other persons must submit written comments with respect to the intended decision. Such date shall allow a reasonable period for rebuttal and shall vary according to the complexity of the particular protest;
 - c) Given written notice to all Interested Parties of the time, date and place of the VCTC meeting at which the protest will be considered.
2. The following materials shall be included in the agenda package sent to VCTC members prior to the VCTC meeting and shall be available to any person at the VCTC office at least five (5) working days before the hearing:
 - a) The intended decision described in Section E.1(a), above.
 - b) All written comments received within the submittal period described in Section E.1(b), above.
 - c) If the Executive Director has revised his/her intended decision since its distribution pursuant to Section E.2(a), above, a written description of the new intended decision and the reasons for revision.

F. VCTC Consideration

1. At the hearing, VCTC staff and any person may present evidence relating to the protest. At the beginning of the hearing, the Chair of the VCTC may announce time limits on testimony and other procedural rules which, in the opinion of the Chair, are reasonable necessary to preclude repetitious or irrelevant testimony and afford all persons wishing to testify the opportunity to be heard.
2. In rendering its decision on the protest:
 - a) VCTC may adopted or amend the intended decision and findings of fact prepared by the Executive Director and Staff; or
 - b) Make findings and adopt a decision different from the findings and intended decision of the Executive Director; or
 - c) Elect to defer its decision and direct VCTC staff

- d) To Further investigate the protest; or
- e) Hire an impartial hearing officer to conduct a hearing and prepare a written recommended decision, including findings of fact, to be returned to VCTC for decision which shall be made pursuant to the procedures outlined in this Section.

ATTACHMENT A – DRAFT CONTRACT

CONSULTING SERVICES AGREEMENT 5549564.1
**THE VENTURA COUNTY TRANSPORTATION COMMISSION AND
CONSULTANT**

CONTRACT NO. _____

THIS AGREEMENT for consulting services is made by and between the Ventura County Transportation Commission (“VCTC”) and Consultant (“Consultant”) (together sometimes referred to as the “Parties”) as of _____, 2024 (the “Effective 5549564.1

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to VCTC the services described in the Scope of Work attached hereto and incorporated herein as Exhibit A, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on December 31, 2025, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect VCTC’s right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all work required by this Agreement in accordance with that degree of care, skill and diligence ordinarily exercised by professionals providing similar services in the same or similar locale and under circumstances to that of Consultant under this Agreement.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that VCTC, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from VCTC of such desire of VCTC, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Sections 1.1 and 1.2 above and to satisfy Consultant’s obligations hereunder.

Section 2. COMPENSATION.

VCTC hereby agrees to pay Consultant a sum not to exceed _____ notwithstanding any contrary indications that may be contained in Consultant’s proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant’s proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. VCTC shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from VCTC to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to VCTC in the manner specified herein. Except as specifically authorized by VCTC in writing, Consultant shall not bill VCTC for duplicate services performed by more than one person.

Consultant and VCTC acknowledge and agree that compensation paid by VCTC to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. VCTC therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once per month during the term of this Agreement, based on the cost for all services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain all the following information:

- Serial identifications of progress bills (i.e., Progress Bill No. 1 for the first invoice, etc.);
- The beginning and ending dates of the billing period;
- A task summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At VCTC's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by each employee, agent, and subcontractor of Consultant performing services hereunder;
- Consultant shall give separate notice to VCTC when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds eight hundred (800) hours within a twelve (12)-month period under this Agreement and any other agreement between Consultant and VCTC. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and VCTC, if applicable.
- The amount and purpose of actual expenditures for which reimbursement is sought;
- The Consultant's signature.

2.2 Monthly Payment. VCTC shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. VCTC shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant. Each invoice shall include all expenses and activities performed during the invoice period for which Consultant expects to receive payment.

2.3 Reserved.

2.4 Total Payment. VCTC shall pay for the services to be rendered by Consultant pursuant to this Agreement. VCTC shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. VCTC shall make no payment for any extra, further, or additional service pursuant to this Agreement. In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto and incorporated herein as Exhibit B.
- 2.6 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor represents and warrants that Contractor is a resident of the State of California in accordance with California Revenue & Taxation Code Section 18662, as it may be amended, and is exempt from withholding. Contractor accepts sole responsible for verifying the residency status of any subcontractors and withhold taxes from non-California subcontractors.
- 2.7 **Payment upon Termination.** In the event that VCTC or Consultant terminates this Agreement pursuant to Section 8, VCTC shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.8 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.
- 2.9 **False Claims Act.** Presenting a false or fraudulent claim for payment, including a change order, is a violation of the California False Claims Act and may result in treble damages and a fine of five thousand (\$5,000) to ten thousand dollars (\$10,000) per violation.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. VCTC shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

VCTC shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with VCTC employees and reviewing records and the information in possession of VCTC. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of VCTC. In no event shall VCTC be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to VCTC of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to VCTC. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s). Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant limits of not less than **\$1,000,000** per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator, as defined in Section 10.9. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance

is provided, shall waive all rights of subrogation against VCTC and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than five million dollars (\$5,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles. Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 or GL 0002 (most recent editions) covering comprehensive General Liability Insurance on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to VCTC and its officers, employees, agents, and volunteers.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than **\$3,000,000** covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed twenty-five thousand dollars (\$25,000) per claim.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another

claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of five (5) years after completion of work under this Agreement or the work. VCTC shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.

- d. A copy of the claim reporting requirements must be submitted to VCTC for review prior to the commencement of any work under this Agreement.

4.4 **All Policies Requirements.**

4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish VCTC with complete copies of all policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If VCTC does not receive the required insurance documents prior to the Consultant beginning work, this shall not waive the Consultant's obligation to provide them. VCTC reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 **Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to VCTC. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Consultant shall provide written notice to VCTC at Consultant's earliest possible opportunity and in no case later than ten (10) working days after Consultant is notified of the change in coverage.

4.4.4 **Additional insured; primary insurance.** VCTC and its officers, employees, agents, and volunteers, and Southern California Association of Governments (SCAG), its officials, employees, and volunteers, shall be covered as additional insureds as to Consultant's Commercial General and Automobile Liability Insurance with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including that under VCTC's general supervision of Consultant; products and completed operations of Consultant, as applicable; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to VCTC or its officers, employees, agents, or volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to VCTC and its officers, officials, employees and volunteers, and SCAG and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by VCTC shall be called upon to contribute to a loss under the coverage.

4.4.5 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of VCTC for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. Further, if the Consultant's insurance policy 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 provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to VCTC, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- 4.4.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- 4.4.7 Wasting Policy.** No insurance policy required by Section 4 shall include a "wasting" policy limit, with the exception of Consultant's Professional Liability Insurance Policy.

4.4.8 **Variation.** VCTC may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that VCTC's interests are otherwise fully protected.

4.5 **Remedies.** In addition to any other remedies VCTC may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, VCTC may, at its sole option exercise any of the following remedies, which are alternatives to other remedies VCTC may have and are not the exclusive remedy for Consultant's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

Consultant shall, to the fullest extent allowed by law, with respect to all Services performed in connection with this Agreement, indemnify, defend with counsel reasonably selected by VCTC, and hold harmless VCTC and its officials, officers, and employees from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance ("Claims"), to the extent caused by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents. The foregoing obligation of Consultant shall not apply to the extent the injury, loss of life, damage to property, or violation of law is or was caused by the negligence or willful misconduct of VCTC or its officers, employees, agents, or volunteers.

5.1 **Insurance Not in Place of Indemnity.** Acceptance by VCTC of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 **PERS Liability.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of VCTC, Consultant shall indemnify, defend, and hold harmless VCTC for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of VCTC.

5.3 **Third Party Claims.** With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type of express or implied indemnity against the Indemnitees.

5.4 **Disputes.** Except as otherwise provided in this Agreement, any dispute arising under this Agreement which is not resolved by mutual agreement shall be decided through binding arbitration by a three (3) member panel in accordance with the rules of the American Arbitration Association and as provided in this provision. If this provision differs from the rules of the American Arbitration Association, then this provision shall control. Sub-Recipient shall continue with the responsibilities under this Agreement during any dispute until the dispute is resolved. A judgment upon the award rendered by arbitration

may be entered into any court having jurisdiction thereof. The arbitration panel shall have the authority to grant any remedy or relief that would have been available to the Parties had the matter been heard in a court of law. Following arbitration, the arbitration panel shall prepare a written decision containing the essential findings and conclusions on which the award is based so as to ensure meaningful judicial review of the decision. All expenses and fees for the arbitrator and expenses for hearing facilities and other expenses of arbitration shall be borne equally by both Parties unless they agree otherwise or unless the arbitrator in the award assesses such expenses against one of the parties or allocates such expenses other than equally between the Parties. Either Party may bring an action in court to compel arbitration under this Agreement and to enforce an arbitration award.

Section 6. **STATUS OF CONSULTANT.**

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of VCTC. VCTC shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise VCTC shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other VCTC, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by VCTC, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of VCTC and entitlement to any contribution to be paid by VCTC for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant Not an Agent.** Except as VCTC may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of VCTC in any capacity whatsoever as an agent to bind VCTC to any obligation whatsoever.

Section 7. **LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all federal, state and local laws and regulations applicable to the performance of the work hereunder. Consultant's failure to comply with such law(s) or regulation(s) shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules, contractual obligations, and regulations to which VCTC is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to VCTC that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals, including from VCTC, of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to VCTC that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from VCTC.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant

in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

- 7.6 Contractor's Residency and Tax Withholding** Contractor declares that Contractor is a resident of the State of California in accordance with the California Franchise Tax Board form 590 ("Form 590"). Unless provided with valid, written evidence of an exemption or waiver from withholding, VCTC may withhold California taxes from payments to Contractor as required by law. Contractor shall obtain, and maintain on file for three (3) years after the termination of the Contract, Form 590s from all subcontractors. Contractor accepts sole responsibility for withholding taxes from any non-California resident subcontractor and shall submit written documentation of compliance with Contractor's withholding duty to VCTC.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** VCTC may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement for cause upon thirty (30) days' written notice to VCTC and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of notice of termination; VCTC, however, may condition payment of such compensation upon Consultant delivering to VCTC all materials described in Section 9.1.

- 8.2 Extension.** VCTC may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require Consultant to execute a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if VCTC grants such an extension, VCTC shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, VCTC shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** VCTC and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to VCTC for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not assign or subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between VCTC and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, VCTC's remedies shall include, but not be limited to, the following:

- 8.6.1 Immediately terminate the Agreement;
- 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
- 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that VCTC would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder ("Work Product") shall be the property of VCTC. Consultant hereby agrees to deliver those documents to VCTC upon termination of the Agreement. It is understood and agreed that the Work Product prepared specifically for VCTC is not necessarily suitable for any future or other use. VCTC and Consultant agree that, until final approval by VCTC, all such Work Product is confidential and will not be released to third parties without prior written consent of both Parties except as required by law. However, notwithstanding the foregoing, and any provision to the contrary herein, intellectual property owned or created by any third party other than Consultant, its subconsultants, or VCTC ("Third-Party Content"), and inventions, improvements, discoveries, methodologies, models, formats, software, algorithms, processes, procedures, designs, specifications, findings, and other intellectual properties developed, gathered, compiled or produced by Consultant or its subconsultants prior to or independently of their performance of this Agreement ("Background IP"), including such Third-Party Content or Background IP that Consultant or its subconsultants may employ in its performance of this Agreement, or may incorporate into any part of the Work Product, shall not be the property of VCTC. Consultant, or its subconsultants as applicable, shall retain all rights, titles, and interests, including but not limited to all ownership and intellectual property rights, in all such Background IP.

Consultant, and its subconsultants as applicable, grant VCTC an irrevocable, non-exclusive, non-transferable, royalty-free license in perpetuity to use, reproduce, prepare derivative works based upon, distribute, disclose, derive from, perform, and display, such Background IP, but only as an inseparable part of, and only for the purpose intended by creation of, the Work Product. In the event the Work Product contains, or incorporates, any Third-Party Content, or derivative work based on such Third-Party Content, or any compilation that includes such Third-Party Content, Consultant shall secure all licenses to any such Third-Party Content, but only as an inseparable part of the Work Product, where such licenses are necessary for VCTC to utilize and enjoy Consultant's services and the Work Product for their intended purposes."

- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to VCTC under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of VCTC. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of VCTC or as part of any audit of VCTC, for a period of three

(3) years after final payment under the Agreement.

- 9.4 **Records Submitted in Response to an Invitation to Bid or Request for Proposals.** All responses to a Request for Proposals (RFP) or invitation to bid issued by VCTC become the exclusive property of VCTC. At such time as VCTC selects a bid, all proposals received become a matter of public record, and shall be regarded as public records, with the exception of those elements in each proposal that are defined by Consultant and plainly marked as "Confidential," "Business Secret" or "Trade Secret." VCTC shall not be liable or in any way responsible for the disclosure of any such proposal or portions thereof, if Consultant has not plainly marked it as a "Trade Secret" or "Business Secret," or if disclosure is required under the Public Records Act.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, VCTC may not be in a position to establish that the information that a prospective bidder submits is a trade secret. If a request is made for information marked "Trade Secret" or "Business Secret," and the requester takes legal action seeking release of the materials it believes does not constitute trade secret information, by submitting a proposal, Consultant agrees to indemnify, defend and hold harmless VCTC, its agents and employees, from any judgment, fines, penalties, and award of attorneys fees awarded against VCTC in favor of the party requesting the information, and any and all costs connected with that defense. This obligation to indemnify survives VCTC's award of the contract. Consultant agrees that this indemnification survives as long as the trade secret information is in VCTC's possession, which includes a minimum retention period for such documents.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 **Attorneys' Fees.** If a Party to this Agreement brings any action, including arbitration or an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Ventura or in the United States District Court for the Central District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of VCTC or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000, *et seq.* Consultant shall not employ any VCTC official in the work performed pursuant to this Agreement. No officer or

employee of VCTC shall have any financial interest in this Agreement that would violate California Government Code Sections 1090, *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of VCTC. If Consultant was an employee, agent, appointee, or official of VCTC in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090, *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse VCTC for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by VCTC Executive Director Martin Erickson ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** All notices and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (i) when received if personally delivered; (ii) when received if transmitted by telecopy, if received during normal business hours on a business day (or if not, the next business day after delivery) provided that such facsimile is legible and that at the time such facsimile is sent the sending Party receives written confirmation of receipt; (iii) if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and (iv) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows:

Consultant

Name

Firm

Address

VCTC

Martin Erickson, Executive Director
Ventura County Transportation Commission
751 E. Daily Dr., Suite 420
Camarillo, CA 93010

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between VCTC and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral pertaining to the matters herein.

Exhibit A – Scope of Services

Exhibit B – Cost Proposal

10.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.13 Construction. The headings in this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms of this Agreement. The parties have had an equal opportunity to participate in the drafting of this Agreement; therefore any construction as against the drafting party shall not apply to this Agreement.

10.14 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the Parties hereto with no intent to benefit any non-signatory third parties.

The Parties have executed this Agreement as of the Effective Date.

VCTC

CONSULTANT

Martin R. Erickson, Executive Director

Signatory Name, Title

Approved as to Form:

Steve Mattas, General Counsel

EXHIBIT A

SCOPE OF WORK

EXHIBIT B

COST PROPOSAL FORM

This is a fixed-price agreement with an overall amount not to exceed \$_____ for the term of the contract.

ATTACHMENT B – COST PROPOSAL FORM

5549550.1

