

VENTURA COUNTY TRANSPORTATION COMMISSION

**751 E. DAILY DR., SUITE 420
CAMARILLO, CA 93010 (805) 642-1591**



**REQUEST FOR PROPOSALS (RFP) FOR
COMMUNITY TRAFFIC CALMING &
PEDESTRIAN AND BICYCLE SAFETY
PROGRAM**

PROPOSAL RELEASE DATE: FRIDAY, JANUARY 5, 2024

PROPOSALS DUE: 4:00 P.M. PST, FRIDAY, MARCH 1, 2024

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1. PROCUREMENT SCHEDULE

Project Name	Community Traffic Calming & Pedestrian and Bicycle Safety Program
Issuance Date	January 5, 2024
Pre-Proposal Conference (Optional)	January 17, 2024 @ 11:00 AM (PST) via Microsoft Teams Meeting
Questions Deadline	January 19, 2024 @ 3:00 PM (PST)
Responses to Questions	January 26, 2024, posted to VCTC website
Proposal Submittal Due Date/Time	March 1, 2024 @ 4:00 PM (PST)
Interviews (Optional)	TBD, via Microsoft Teams Meeting
Proposal Submittal Location	Via email to cbrooks@goventura.org
Contract Award	April 5, 2024
Solicitation Contact	Caitlin Brooks cbrooks@goventura.org
Contract Type	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.

2. MINIMUM REQUIREMENTS

2.1 The Proposer shall have completed at least three (3) Transportation/Traffic Calming Plans or similar projects (e.g., Vision Zero Plan, Complete Streets Plan, Active Transportation Plan, Safety Plan, etc.) within the last seven (7) years.

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

3. PROPOSAL SUBMITTAL INSTRUCTIONS

3.1 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 assist VCTC in developing a Community Traffic Calming & Pedestrian and Bicycle Safety Program.

3.2 The scope of work includes the following tasks:

1. Project Management
2. Community Traffic Calming and Bicycle Safety Technical Memorandum (3 parts).
 - 2.1. Existing Conditions and Data Collection (Memo Part 1)
 - 2.2. Existing Plans Review Summary (Memo Part 2)
 - 2.3. Collision Hotspot Map
 - 2.4. Project Location Recommendations (Memo Part 3)
3. Safety Educational Campaign and Public Outreach Strategy
 - 3.1. Project Steering Committee
 - 3.2. Temporary Infrastructure Installation Location Identification
 - 3.3. Targeted Safety Public Outreach Campaign
 - 3.4. Community Walk Audits and Bike Rodeos
 - 3.5. Temporary Infrastructure Installations
 - 3.6. Community Workshops
 - 3.7. Data Collection
 - 3.8. Project Recommendations with Preliminary Engineering and VCTC Board Approval

3.3 Please submit technical and cost proposals separately to cbrooks@goventura.org. Appendices **may not** be included as part of the technical or cost proposal. Proposals received after 4:00 PM (PST) on Friday, March 1, 2024, will be deemed non-responsive and will not be considered.

3.4 Any questions concerning this RFP should be directed to Caitlin Brooks, VCTC Program Manager – Transportation Planning at (805) 642-1591 ext. 119 or email: cbrooks@goventura.org no later than 3:00 PM PST on Friday, January 19, 2024. 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.

3.5 By submitting a proposal, Proposer agrees to comply with all indemnification and insurance requirements, including requiring compliance with such provisions by all subcontractors hired by Proposer, listed in this RFP and included in the draft contract unless explicitly listed as an exception in the proposal.

3.6 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.

4. PROPOSAL INFORMATION AND CONTENT

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

4.1 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.

4.2 Table of Contents (1 Page Maximum) – Include a clear identification of the material in the RFP by section and page number.

4.3 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 study duration.

4.4 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.

4.5 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.

4.6 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.

4.7 Project Team (10 Pages Maximum) – Provide an organization chart with role descriptions and include key team member resumes.

4.8 Innovative Approaches (2 Pages Maximum) – Provide proposed innovative approaches to any tasks outlined in the RFP.

4.9 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.

4.10 List of References (1 Page Maximum) - Provide a list of references for whom similar work has been performed, as well as references for any proposed subcontractors.

5. PROPOSAL EVALUATION CRITERIA

5.1 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 a date to be determined in March, 2024. 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.

5.2 Selection criteria and maximum points per category are as follows:

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

5.3 The selection of the Consultant and subsequent Agreement award will be based on the criteria contained in this RFP, as demonstrated in the submitted proposal package. Proposer should submit information sufficient for VCTC to evaluate proposals regarding the selection criteria. The absence of required information may cause the proposal to be deemed non-responsive and may be cause for rejection.

5.4 When the evaluation is complete, the responsive proposers shall be ranked based on a determination of value provided, provided that no more than three proposers are required to be ranked.

5.5 Agreement award will be based on the proposal that is the best value for VCTC's needs and interests; cost is only one factor.

5.6 VCTC may conduct interviews and utilize references during selection process.

5.7 The award resulting from this RFP will be made to the Proposer that submits a response that, in the sole opinion of VCTC, best serves the overall interest of VCTC.

5.8 The award made from this RFP is subject to approval by the Ventura County Transportation Commission.

6. AGREEMENT AWARD

6.1 No Guaranteed Value: VCTC does not guarantee a minimum or maximum dollar value for any Agreement resulting from this solicitation.

6.2 Commission Approval: The award made from this solicitation is subject to approval by the Ventura County Transportation Commission.

6.3 Interview: VCTC reserves the right to interview Proposer before an Agreement is awarded. The costs of attending any interview are Proposer's responsibility.

6.4 Incurred Costs: VCTC is not liable for any cost incurred by Consultant in response to this solicitation.

6.5 Notification: All Consultants who have submitted a proposal package will be notified of the final decision as soon as it has been determined.

6.6 VCTC's Best Interest: The award resulting from this solicitation will be made to the Consultant that submits a response, in the sole opinion of VCTC, best serves the overall interest of VCTC.

7. SEQUENTIAL AGREEMENT NEGOTIATION

7.1 VCTC will pursue Agreement negotiations with Proposer who submits the best proposal or is deemed the most qualified in the sole opinion of VCTC, and which is in accordance with the criteria as described within the solicitation. If the Agreement negotiations are unsuccessful, in the opinion of either VCTC or Proposer, VCTC may pursue Agreement negotiations with the entity that submitted a proposal which VCTC deems to be the next best qualified to provide the services, or VCTC may issue a new solicitation, cancel the solicitation, or take any other action which it deems to be in its best interest.

8. VCTC'S PROTEST PROCEDURES

8.1 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 II.A.
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.

8.2 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.

8.3 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.

8.4 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.

8.5 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.

8.6 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 reasonably 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 to further investigate the protest; or
- d) 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.

9. SCOPE OF WORK

9.1 Background:

VCTC serves as the regional transportation planning agency for Ventura County. In 2019, VCTC and SCAG, in cooperation with Caltrans and the Port of Hueneme, studied freight corridors in Ventura County to identify impacts associated with freight traffic, and develop inclusive freight corridor strategies to promote safer, more efficient, and sustainable freight connections that support the economy, social outcomes, and health of Ventura County. The resulting report is called the “Ventura County Freight Corridor Study” (FCS).

As noted in the Ventura County FCS, speed was identified as the primary factor in 52% of truck involved collisions on freeway facilities and 29% of truck-involved collisions on arterial roadways and was a contributing factor in most other collisions. Vehicle speed can also increase emission of particulate matter, noise, and levels of discomfort for nearby pedestrians and cyclists. Given these concerns, the FCS included Opportunities and Vulnerabilities, which integrated data with stakeholder inputs and literature review to establish a qualitative and quantitative understanding of the transportation system as it relates to freight movement and community health. One of the recommended opportunities developed as a result of significant community input was to establish a Community Traffic Calming Program in Ventura County.

In addition to the FCS, in April 2023 the VCTC Board adopted a new Strategic Plan that includes:

- Strategic Plan Objective B1: Encourage city and county partners to plan and prioritize building new bike lanes and continue seeking funds for this purpose, and
- Strategic Plan Objective C8: Integrate safety into transportation plans, projects and services, including but not limited to a community traffic calming program, Arroyo Simi Bridge suicide prevention task force, and bicycle and pedestrian safety education.

As a result, 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) for a Community Traffic Calming & Pedestrian and Bicycle Safety Program (CTCP) will result in educational safety campaigns and project recommendations to ultimately construct safety improvements in five key locations.

The CTCP will focus on traffic calming strategies that include the use of variable message signs, targeted educational campaigns, partnerships with key stakeholders, and targeted enforcement efforts. The CTCP will partner with enforcement agencies to target areas with excessive vehicle speeds and identify violation hot spots to determine if permanent infrastructure improvements such as signage and/or vertical or horizontal roadway treatments are necessary for changes to driver behavior to improve safety for all road users.

The CTCP will also utilize temporary installations through the SCAG Go Human toolkit or other similar temporary improvements to analyze the feasibility and long-term implications of permanent infrastructure improvements. Tentative locations have been identified as part of the FCS and are anticipated to include SCAG environmental justice areas and disadvantaged communities. Capital investments in these locations

would be expected to increase safety and provide a community benefit for residents to use active transportation and connect to transit.

Proposers are not required to read the following documents, but they provide context for what will be prioritized and/or evaluated within the CTCP:

- [Ventura County Freight Corridors Study \(FCS\)](#),
- City Active Transportation Plans (Oxnard Sustainable Transportation Plan, City of Ventura Active Transportation Plan, City of Thousand Oaks Active Transportation Plan),
- County of Ventura Active Transportation Plan,
- [SCAG Transportation Safety Regional Existing Conditions](#)
- [VCTC Bicycle Wayfinding Plan](#)
- [U.S. 101 Communities Connected Multimodal Corridor Study](#),
- [Ventura County Comprehensive Transportation Plan \(CTP\)](#)

9.2 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.

9.3 Scope of Work Tasks:

1. Project Management

1.1. Meetings

The Consultant shall report the status of the work effort, progress, and schedule on a monthly basis (at minimum). Any modification to the frequency of project meetings 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. Deliverables submitted with excessive errors may be rejected until errors have been fixed.

DELIVERABLES:

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

2. Community Traffic Calming and Bicycle Safety Technical Memorandum (3 parts)

2.1. Data Collection

The Consultant will compile existing condition information that includes mode share, safety data, collision hotspots, existing active transportation wayfinding routes, and locations of excessive speed using the SCAG Big Data license and VCTC Transportation Data and Analytics Pilot Program (ClearGuide) license. The Consultant will identify collision/injury hotspots within the County based on existing data that presents locations of excessive speed and fatal & severe injury crashes per 100 million VMT developed for the FCS and Ventura County Comprehensive Transportation Plan.

DELIVERABLES:

1. Community Traffic Calming and Bicycle Safety Technical Memorandum Part 1

2.2. Existing Plans Review

The Consultant will review relevant Active Transportation Plans within Ventura County to identify safety hotspots and solution strategies. Plans include but are not limited to:

- Ventura County Freight Corridors Study,
- City Active Transportation Plans (Oxnard Sustainable Transportation Plan, City of Ventura Active Transportation Plan, City of Thousand Oaks Active Transportation Plan),
- County of Ventura Active Transportation Plan,
- SCAG Transportation Safety Regional Existing Conditions Report,
- U.S. 101 Communities Connected Multimodal Corridor Study,
- Ventura County Comprehensive Transportation Plan.

DELIVERABLES:

1. Community Traffic Calming and Bicycle Safety Technical Memorandum Part 2

2.3. Hotspot Map in coordination with Disadvantaged Communities and Neighborhood Mobility Areas

The Consultant will develop a map of safety hotspot locations in Ventura County. The figure will include existing pedestrian and bicycle facilities (or facility gaps). The figures will also include an overlay of Disadvantaged Communities and SCAG identified Neighborhood Mobility Areas. The figures should compile data from existing Plans, Transportation Injury Mapping System (TIMS), Statewide Integrated Traffic Records System (SWITRS), and the Ventura County Bicycle Wayfinding Plan.

DELIVERABLES:

1. A map of existing collision hotspots that includes existing active transportation facilities, disadvantaged communities, and neighborhood mobility areas.

2.4. Project Location Recommendations

The Consultant will utilize the data collected from Tasks 2.1-2.3 to identify at least five (5) potential project recommendations in key locations for temporary infrastructure installations. The Consultant will include the recommendations in a technical memorandum that includes justification for the five project recommendations. (i.e. project location in proximity to disadvantaged or low-income communities and neighborhood mobility areas, existing bicycle/pedestrian needs, how projects will improve access to existing services and community assets). Using these metrics and information produced from Tasks 2.1-2.3, the memo will present the potential communities that would receive the maximum benefit from this project.

DELIVERABLES:

1. Community Traffic Calming and Bicycle Safety Technical Memorandum Part 3 (Memo will include project recommendations for temporary infrastructure installations for at least five target locations.)

3. Safety Educational Campaign

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 on the proposed temporary infrastructure improvements. The outreach plan will leverage existing safety campaigns to educate all road users on safety best practices. These resources may include:

- Office of Traffic Safety: Go Safely Campaign
- California Highway Patrol: Statewide Safety Training for Electric Bicycles
- California Department of Transportation: Traffic Calming Guide- A Compendium of Strategies
- Southern California Association of Governments: Go Human Regional Safety Campaign

Outreach may be conducted through on-line surveys, in-person meetings, workshops, focus groups, interviews, and outreach directly to key community-based organizations (CBOs). This outreach safety educational plan may be adjusted as conditions permit. Specific questions at key milestones in the project will allow members of the diverse communities to give insightful and meaningful input into the temporary infrastructure installation planning process. Maps, graphics, survey results and pictures will be posted in accessible formats online to solicit input. Outreach shall incorporate messaging in both English and Spanish.

VCTC maintains an existing robust public outreach database with interested stakeholders. The Consultant will be responsible for developing and distributing in-person surveys at any in-person community workshops or events. Online outreach will be distributed through VCTC's existing communication channels, however, the

Consultant will develop the content for distribution. The Safety Educational Campaign will focus on gathering the data needed to improve bicycle and pedestrian safety for those that need it most while also educating road users about the importance of sharing the road.

3.1. Project Steering Committee

The Consultant (with guidance from VCTC) will form a Technical Advisory Committee (TAC) comprised of local agencies, community stakeholders, active transportation enthusiasts, freight movement operators, local law enforcement agencies, and the California Highway Patrol. The TAC will provide feedback on proposed temporary infrastructure installation locations, public outreach campaign and community engagement efforts, project recommendations, and general input as appropriate. It is expected that there will be at least five (5) TAC meetings over the course of the project.

In addition to the TAC, the Consultant can anticipate attending up to one of each of the following VCTC committee meetings for feedback on the final project recommendations prior to VCTC Board approval:

1. Citizens Transportation Advisory Committee/Social Services Transportation Advisory Committee (CTAC/SSTAC)
2. Transit Operators Advisory Committee (TRANSCOM)
3. Transportation Technical Advisory Committee (TTAC)

DELIVERABLES:

1. TAC formation and meetings. Meeting agendas and meeting minutes.

3.2. Temporary Infrastructure Installation Location Identification

The Consultant will utilize the technical memorandum with identified priority hotspots and summarize logistics for the five (5) target locations for the Go Human demonstration toolkit, or other temporary transportation improvements. Prior to conducting temporary transportation improvement installations, the Consultant will document existing conditions for the transportation network, including vehicle speeds and number of active transportation users. The Consultant may leverage VCTC's data license to obtain this data. The summary of logistics should include a schedule of planned installations, including timing for outreach before and after each installation. The summary should include the estimated cost to obtain, store, and transport the temporary installations.

DELIVERABLES:

1. Memorandum with proposed temporary transportation improvements, including documentation of existing conditions for targeted locations, schedule and cost to implement temporary installations.

3.3. Targeted Safety Public Outreach Campaign

The Consultant will lead a robust public outreach campaign to notify all road users of the upcoming temporary installations and will include an emphasis on the importance of transportation safety. VCTC maintains a robust outreach contact list that will assist with the Public Outreach Campaign effort. The Consultant will focus on driver education in the targeted locations as part of the outreach campaign (through changeable message signs, social media posts, etc.).

The Consultant will create an outline for a webpage on goventura.org and materials for VCTC social media pages for plan announcements and documents to be posted. This task includes graphic design for these media outlets. The Consultant will include an advertisement campaign, online surveys and e-newsletters as part of the outreach campaign. The Consultant will leverage information and assets from existing safety campaigns, including but not limited to the OTS Go Safely program and CHP guidance for ebikes. The campaign will also include a focus area on commercial and freight vehicles in

partnership with key industry sectors and partners, such as the Port of Hueneme, logistics businesses, and the agricultural community.

VCTC is specifically looking to enhance how it engages communities that have populations that are low-income, historically disadvantaged and disproportionately affected, and/or have disabilities. This task shall build off what was contained in and done as part of VCTC's Ventura County Freight Corridor Study, 101 Communities Connected Study, and Comprehensive Transportation Plan. The Consultant shall develop a concise and digitally accessible online survey to gather broader community feedback. Similar to the in-person surveys, the Consultant shall develop a survey instrument that captures necessary and relevant information for evaluation of services in Ventura County. VCTC will facilitate the distribution of surveys via email, social media, and on goventura.org.

DELIVERABLES:

1. Website, Surveys and Survey Results, Advertisements

3.4. Community Walk Audits and Bike Rodeos

The Consultant with guidance from VCTC, will partner with local community-based organizations to host at least three (3) bike rodeos in targeted areas and five (5) community walk audits to promote active transportation safety leading up to the temporary transportation improvement installations.

DELIVERABLES:

1. Five (5) Community Walk Audits with Summary of Results
2. Three (3) Bike Rodeos with Documentation (photos)

3.5. Temporary Infrastructure Installation

The Consultant will identify the appropriate temporary installations from the SCAG Go Human toolkit or similar temporary installation tools and implement installations at the five (5) recommended locations. The Consultant will organize the installation and removal of the temporary installations and document the conditions pre-post installation to analyze the feasibility and long-term implications of permanent infrastructure improvements.

DELIVERABLES:

1. Installation of temporary transportation improvements in five (5) locations
2. Documentation of temporary installations (photos)

3.6. Community Workshops

In each location where a temporary installation occurs, the Consultant will notify the community in advance of the installations (through VCTC/City channels, social media, Nextdoor, etc.) and subsequently host a community workshop to receive feedback on the temporary installations. The Consultant shall be prepared to lead or facilitate at least one (1) in-person community workshop for each of the five (5) targeted locations identified in Task 2.4. The Consultant, with guidance from VCTC, will facilitate and coordinate with each city or unincorporated county district/community area and associated community-based organization to determine the ideal time and day to generate the highest levels of participation.

The community meetings will include Spanish translation and TAC member agencies will be invited to participate.

DELIVERABLES:

1. Community Workshop Presentations
2. Public Feedback Summary

3.7. Data Collection (Infrastructure Improvements)

The Consultant will document transportation conditions for targeted locations after the temporary transportation improvements have been removed. This will include vehicle speeds and number of active transportation users. The Consultant may utilize the VCTC Big Data license for vehicle speeds and any other relevant data points available through the VCTC Big Data (ClearGuide) license.

DELIVERABLES:

1. Memorandum with temporary installation results, vehicle speeds, and number of active transportation users.

3.8. Project Recommendations

Based on community feedback, transportation network conditions, and TAC input, the Consultant will develop recommendations for infrastructure improvements to enhance safety and equitable access to community assets and public services in at least five (5) key locations.

Recommendations for the five key locations will include capital cost estimates based on preliminary level engineering that will provide a reasonable approximation of funding that will be needed to deliver the project. The detailed cost estimate will be provided in Microsoft Excel spreadsheet format, and preliminary engineering (at the 30% design phase) will be provided in AutoCAD and PDF. The cost estimates will potentially be used to prepare a Project Study Report for future grant funding.

The Consultant will compile the technical memorandums into a final document that summarizes the Safety Education Campaign and Traffic Calming Program results, including transportation data, summary of community input, number of licensed drivers reached by educational campaigns, speed data at key locations, number of fatal and severe injury crashes per 100 million VMT countywide, transportation improvement recommendations, and next steps to secure funding for permanent transportation improvements. These metrics shall be considered and incorporated into the preceding deliverables (Technical Memorandum, Temporary Installations and Design Recommendations, etc.). The Consultant will present the summary of results to VCTC Board for final approval.

VCTC will assist the Contractor in the preparation of Board agenda items (e.g., staff report and presentation). The presentations shall summarize the key findings and recommendations for dissemination to stakeholders and key decision-makers.

DELIVERABLES:

1. Infrastructure improvements in at least 5 key locations
 - a. Including capital cost estimates based on preliminary engineering (at the 30% design stage). Cost estimates will be provided in Microsoft Excel and preliminary engineering will be provided in AutoCAD and PDF.
2. Draft and Final Summary of Community Traffic Calming and Bicycle Safety Program and Safety Educational Campaign
3. VCTC Board Presentation

10. SOLICITATION TERMS & CONDITIONS

10.1 VCTC reserves the right to alter, amend, or modify any provisions of this solicitation, including modification of the deadlines and schedule and/or the scope of work, or to withdraw this solicitation, in whole or in part, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of VCTC to do so.

10.2 VCTC reserves the right to request clarification of any proposal term from Proposers.

10.3 VCTC may contact the references provided; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.

10.4 The type of documentation required from the Proposer to satisfy VCTC will be commensurate with the size and complexity of the contract and Proposers should submit accordingly. If the information submitted by the Proposer, or available from other sources, is insufficient to satisfy VCTC as to the Proposer's qualifications, experience and/or contractual responsibility, VCTC may request additional information from the Proposer or may deem the proposal non-responsive.

10.5 VCTC reserves the right to waive informalities and minor irregularities in proposals received and/or the RFP process.

10.6 VCTC reserves the right to reject any or all proposals received prior to contract award; to negotiate with any, all, or none of the Proposers; and to award a contract to one or more Proposers. If agreement cannot be reached with the highest-ranked firm, VCTC may terminate negotiations with that firm and commence negotiations with the next most qualified firm, in VCTC's sole determination. If VCTC is unable to negotiate a satisfactory agreement with the top-ranked Proposer, with terms and conditions VCTC determines, in its sole judgment, to be fair and reasonable, then VCTC may commence negotiations with the next most qualified Proposer in sequence, until an agreement is reached. If necessary, VCTC may repeat this process until a final contract has been negotiated or VCTC may make a determination to reject all submittals and not enter into an agreement with any Proposer.

10.7 VCTC's determination of the Proposer's responsibility, for the purposes of this solicitation, shall be final.

10.8 VCTC reserves the right to remedy technical errors in the RFP process.

10.9 VCTC reserves the right to approve or disapprove the use of any particular Subcontractors.

10.10 Unless otherwise specified, VCTC reserves the right to award contracts to multiple Consultants.

10.11 VCTC shall not be obligated to accept the lowest priced proposal but will make an award based on the best interests of the Commission after all factors have been evaluated.

10.12 Any irregularities or lack of clarity in the solicitation should be brought to the VCTC Staff designee's attention as soon as possible so that corrective addenda may be furnished to Proposers if deemed necessary by VCTC.

10.13 Any final contract will include VCTC's standard insurance and indemnification requirements, substantially in the form outlined in this RFP, s, and as outlined in the Draft Contract in Attachment A. Proposals must include any exception to VCTC's standard insurance and/or indemnification requirements and shall include any and all of Proposer's proposed terms and conditions, including the Proposer's standard contract language. The omission of these documents may render a proposal non-responsive.

10.14 Alterations, modifications or variations to a proposal may not be considered unless authorized by the solicitation or by addendum or amendment.

10.15 Proposals which appear unrealistic in terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of the Agreement, may be rejected.

10.16 Proposals may be withdrawn by written notice received prior to the proposal opening time.

10.17 The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement, or disclosure with or to any other Consultant or prospective Consultant.

10.18 No attempt may be made at any time to induce any firm or person to refrain from submitting a proposal or to submit any intentionally high or noncompetitive proposal. All proposals must be made in good faith and without collusion.

10.19 Prices offered by Proposers in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded Consultant agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFP. No other costs, rates or fees shall be payable to the awarded Consultant for implementation of their proposal.

10.20 VCTC is not liable for any costs incurred by Proposers prior to entering into a formal contract. Costs of developing the proposals or any other such expenses incurred by the Proposer in responding to the RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by VCTC.

10.21 Proposal will become a public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each Proposer may clearly label applicable parts of a proposal as "CONFIDENTIAL" and shall subsequently describe the exemption that applies for withholding applicable parts of a proposal. By submitting a proposal, Proposer thereby agrees to indemnify, defend, and hold harmless VCTC for any costs and/or liability associated with withholding such information marked confidential and/or otherwise honoring such a designation by Proposer. The failure to label information as confidential prior to submission of a Proposal shall constitute a complete waiver of any and all claims for damages caused by any release of the information by VCTC. VCTC will respond to requests for disclosure of records related to this solicitation in accord with applicable law on disclosure requirements and exemptions to disclosure.

10.22 A proposal submitted in response to this solicitation must identify any subcontractors and outline the contractual relationship between the Proposer and each subcontractor. An official of each proposed subcontractor must sign and include as part of the proposal submitted in response to this solicitation, a statement to the effect that the subcontractor has read and will agree to abide by the Proposer's obligations. VCTC may approve or disapprove the use of particular subcontractors.

10.23 If the Contractor elects to use subcontractors, VCTC requires that the awarded Consultant provide proof of payment of any subcontractors used for this project. Proposals shall include a plan by which VCTC will be notified of such payments.

10.24 Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this solicitation. Any such relationship that might be perceived or represented as a conflict should be disclosed. VCTC reserves the right to disqualify any Proposer on the grounds of actual or apparent conflict of interest.

10.25 Each Proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, suspensions, debarments, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. VCTC reserves the right to reject any proposal based upon the Proposer's prior history with VCTC or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

10.26 VCTC reserves the right to negotiate final contract terms with any Proposers selected. The contract between the parties will consist of the solicitation together with any modifications thereto, and the awarded Consultant's proposal, together with any modifications and clarifications thereto that are submitted at the request of VCTC during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the solicitation, any modifications and clarifications to the awarded Consultant's proposal, and the awarded Consultant's proposal. Specific exceptions to this general rule may be noted in the final executed contract.

10.27 VCTC will not be responsible for or bound by any oral communication or any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the VCTC Contact.

10.28 Any contract resulting from this solicitation shall not be effective unless and until approved by the Commission or Executive Director, as applicable.

10.29 VCTC will not be liable for Federal, State, or Local excise taxes.

10.30 Submission of a proposal for this solicitation shall constitute an agreement to all terms and conditions specified in the solicitation, except such terms and conditions that the Proposer expressly excludes.

10.31 Proposer understands and acknowledges that the representations in the proposal are material and important and will be relied on by VCTC in evaluation of the proposal. Any Proposer misrepresentation shall be treated as fraudulent concealment from VCTC of the true facts relating to the proposal.

10.32 No announcement concerning the award of a contract as a result of this solicitation may be made without the prior written approval of VCTC.

10.33 By submitting a proposal, Proposer represents and warrants that it has thoroughly examined and is familiar with work required under this RFP, that Proposer has conducted such additional investigation as it deems necessary and convenient, that Proposer is capable of providing the services requested by VCTC in a manner that meets the stated objectives and specifications as outlined in this RFP, and that Proposer has reviewed and inspected all materials submitted in response to this RFP. Once the Consultant has been selected, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for Consultant to requested additional compensation.

10.34 This project may be funded by state funds. Thus, by submitting a proposal you agree to comply and assist VCTC in complying with allstate requirements associated with the expenditure or acquisition of state and/or federal funds.

11. RIGHTS TO PERTINENT MATERIALS

All responses, inquiries, and correspondence related to this solicitation and all reports, charts, displays, schedules, exhibits, and other documentation produced by the Consultant that are submitted as part of the submittal will become the property of VCTC when received by VCTC and may be considered public information under applicable law. .

12. INDEMNIFICATION

12.1 For purposes of the following indemnification provisions (“Indemnification Agreement”), “design professional” has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for VCTC under this Indemnification Agreement that is permitted by law shall be provided by Consultant.

12.2 Indemnification for Design Professional Services Claims: To the fullest extent permitted by law, Consultant shall indemnify, defend (with counsel acceptable to VCTC) and hold harmless VCTC, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its employees, subcontractors, and agents in the performance of any design professional services under the Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of VCTC, or defect in a design furnished by VCTC, but in no event shall the amount of such Consultant’s liability

exceed such Consultant's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against VCTC is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such Consultant shall meet and confer with the other parties to such action regarding unpaid defense costs.

12.3 To the fullest extent permitted by law, Consultant shall indemnify, defend, protect and hold harmless VCTC, its Boards, Commissions, and their officials, employees and agents, and those of VCTC's partner agencies ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Consultant's breach or failure to comply with any of its obligations contained in the AGREEMENT, including any obligations arising from the Consultant's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 et seq., and/ or (2) negligent, reckless, or willful acts, errors, omissions or misrepresentations committed by Consultant, its officers, employees, agents, subcontractors, or anyone under Contractor's control, in the performance of work or services under the Agreement (collectively "Claims" or individually "Claim").

12.4 In addition to Consultant's duty to indemnify, Consultant shall have a separate and wholly independent duty to defend Indemnified Parties at Consultant's expense by legal counsel approved by VCTC, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Consultant shall be required for the duty to defend to arise. VCTC shall notify Consultant of any Claim, shall tender the defense of the Claim to Consultant, and shall assist Consultant, as may be reasonably requested, in the defense.

12.5 If Consultant elects to use subcontractors, Consultant agrees to require its subcontractors to indemnify Indemnified Parties and to provide insurance coverage to the same extent as Consultant. If the Consultant elects to use subcontractors, the Consultant shall not allow any subcontractor to commence work until all insurance required of subcontractor is obtained.

12.6 The provisions of this Section shall survive the expiration or termination of the Agreement.

13. INSURANCE REQUIREMENTS

13.1 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.

13.1.1 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 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. 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.

13.1.2 Commercial General and Automobile Liability Insurance.

- a. 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 two million dollars (\$2,000,000) 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.
- b. 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.
- c. Additional requirements. Each of the following shall be included in the insurance coverage or added as an 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 contractor to comply with reporting provisions of the policy shall not affect coverage provided to VCTC and its officers, employees, agents, and volunteers.

13.1.3 Professional Liability Insurance

- a. General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by the Agreement professional liability insurance for licensed professionals performing work pursuant to the Agreement in an amount not less than \$2,000,000 per claim or per occurrence covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed one hundred fifty thousand dollars (\$150,000) per claim.
- b. Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:
- c. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- d. 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.

- e. 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 the Agreement, Consultant shall purchase an extended period coverage for a minimum of five (5) years after completion of work under the 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.
- f. A copy of the claim reporting requirements must be submitted to VCTC for review prior to the commencement of any work under the Agreement.

13.1.5 All Policies Requirements

- a. 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.
- b. Verification of coverage. Prior to beginning any work under the Agreement, Consultant shall furnish VCTC with complete copies of all policies delivered to Contractor by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and 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.
- c. Notice of Cancellation of Coverage. A endorsement shall be attached to all Commercial General Liability and Automobile Liability insurance obtained pursuant to the Agreement stating that coverage shall not be suspended, voided, canceled by either party, except after thirty (30) days' prior written notice by mail, has been given to Consultant. In the event that any coverage required by this section is cancelled, Contractor 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.
- d. Additional insured; primary insurance. VCTC and its officers, employees, agents, and volunteers, and those of VCTC's partner agencies shall be covered on the General Liability and Automobile Liability policies as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including 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 the Agreement. The coverage shall contain no special limitations on the scope of protection afforded to VCTC or its officers, employees, agents, or volunteers.

13.1.6 An 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.

13.1.7 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 the 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 the agreement so as to not prevent any of the parties to the 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.

13.1.8 During the period covered by the 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.

13.1.9 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for Subcontractors shall be subject to all requirements stated herein.

13.1.10 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.

13.1.11 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 the Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or terminate the Agreement.

ATTACHMENT A – DRAFT CONTRACT

ATTACHMENT B – COST PROPOSAL FORM

CONSULTING SERVICES AGREEMENT
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”) (together sometimes referred to as the “Parties”) as of _____, 2024

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 B, 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 written 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 C.
- 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. Consultant represents and warrants that Consultant 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. Consultant 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 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 two million dollars (\$2,000,000) 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.

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 **\$2,000,000** covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed one hundred fifty thousand dollars (\$150,000) 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 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. An 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 US 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.

An 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 SCAG and their respective 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. Consultant 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** Consultant declares that Consultant 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 Consultant as required by law. Consultant shall obtain, and maintain on file for three (3) years after the termination of the Agreement, Form 590s from all subcontractors. Consultant accepts sole responsibility for withholding taxes from any non- California resident subcontractor and shall submit written documentation of compliance with Consultant'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 satisfactorily performed up 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 Subject to CPRA. All responses to a Request for Proposals (RFP), invitation to bid issued by VCTC, or submitted to VCTC as part of the performance of this Agreement 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. Records that are submitted to VCTC that are plainly marked as "Confidential," "Business Secret" or "Trade Secret" may be withheld from disclosure. VCTC shall not be liable or in any way responsible for the disclosure of any such records, proposals 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 or Consultant 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 attorney's 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 Agreement. 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, B, and C 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. In the event of a conflict between this Agreement and any of the Exhibits. This Agreement shall control. In the event of a conflict between Exhibit A and the subsequent Exhibits, Exhibit A shall control.

Exhibit A – Scope of Services

Exhibit B – Consultant's Proposal

Exhibit C -- 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

Consultant's Proposal

Exhibit C

COST PROPOSAL FORM

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