

Request for Proposals  
RFP S19160

# Silicon Valley Express Lanes Program – US 101 Phase 5

September 13, 2019  
Norman David, Contracts Administrator



**TABLE OF CONTENTS**

INTRODUCTION: ----- 3

I. INSTRUCTIONS ----- 5

II. PROPOSER’S MINIMUM QUALIFICATIONS ----- 8

III. EVALUATION AND SELECTION ----- 9

IV. PROPOSAL FORMAT AND CONTENT ----- 11

V. BUSINESS DIVERSITY PROGRAM POLICY ----- 13

VI. INSURANCE AND INDEMNIFICATION REQUIREMENTS: ----- 16

VII. PROTESTS ----- 17

VIII. SCOPE OF SERVICES: ----- 18

IX. ADMINISTRATIVE SUBMITTALS ----- 63

X. EXHIBITS ----- 76

XI. APPENDICES ----- 117



**INTRODUCTION:** The Santa Clara Valley Transportation Authority, also known as VTA, is the result of a 1995 merger between two previously separate entities: the Santa Clara County Transit District and the Congestion Management Agency for Santa Clara County. VTA is an independent special district responsible for bus and light rail operations, congestion management, specific highway improvement projects and countywide transportation planning. As such, VTA is both an accessible transit provider and multi-modal transportation planning organization involved with transit, highways, roadways, bikeways, and pedestrian facilities. Working under the direction of a 12-member Board of Directors (“Board”), VTA’s annual operating budget is approximately \$400 million, and its currently approved capital program is approximately \$1 billion. VTA’s bus fleet of 505 buses serves a 346 square mile urbanized service area and operates approximately 18 million miles annually. The 42.2-mile light rail system is served by 99 rail cars and 5 historic trolley cars and operates approximately 2.2 million miles annually. VTA employs approximately 2,050 people, of whom approximately 650 are administrative, clerical and professional positions and 1,400 are operators and maintenance positions. There are four operating/maintenance facilities located within Santa Clara County and an administrative headquarters.

For more information about VTA, log on to [www.VTA.org](http://www.VTA.org).

**ABOUT RFP S19160:** VTA seeks Proposals from qualified firms to provide the following engineering services (“Services”) for the Plans, Specifications & Estimate (“PS&E”) phase of the Silicon Valley Express Lanes (SVEL) Program - US 101 Phase 5 Project (“Phase 5 Project”). Proposer may be awarded follow-on work which could include Design Services During Construction (“DSDC”) and Phase 5 Project close-out.

**NOTICE TO PROPOSERS OF LIMITATION OF FUTURE CONTRACTING:** The Proposer(s) selected under this Request for Proposals (RFP) will be precluded from submitting proposals or bids as a prime contractor or subcontractor for any future procurement with VTA if the specifications, requirements, scope of services, and/or RFPs for such work were developed or influenced by the work performed under the contract resulting from this RFP. Further, if a contractor or subcontractor obtains or has access to nonpublic information related to a future RFP through work performed under this RFP, that contractor or subcontractor may be barred from submitting proposals as a prime contractor or subcontractor on that future RFP.

**NOTICE TO PROPOSERS OF REQUIREMENT TO AVOID CONFLICTS OF INTERESTS:** Contractors and subcontractors performing work resulting from this RFP are required to avoid conflicts of interest resulting from services provided to VTA through other engagements. In particular, contractors and subcontractors providing services under any engagements that developed or influenced the requirements, scope of services, or criteria for this RFP are ineligible to participate in the work resulting from this RFP. Contractors and subcontractors providing services under such engagements that involve the supervision, oversight, review, critique, or acceptance of work products under this RFP are also ineligible to participate in the work resulting from this RFP.



Similarly, contractors and subcontractors who have or who have had access to nonpublic information related to this RFP may have a conflict of interest and should refrain from participating in the work resulting from this RFP.

Contractors and subcontractors proposing to provide services under this RFP remain responsible for avoiding conflicts of interest and must review their existing VTA engagements with their prospective teaming partners before submitting Proposal under this RFP to assure that conflicts of interest are avoided. Contractors and subcontractors performing work resulting from this RFP must continue to monitor for and avoid conflicts of interest at all times.

In addition to contractors' and subcontractors' obligations to avoid conflicts of interest, VTA also monitors for potential conflicts. VTA reviews all potential conflicts, whether actual or apparent, on a case-by-case basis. VTA reserves the right to determine whether an actual conflict exists in its sole discretion and to determine whether a potential conflict of interest exists in its reasonable discretion. Nothing in this RFP is intended to operate as a waiver of either actual or apparent conflicts.



**I. INSTRUCTIONS TO PROPOSERS**

**A. PROCUREMENT SCHEDULE:** VTA’s procurement schedule dates are listed in Table 1 below. All dates set forth in this RFP are subject to change at VTA’s sole discretion and will be provided to firms submitting a Proposal under this RFP (“Proposers”) as an addendum. All references in this RFP to “time” are Pacific Time.

**Table 1**

ACTIVITY	DATE/TIME
Issue RFP	September 13, 2019
Pre-Proposal Conference	October 1, 2019 at 11:00 A.M..
Deadline to Submit Questions	October 3, 2019 at 4:00 P.M.
Deadline to Submit Proposal	October 25, 2019 at 4:00 P.M.
Interviews	November 20, 2019

**B. DESIGNATED POINT OF CONTACT:** All communications with VTA regarding this RFP shall be in writing (US mail/ email) to the Designated Point of Contact identified below. All emails must indicate in the subject line “RFP S19160 for Silicon Valley Express Lanes Program – US 101 Phase 5.” No telephone calls will be accepted. Except as otherwise provided herein, no contact will be entertained by the Procurement, Contracts, and Materials Management staff outside of the formal Q&A period, and/or by anyone other than the Designated Point of Contact regarding this RFP.

Any unauthorized contact related to this RFP is not permitted. Any breach of this provision may result in the Proposer’s submittal being deemed non-responsive and may be cause for rejection.

The Designated Point of Contact for this procurement shall be as follows:

Norman David, Contracts Administrator  
Santa Clara Valley Transportation Authority  
3331 North First Street, Building A  
San Jose, California 95134  
Email: norman.david@VTA.org

**C. PRE-PROPOSAL CONFERENCE:** All prospective Proposers are strongly encouraged to attend the pre-Proposal conference scheduled at the date and time stated on Table 1. The pre-Proposal conference will be held at:

Santa Clara Valley Transportation Authority  
3331 North First Street, Building B, Room B106  
San Jose, California 95134



**D. EXAMINATION OF PROPOSAL DOCUMENTS:** By submitting a Proposal, the Proposer represents that it has thoroughly examined and become familiar with the work required under this RFP, and that it is capable of performing quality work to achieve VTA’s objectives.

**E. ADDENDA/CLARIFICATIONS:** VTA reserves the right to make changes to these Request for Proposal documents as it may deem appropriate up until the date for submission of the Proposals (set forth in Table 1). Any and all changes to this RFP will be made by written addendum, which will be issued by VTA to all prospective Proposers who have registered and downloaded the Proposal documents at the VTA website. All addenda and other related materials will be posted to the VTA.org procurement site. Prospective Proposers will be notified by email when information has been posted to the VTA procurement site for this RFP. **NOTHING RELIEVES PROPOSER FROM BEING BOUND BY ADDITIONAL TERMS AND CONDITIONS IN ADDENDA.**

Questions or comments regarding this RFP must be submitted in writing and must be received by VTA no later than the date and time stated in Table 1. Email questions must be submitted to the Designated Point of Contact listed above and shall include “RFP S19160 QUESTIONS” in the subject line.

Responses from VTA will be published on the VTA online procurement website (or communicated in writing to all recipients of this RFP).

**F. SUBMISSION OF PROPOSALS:** All Proposals shall be submitted to the Designated Point of Contact no later than the date and time stated in Table 1.

The Proposer shall submit seven (7) printed copies and one (1) copy of the Proposal in an electronic format in the form of a flash drive, accompanied by a separate and sealed envelope, containing one printed copy of the Exception Form 3, Cost Proposal Form 4 and DBE Forms 5 and 6, and Resource Plan (Dollars) Form 12 (the “Cost Proposal Packet”).

The package must bear the Proposer’s name and address, and be clearly labeled as follows:

“RFP S19160 SILICON VALLEY EXPRESS LANES PROGRAM – US 101 PHASE 5”

All responses, inquiries, and correspondence related to this RFP and all reports, charts, displays, schedules, exhibits, and other documentation produced by the Proposer submitted as part of the Proposal will become the property of VTA when received by VTA and may be considered public information under applicable law. Any proprietary information in the Proposal should be identified as such. VTA does not typically disclose proprietary information to the public, unless required by law; however, VTA cannot guarantee that such information will be held confidential.



**G. WITHDRAWAL OF PROPOSALS:** A Proposer may withdraw its Proposal at any time before the expiration of the time for submission of Proposals as provided in this RFP by delivering to the Designated Point of Contact a written request for withdrawal signed by, or on behalf of, the Proposer.

**H. RIGHTS OF VTA:** VTA may investigate the qualifications of any Proposer under consideration, require confirmation of information furnished by the Proposer, and require additional evidence or qualifications to perform the Services described in this RFP.

VTA reserves the right to:

- Reject any or all Proposals.
- Issue subsequent Requests for Proposal.
- Postpone opening for its own convenience.
- Remedy technical errors in the Request for Proposal process.
- Approve or disapprove the use of particular subcontractors.
- Solicit best and final offers from all or some of the Proposers.
- Award a professional services contract to one or more Proposers.
- Waive informalities and irregularities in Proposals.
- Conduct interviews at its discretion.

**I. CONTRACT TYPE:** It is anticipated that VTA will award a professional services contract (“Contract”). If awarded, the Contract will be Cost Plus Fixed Fee with a term of three (3) years. This RFP does not commit VTA to enter into such Contract nor does it obligate VTA to pay for costs incurred in preparation or submission of Proposals or in anticipation of entry into a Contract.

**J. COLLUSION:** By submitting a Proposal, each Proposer represents and warrants that its Proposal is genuine and not a sham, collusive or made in the interest of or on behalf of any person not named therein; that the Proposer has not, directly or indirectly, induced or solicited any other person to submit a sham Proposal or any other person to refrain from submitting a Proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a Proposal.

**K. AUDIT REPORT/REQUIREMENTS:** Proposers must agree to abide by the requirements in Chapter III, paragraph 4 of FTA Circular 4220.1F. Every Proposer that has been the subject of any audit report by any government or public agency or qualified independent CPA must attach with its Proposal the latest such audit report, including direct labor, materials, fringe benefits and general overhead.

Proposers must also agree to submit cost or pricing data in accordance with 48 CFR Part 15.408 Table 15-2.



**L. ECONOMIC INTEREST FORM 700:** The Proposer’s key person as well as other positions within his or her firm, determined by VTA, to be participating in the making of governmental decisions will each be required to file a Form 700 the financial disclosure form mandated by the Fair Political Practices Commissions (FPPC). The Form 700 will be required to be filed upon execution of the Contract in which the VTA retains the services of the Proposer, annually thereafter, and upon separation of services pursuant to FPPC rules and regulations.

**M. INCORPORATION OF EXHIBITS AND ATTACHMENTS:** All exhibits, and attachments referenced in this RFP are incorporated herein by this reference.

## **II. PROPOSER’S MINIMUM QUALIFICATIONS**

**A. REQUIRED MINIMUM QUALIFICATIONS:** The following qualifications are the minimum required qualifications that a Proposer must have in order for a Proposal to be considered:

1. The Proposer shall be a Civil Engineering firm with minimum of ten (10) years of express lanes and highway design experience; and
2. The proposed Project Manager shall be a licensed engineer registered in the State of California with minimum of seven (7) years of experience in managing complex highway projects.

**B. PREFERRED QUALIFICATIONS:** The Proposer shall be familiar with Caltrans’, VTA’s, and the Cities of Santa Clara, San Jose and Sunnyvale’s (“City”) requirements, policies, procedures, manuals and standards including compliance with Federal Highway Administration (“FHWA”) requirements. The Proposer shall demonstrate previous work experience on State highway express lanes projects in Caltrans District 4.





**III. EVALUATION AND SELECTION**

**A. EVALUATION CRITERIA:** The following criteria will be used to evaluate Proposals:

<b>Qualification of the Firm</b>	<b>10 Points</b>
<b>Staffing and Project Organization</b>	<b>20 Points</b>
<b>Work Plan</b>	<b>25 Points</b>
<b>Project Understanding / Delivery Efficiencies</b>	<b>35 Points</b>
<b>Local Firm Preference</b>	<b>10 Points</b>

1. **QUALIFICATION OF THE FIRM:** Evaluation of this qualification will be based on the Proposer’s and subcontractors’ qualifications and previous experience on similar and/or related projects. The evaluation will be based on the strength of the information for three key similar or related projects that the Proposer has completed in the past five years or has underway. The factors to be considered for each of these three projects are: (i) details on the project and its relevance as qualification for the proposed project; (ii) the total cost of the project; (iii) the percentage of work for which the Proposer was responsible; (iv) a comparison of the originally proposed duration of work by the Proposer compared to the actual completed or projected work duration by the Proposer; (v) the originally proposed Proposer’s work budget compared to the actual completed or projected work budget to be considered; (vi) experience working with highway properties or other public agencies; (vii) strength and stability of the firm (viii) and assessments by three client references.
  
2. **STAFFING AND PROJECT ORGANIZATION:** Evaluation of this criterion will be based on the Project Manager’s (“PM’s”), and if applicable, the Deputy Project Manager’s (“DPM’s”) and other key staff’s relevant experience, including staff from subcontractors on similar or related projects for the PS&E phase. The relevant experience includes experience in the past ten years: (i) working with Caltrans District 4 on projects that are similar and/or related to the project that is the subject of this RFP, (ii) conducting similar or related project development for highway and express lane projects, and (iii) managing the development of complex highway improvement projects involving multiple agencies and stakeholders. Experience prior to the last ten years may be provided, but the focus of the evaluation for this criteria will be experience in the past ten years. The proposed PM should be able to demonstrate the ability to lead a multi-faceted team, manage a schedule, and budget in a dynamic environment and provide at least three references from experience in the past ten years who could be contacted to respond to questions regarding ability to manage a multi-faceted team, complex schedules and defined budgets. VTA’s investigation of staff references may extend beyond those provided in the Proposal.



- 3. WORK PLAN:** Evaluation of this criterion will be based on the presentation of a well-conceived work plan showing that the Proposer has a full grasp of the key technical issues to lead to project success through the Proposer's allocation and use of staff resources to meet VTA's objectives and work requirements for the Project. The Proposal shall succinctly describe the proposed approach for addressing the required work in an effective yet realistic manner, outlining the activities that would be undertaken in completing the various tasks and specifying who would perform the tasks including highlighting and explaining the importance of certain tasks as critical tasks. The Proposal shall include both a detailed schedule for completing the major subtasks specified in the Scope of Work, a high-level schedule identifying the most critical tasks coinciding with the discussion on critical tasks, and a discussion on the overall proposed duration for completing the work with added information on how the duration could change as needed. Finally, evaluation of this criterion will also be through an assessment of percentages and hours allocated to the major subtasks by staff (including key staff from subcontractors) to reflect the Proposers' overall understanding of the project requirements and proposed flow of work.
  - 4. PROJECT UNDERSTANDING / DELIVERY EFFICIENCIES:** Evaluation of this criterion will be based on the presentation of the project issues and critical items that need to be addressed during the development of the project and discussion on key steps that will be taken to ensure optimizing of delivery efforts. The Proposal will provide: 1) solutions, strategies and/or recommendations for the identified project issues and critical items, 2) a detailed discussion on the proposed stakeholder involvement, and 3) identification of potential pitfalls to the successful delivery of this project and steps that will be taken to avoid the pitfalls including an identification of as many as three of the potentially most impactful pitfalls. This Proposal will also show the relationship between the project issues/critical items and the proposed work plan (staffing, tasks, and schedule) identified in the "Work Plan" criteria. The use of graphical aids, figures and tables to demonstrate the Proposer's project understanding and proposed delivery efficiencies will factor in the scoring for this criterion.
  - 5. LOCAL FIRM PREFERENCE:** A local firm is a firm that currently has its main office or a branch office with meaningful production capability located within Santa Clara County, or a firm that, upon award of the Contract by VTA, will establish such a local office. Five points shall be awarded if at least fifty percent of the dollar value of services to be rendered will be performed by a local firm. An additional point shall be awarded for each additional ten percent of the dollar value of services to be performed by a local firm, to a maximum point award of ten points.
- B. EVALUATION PROCEDURE:** The review board will evaluate Proposals based on the pre-established criteria to determine the successful Proposer or establish a shortlist of firms to interview. VTA reserves the right to conduct interviews at its discretion.



Proposers are asked to keep the interview date stated in Section I, A Table 1 available in the event the review board conducts interviews. If invited to interview, VTA will notify Proposers regarding the schedule and other pertinent interview information. Typically, the interview is scheduled for one (1) hour and requires the project manager to be a lead participant.

The names of the review board members are not revealed prior to the interviews. The individual or composite rating and evaluation forms prepared by individual review board members are not retained by VTA and will not be revealed.

**C. BASIS OF AWARD:** When the review board has completed its work, negotiations will be conducted for the extent of services to be rendered.

Award may be made on the basis of initial Proposals submitted without any negotiations or discussions. If awarded, the award will be a qualifications-based award made solely on the qualitative evaluation criteria. Price will be excluded as an evaluation criterion.

Following evaluations of the stated criteria, VTA will open the sealed cost Proposal from the highest ranked Proposer and enter into negotiation for costs and any timely-submitted exceptions submitted by the Proposer.

In the event negotiations are unsuccessful and the parties have reached an impasse, negotiations are deemed concluded and cannot later be resumed with that Proposer. VTA may enter into negotiations with the next highest-ranked Proposer. If necessary, negotiations with successive Proposers in descending order of ranking may be conducted until contract award can be made to the Proposer whose price is considered fair and reasonable by VTA.

When VTA engages the highest-ranked Proposer in negotiations, a Notice of Intent of Award will be submitted as a courtesy to the shortlisted Proposers.

Upon completion of a successful negotiation, VTA will issue a Notice of Recommended Award, which will initiate the five (5) day pre-award protest period pursuant to VTA's protest policies.

#### **IV. PROPOSAL FORMAT AND CONTENT**

**A. FORMAT:** Proposals shall be typed, as concise as possible and shall not include any unnecessary promotional material. The nature and form of response are at the discretion of the Proposer, but shall include the information listed below.

**B. CONTENT:** The Proposer shall include the information described below:



1. **PROFILE OF FIRM:** This section shall include a brief description of the firm’s size as well as the local organizational structure; it shall also include a discussion of the firm’s financial stability, capacity and resources. Additionally, this section shall include a listing of any lawsuit or litigation and the result of that action resulting from: (a) any public project undertaken by the Proposer or by its subcontractors where litigation is still pending or has occurred within the last five (5) years; or (b) any type of project where claims or settlements were paid by the Proposer or its insurers within the last five (5) years.
  
2. **QUALIFICATIONS OF THE FIRM:** This section shall include a brief description of the Proposer’s and subconsultants qualifications and previous experience on similar or related projects. Description of pertinent project experience shall include a summary of the work performed, the total project cost, the percentage of work the firm was responsible for, the period over which the work was completed. Proposer must provide a brief statement of the firm’s adherence to the schedule and budget for each project. Proposer must also provide the name, title, and phone number of three (3) clients to be contacted for references, although VTA does reserve the right to check other references beyond the three provided.

Information on the PM/DPM and other key staff’s availability to take on this project shall be provided in Proposer’s Proposal using the attached **Form 10 – Key Staff Availability**.

It is recommended that the Evaluation Criteria section of this RFP be reviewed very carefully for further details on the requested information related to firm qualifications, staff details and project team organization that must be provided in the Proposal.

3. **WORK PLAN:** By presentation of a well-conceived work plan, this section of the Proposal shall establish that the Proposer understands VTA’s objectives and work requirements and demonstrate the Proposer’s ability to satisfy VTA’s objectives and requirements. The work plan shall describe the work assigned to the prime and each subconsultant. The work plan shall also include a timetable for completing all work specified in the Scope of Work. Proposer must state the Business Diversity Program goal commitment as a percentage of total contract value. It is recommended that the Evaluation Criteria section of this RFP be reviewed very carefully for further details on the required information related to the work plan. The Proposer may also suggest technical or procedural innovations that have been used successfully on other projects and which may facilitate the completion of this project.
  
4. **PROJECT UNDERSTANDING AND DELIVERY EFFICIENCIES:** This section shall include the Proposer’s understanding of the project’s critical issues and solutions, strategies, and recommendations to address the critical issues for successful and efficient project delivery. This section will also identify the Proposer’s understanding of stakeholder involvement on the issues, key pitfalls to project delivery, and related cost implications.



The Proposer may also suggest technical or procedural innovations that have been used successfully on other projects and will be applied to facilitate efficient delivery of this Project. It is recommended that the Evaluation Criteria section of this RFP be reviewed very carefully for further details on the information requested to demonstrate project understanding and proposed delivery efficiencies including the use of graphical aids, figures and tables for an easy to follow and understand presentation.

- 5. PROJECT STAFFING:** This section shall discuss how the Proposer would propose to staff this project. The Proposer’s project team members shall be identified by name, location, specific responsibilities on the Project and the estimated person-hours of participation. Proposer shall include an organizational chart for the project team and resumes for key personnel. Key personnel will be an important factor considered by the review board. The assignment of multiple tasks to project team members to ensure compactness of the proposed project team may be an important factor for the review board especially if such an organizational structure is shown to provide project delivery efficiencies and project management efficiencies. Once the Proposal is submitted, there can be no change of key personnel without the prior approval of VTA.
- 6. ADMINISTRATIVE SUBMITTALS:** The Proposer must complete all the forms attached hereto and submit in the Proposal. Forms No. 3 through No. 6, and Form 12 must be printed and submitted in a separate and sealed envelope titled “Cost Proposal Packet” as part of the Proposal.

**V. BUSINESS DIVERSITY PROGRAM POLICY:** Proposer shall adhere to VTA’s Business Diversity Program requirements.

- A. DISADVANTAGED BUSINESS ENTERPRISE POLICY:** VTA has established a Disadvantaged Business Enterprise (“DBE”) program in accordance with U.S. Department of Transportation (“DOT”) regulations 49 CFR Part 26. VTA has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, VTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of VTA to ensure that DBE firms, as defined in 49 CFR Part 26, have an equitable opportunity to receive and participate in DOT-assisted contracts.

- 1. DBE WITH GOAL REQUIREMENT:** In connection with performance of this Contract, Proposer shall fully comply with VTA policy and procedures pertaining to utilization of DBE firms. A **9%** DBE contract specific participation goal has been established by the Office of Business Diversity Programs (“OBDP”) as stated in this RFP.
- 2. CONTRACTOR REGISTRATION:** All DBE firms listed on Form 5, Listing of DBE Prime and Subcontractors, must be certified by the California Unified Certification Program (CUCP) at the time of Proposal submittal to be counted toward the contract DBE goal.



Proposers must comply with VTA's DBE Program Policy and Requirements on utilization of DBE firms.

- a. Proposer must either achieve the DBE participation goal or provide documentation to demonstrate sufficient good faith efforts to meet such goal. See “Good Faith Efforts” Guidelines in paragraph F below. Proposer who does not achieve the goal or demonstrate sufficient good faith efforts shall be deemed “non-responsive” and therefore ineligible for award.
  - b. Form 5, Listing of DBE Prime and Subcontractors, Form 6, Designation of Subcontractors and Suppliers, Good Faith Efforts, and other documentation in compliance with DBE Program Policy and Requirements, must be included in the Proposal submittal.
  - c. It is the Proposer’s sole responsibility to verify and provide subcontractor’s DBE certification to VTA.
  - d. The list of certified CUCP DBE firms is available at: [www.dot.ca.gov/programs/business-and-economic-opportunity/dbe-search](http://www.dot.ca.gov/programs/business-and-economic-opportunity/dbe-search).
  - e. The CUCP DBE application is available at the OBDP website at: [www.vta.org](http://www.vta.org).
- 3. CONTRACTOR REPORTING:** Proposer will be required to submit electronic monthly DBE utilization reports to the VTA’s OBDP through our web-based online system (B2Gnow), accessed from any computer via the internet at the following website: <https://VTA.sdbbe.com>. The monthly reports will document payments to the prime and the prime will report payments made to their sub-contractors. At the end of the Contract, Proposer will be required to submit a Final DBE Utilization Report.
- Each Proposer and sub-contractor will receive an email providing information with Log-On identification, password and instructions on how to use the system. Proposer agrees to submit any and all required electronic reports to the OBDP.
- 4. FINAL DBE SUBMITTAL:** At the conclusion of the Contract, Proposer will be required to electronically submit a final DBE Utilization Report by indicating a final audit where requested in the B2Gnow system.
  - 5. DBE MONITORING:** VTA will monitor compliance with contract requirements for DBE firms. All lower-tier subcontractors will be required to provide or verify DBE utilization documentation.
  - 6. “GOOD-FAITH EFFORTS” GUIDELINES:** Proposer is required to document sufficient DBE participation to meet the goal. If the participation goal for this project is attained, Proposer need not submit any documentation on the efforts made to achieve the goal.





However, if the DBE goal is not attained, Proposer must demonstrate that “Good Faith Efforts” were made to attain the goal. Proposer must document adequate efforts at the time of Proposal submittal, as provided for in 49 CFR 26.53, and in accordance with the “Good Faith Efforts” provisions below:

- a. **Pre-Proposal Meeting:** Proposer attended the pre-Proposal conference that was scheduled by VTA to inform Proposers of the DBE program requirements for this RFP.
- b. **Identification of DBE Participation Opportunities:** Proposer identified selected specific items of the work to be performed by DBE firms to provide genuine opportunities for participation by DBE firms. Proposer shall provide documentation showing the items that were identified and selected and shall describe how such items were utilized by Proposer to solicit DBE participation.

Where appropriate, Proposer allocated work to facilitate DBE participation, even when Proposer preferred to perform this work with its own forces.

- c. **Advertisements:** At least ten (10) calendar days before the Proposal due date Proposer solicited sub-contracts from DBE firms for specified categories of work or materials or supplies for the contract through advertisements.
- d. **Written Notice:** At least ten (10) calendar days before the Proposals due date, Proposer provided written notice to a sufficient number of DBE certified firms in each subcontracting work category, and to such firms in each category of materials or supplies for the project. Written notice to a minimum of ten (10) firms shall constitute a sufficient number of firms to be notified if the approved CUCP databases contain at least ten (10) firms for that category.
- e. **Follow-up of Initial Solicitations:** Proposer followed-up initial solicitations of interest by contacting the DBE firms to determine with certainty whether the firms were interested in submitting Proposals on the work. Such follow-up activity shall be documented with telephone, fax logs, or other written documentation that shall be submitted to VTA and that shall set forth, at a minimum, the following information:
  - 1) The type of contact; i.e., telephone, meeting, letter, fax, or e-mail;
  - 2) The name of the DBE firm contacted;
  - 3) The date and time the DBE firm was contacted;
  - 4) The full name, title, telephone or fax number, and e-mail address of the person at the DBE firm contacted by Proposer;



- 5) The responses of each of the DBE firms contacted with regard to its interest in submitting a sub-contract; and
  - 6) For each DBE firm contacted that declined to submit a Proposal, the reason(s) provided by the DBE firm for declining to submit a Proposal.
- f. Information Regarding Contract Scope of Work:** Proposer shall describe the information provided to interested firms; report the name of the firms involved and set forth the date and method of providing such information.
- g. Request for Assistance in the Recruitment of DBE Firms:** Proposer requested assistance from federal, state, and local agencies for lists of DBE firms. Proposer provided information about selected subcontract work and requirement to DBE firms.
- h. Good-Faith Evaluation of and Negotiation with Interested DBE Firms:** Proposer evaluated the Proposals of and negotiated in good faith with interested DBE firms, and did not unjustifiably reject DBE firm(s) as unsatisfactory or unqualified without sound reasons based on a thorough assessment of the capabilities of the firm(s) in question. Proposer shall list all DBE responses to the solicitation, and all DBE sub-contracts which were received but not used.

**NOTE: If no DBE Proposals are received, this fact must be stated. When applicable,** Proposer shall provide, at a minimum, the following information:

- 1) Contacting bonding and/or insurance companies on behalf of a DBE firm;
- 2) Arranging with sureties phased or incremental bonding for the DBE firm;
- 3) Waiving bonds or insurance requirements;

**B. FRAUDS AND FRONTS:** Proposers are cautioned against knowingly and willfully using “fronts” to meet the DBE goal of the RFP. The use of “fronts” or “pass through” subcontracts to non-disadvantaged firms constitutes a criminal violation.

**VI. INSURANCE AND INDEMNIFICATION REQUIREMENTS:** Proposer shall adhere to the insurance requirements set forth in Exhibit A5. Proposer’s attention is directed to the insurance requirements in the exhibit. It is highly recommended that Proposers confer with their insurance carriers or brokers in advance of Proposal submission to determine the availability of insurance certificates and endorsements that will be required for the Contract awarded through this RFP.





**Proposer’s attention is also directed to the indemnification and defense of claims obligations set forth in Exhibit A5.**

## **VII. PROTESTS**

- A. SOLICITATION PHASE:** Prior to the closing date for submittal of Proposal, Proposer may submit to VTA protests regarding the procurement process, or alleged improprieties in specifications, or alleged restrictive specifications. Any such protests must be filed no later than ten (10) working days prior to the scheduled closing date. If necessary, the closing date of this solicitation may be extended pending a resolution of the protest.
- B. PRE-AWARD:** Protests dealing with alleged improprieties in the procurement or the procurement process that can only be apparent after the closing date for receipt of Proposals must be filed within five (5) working days after issuance of the Notice of Recommended Award. Protests will contain a statement of the grounds for protests and supporting documentation. Protestor will be notified of VTA’s final decision prior to issuance of award.

Protestors shall have an opportunity to appear and be heard before the agency prior to the opening of Proposals in the case of protests based on the content of the request for Proposals or prior to final award in the case of protests based on other grounds. Proposer’s requests and protests shall be **in writing only** and be addressed to:

Santa Clara Valley Transportation Authority  
Attn: Thor Vue, Chief Procurement Officer  
Procurement, Contracts & Materials Management  
3331 North First Street, Building A  
San Jose, California 95134

The full text of VTA’s Policy No. 36 is at <http://www.vta.org/about-us/doing-business-with-vta-policies>. Failure to comply with the above protest procedures will render a protest untimely and/or inadequate and shall result in its rejection.

If this Contract is financed with federal assistance, pursuant to 2 C.F.R. § 200.318(k), protesters may raise, with the FTA, matters that are primarily a federal concern. Protesters must raise any federal matters arising out of VTA’s award of a contract within five (5) business days of VTA’s final decision of the Proposal protest. See 2 C.F.R. § 200.318(k) for details.



## **VIII. SCOPE OF SERVICES:**

### **A. BACKGROUND INFORMATION**

The following discussion provides background on the Silicon Valley Express Lanes (“SVEL”) Program and the SVEL - US 101 Phase 5 Project (“Phase 5 Project”) that is part of the SVEL Program.

Assembly Bill 2032, signed by Governor Schwarzenegger in 2004, provides legislative authority for VTA, as part of a demonstration project, to conduct, administer and operate express lanes within Santa Clara County. In 2007, Assembly Bill 574 was passed, removing the “demonstration” category from the law and allowing VTA to implement a value pricing program permanently within any two corridors in the Santa Clara County HOV lane system. In 2011, Assembly Bill 1105 was passed, expanding the ability to develop high occupancy toll (“HOT”) lanes into San Mateo County for high occupancy vehicle (“HOV”) lanes that existed in that County as of January 1, 2011. In 2014, Assembly Bill 2090 was passed, removing the reference to level of service C or D, allowing for a requirement for all vehicles using HOT lanes to have an electronic transponder or other electronic device for enforcement purposes, and clarifying that toll revenues could be used for transportation corridor improvements with the affected corridor. These express lanes, a form of roadway pricing, facilitate use of available capacity in HOV lanes by allowing solo commuters to use, for a fee, the lanes that ordinarily would have been available for only carpoolers, transit, motorcycles, and vehicles with clean air stickers. In December 2008, the VTA Board of Directors approved the SVEL Program for implementation including the US 101 Express Lanes Project.

The overall goals of the SVEL Program are:

- Provide congestion relief through more effective use of the existing transportation infrastructure;
- Provide commuters with a new, reliable travel option; and
- Provide a new funding source for transportation improvements including public transit.

### **B. SVEL PROGRAM – US 101 EXPRESS LANES OVERVIEW**

The SVEL Program includes the implementation of express lanes on US 101. US 101 in Santa Clara County extends 52 miles from San Benito to San Mateo, providing north and south gateways into the Silicon Valley. This stretch of highway serves as an important trade corridor between the Central Valley, the Central Coast, and the San Francisco Bay Area, additionally connecting commuters to technology and professional service industries in Santa Clara County.

The Environmental Documents - Initial Study/Environmental Assessment (“IS/EA”) for the conversion of existing US 101 HOV lanes to express lanes and addition of a second express lane was completed in July 2015. The Project Report (“PR”) was signed on August 11, 2015. The limit for the US 101 express lanes is from the East Dunne Avenue interchange in Morgan Hill to the Santa Clara/San Mateo County line in Palo Alto. The Project also proposes to convert the US 101/SR 85 HOV direct connectors in San Jose (“US 101/SR 85 South interchange”), and the US 101/SR 85 HOV director connectors in Mountain View (“US 101/SR 85 North interchange”) to



express lane connectors and conform to the SR 85 express lanes. See **Appendices A & B** for the approved IS/EA and PR.

The implementation of express lanes as defined in the IS/EA consists of a combination of a one-lane and two-lane express lanes separated from the general purpose lanes by a striped buffer where needed for traffic operations, enforcement, toll collection and safety resulting in entry and exit points that generally follow the Caltrans M4 weave access design detail.

### **Proposed Priced Managed Lanes**

The implementation of express lanes proposes to use the available capacity in the existing and new 2<sup>nd</sup> lanes to provide traffic congestion relief in the corridors. Access to the available capacity in the express lanes would be made available to solo commuters for a fee. The fee would change dynamically in response to the available capacity on the express lanes to ensure the smooth flow of traffic for express lane users.

The electronic tolling system would use the FasTrak<sup>®</sup> transponder system provided in the Bay Area by the Bay Area Toll Authority (BATA). All users using the express lanes would need to have a valid FasTrak<sup>®</sup> toll tag. The toll rate would be displayed on dynamic message signs along the express lane routes. The back-office toll collection system would be managed by VTA. It is expected that the communications system would be a combination of wired and wireless technologies.

Due to limitations on available and anticipated funding, VTA is implementing express lanes in multiple phases as follows:

### **Phase 1 and Phase 2 – SR 237 Express Lanes**

SVEL: I-880/SR 237 Express Connectors Project - Phase 1 is on I-880 from Dixon Landing Road to the I-880/SR 237 interchange, and on SR 237 from the interchange to North First Street, converting existing HOV lanes to express lanes included the I-880/SR 237 HOV direct connectors in Milpitas. This project was completed and in operation since March 2012.

SVEL: SR 237 Express Lane Project - Phase 2 is currently in construction and expected to open to traffic in Fall 2019. This project extends the existing express lanes on SR 237 from Phase 1 to Mathilda Avenue interchange in Sunnyvale.

### **Phase 3 and Phase 4 – US 101/SR 85 Express Lanes**

SVEL: US 101/SR 85 Express Lanes Project - Phase 3 is currently in construction and is expected to open to traffic in Summer 2021. Phase 3 implements express lanes on US 101 from the San Mateo County Line in Palo Alto to near the US 101/SR 237 interchange in Sunnyvale, including the conversion of the US 101/SR 85 HOV direct connectors to express connectors in Mountain View.

SVEL: US 101/SR 85 Express Lanes Project - Phase 4, is in final design. Construction is contingent on funding. Phase 4 will implement the express lanes on SR 85 from the SR 85/SR 87 interchange to US 101 through the US 101/SR 85 interchanges in south San Jose, including the conversion of the US 101/SR 85 HOV direct connectors to express connectors.



### **Electronic Toll System**

The electronic toll system (“ETS”) for the express lane facility is proposed to be constructed, managed and maintained by VTA through agreements with Caltrans and other agencies. The ETS would include a combination of electronic toll collection, detection of traffic in the express lanes and mixed flow lanes, video surveillance, violation enforcement system, and enhanced highway patrol enforcement to assure an acceptable level of compliance by express lane users. The express lane facility components could be adjusted as changes in traffic and user compliance warrant along the US 101 corridor within the proposed Project limits. A buffer zone delineated by solid striping to provide the separation between the express lane and the adjacent mixed-flow lanes would be implemented where needed for operational, tolling, and enforcement reasons. Although certain assumptions had been made regarding the placement of buffer zones to date, it is expected that the exact limits of the buffer zones could be updated for potential continuous access where applicable as a result of the Project’s development and decisions.

The development and implementation of ETS for the Project are anticipated to be conducted by VTA in concert with VTA’s selected System Integrator (SI) Contractor, TransCore, through a separate contract. It should be understood that coordination between Proposer(s) selected through this RFP process and VTA’s SI Contractor is critical to the overall success of the SVEL Program.

### **C. PROPOSED PROJECT: SVEL - US 101 PHASE 5**

The proposed Phase 5 Project is from the US 101/I-880 interchange in San Jose to the US 101/SR 237 interchange in Sunnyvale, conforming to the Phase 3 express lanes on US 101. The Project study limits can be seen in **Appendix C - Location Map**. The exact location of logical terminus near I-880 will be analyzed as part of the Project’s development process. The project will focus on the following:

- Conversion of the existing HOV lanes to express lanes in both directions of US 101 from near I-880 to SR 237;
- Addition of a second express lane in both directions of US 101 from near I-880 to Fair Oaks Avenue;
- Addition of an auxiliary lane on northbound US 101 between Lawrence Expressway and Fair Oak Avenue;
- Addition of an auxiliary lane in both directions of US 101 between Great America Parkway and Lawrence Expressway; and
- Widen the Guadalupe River and San Tomas Aquino Creek bridges to accommodate the added second express lane.

### **D. PROJECT ELEMENTS & SCOPE ASSUMPTIONS**

Proposer will review the previously approved Geometric Drawings (“GeDs”) - **Appendix D** and complete a preferred Build Alternative for the Project to support the environmental clearance of the three creek bridges. The Build Alternative will consist of, but are not limited to, alternative



to achieve the most cost-effective solution in providing better traffic operations, optimizing use of existing right-of-way, and best fit for the land use of the surrounding area. The Build Alternative, if applicable, will also: (i) consider a refined evaluation of bicycle and pedestrian access that follows the latest “Complete Streets” policy and guideline; (ii) will accommodate other modes of transportation being planned for the surrounding areas; and (iii) provide better connections to local roads and planned developments in the area. See **Appendix E** for the 2009 VTA’s adopted Multi-Modal Design Practices and Principles. **Appendix F** is the approved 2017 VTA Complete Streets Resolution and Policy. Contractor will also assist VTA in complying with the requirements of reporting as outlined in the 2016 Measure B Complete Streets Reporting Requirements in **Appendix G**.

Proposer will refine geometrics for the proposed improvements using both current available base mapping and new mapping. Proposer will analyze the Build Alternative to quantitatively compare cost, level of delay reduction, traffic operations, safety, design exceptions, environmental impacts, right of way and utility relocation requirements. Proposer will present the findings to VTA, City, Caltrans and stakeholders for review and to reach consensus on the Project Build Alternative. VTA anticipates that this task will be an iterative process.

#### **Environmental Clearance for the Creek Bridges**

In addition to the development of final designs - PS&E under this RFP, Proposer will also prepare environmental technical studies concurrently with PS&E to support the CEQA documents and to comply with the Federal National Environmental Quality Act (“NEPA”) for the creek bridges that require widening. The three (3) creek bridges along US 101 are: Coyote Creek (PM 19.21), Guadalupe River (PM 40.19) (southbound only) and San Tomas Aquino Creek (PM 42.25) (southbound only).

**Appendix H** shows the preliminary exhibits for each of the bridges.

#### **Project Assumptions**

The following assumptions were made in developing the scope of services within this RFP:

- VTA will manage and coordinate the electrical and communication utility services required for the tolling equipment and system infrastructure and the back-office infrastructure. Proposer will assist VTA with coordination with affected utility companies. The cost of preparing and filing the application for new services with PG&E, AT&T, and other power and communications companies is not included in this scope of services and is the responsibility of VTA. Delays from PG&E, AT&T, and other utility owners are outside the control of Proposer and may result in delays in the project schedule. Re-design efforts due to these delays will be subject to future amendments.
- Proposer will provide right-of-way engineering services including the preparation of the Right-of-Way Requirement Maps for all right-of-way, permanent and temporary easements, plats and legal descriptions, Appraisal Maps, Monumentation Maps, Right-of-Way Records Map, Right-of-Way Record of Surveys and other information to VTA necessary to acquire the right-of-way for the Phase 5 Project. Existing right-of-way will be shown on plans based on available right-of-way maps and supplemented by field



surveys of right-of-way, as appropriate. VTA will be responsible for the right-of-way acquisition activities. Proposer will assist VTA in completing draft documentations to obtain right-of-way clearance from Caltrans.

- Other than the work listed in PART II - FINAL DESIGN SCOPE OF SERVICES, the SI oversight work is not included in this contract. The following work is also not included:
  - Participation in the system design and factory testing process.
- Project-related environmental and design activities within Caltrans right-of-way will be performed under the project-level Encroachment Permit (“EP”) that VTA has obtained from Caltrans. It is assumed that this permit will be extended as needed to continue to allow access to Caltrans’ right-of-way. Proposer is required to obtain a Rider to the VTA’s EP at no cost to Proposer.
- Project footprint will not constitute a change in access with the US 101 mainline that would require review and approval by FHWA. Consultation with FHWA will not be required for the approval of the design exceptions fact sheets because US 101 is not part of the interstate system.
- FHWA coordination and consultation is required for the Project as Phase 5 is part of the overall US 101 Express Lanes Corridor, a Major Project that includes requirements noted in the scope of services below.
- Interagency agreements will be developed by VTA with assistance from Proposer.
- VTA staff will make presentations to VTA committees and the VTA Board. Proposer will assist in preparing required materials for those meetings if requested by VTA, which may include PowerPoint presentations.
- This scope does not include a public outreach component. Support from Proposer to VTA staff will be limited to providing the necessary project information for public involvement and outreach activities. This support includes using readily available exhibits and project material used in the process of the project development and does not include preparing new materials such as renderings, video simulations, or elaborate exhibits.
- Replacement of the median barrier (to latest Caltrans standards) outside of the requirements for the express lane system on US 101 will only be required as shown on the plans contained within the Request For Proposal for this final design services (VTA RFP S19160). Overlay and grade correction of the mainline and ramps are not required.
- Ramp modifications are anticipated, but are not limited to, several on- and off-ramps to conform to the new mainline edge of traveled way. The extent of the ramp improvements vary by location and the assumed work is briefly described in the following table:

**Anticipated Modifications to Ramps for Phase 5 Project:**

Direction	Interchange	Ramp	Type of Work
SB	I-880	Diagonal On-Ramp	Realign
SB	I-880	Loop Off-Ramp	Realign
SB 101	I-880	Loop On-Ramp	Realign





SB 101	I-880	Diagonal Off-Ramp	Realign
NB 101	Old Bayshore Hwy	Off-Ramp	Restriping
NB 101	Old Bayshore Hwy	On-Ramp	Modification
SB 101	N 4 <sup>th</sup> Street	On-Ramp	Modification
NB 101	Brokaw Road	Off-Ramp	Restriping
NB 101	Brokaw Road	On-Ramp	Modification
NB 101	De La Cruz Blvd	Off-Ramp	Restriping
SB 101	SR 87	Off-Ramp	Restriping
NB 101	SR 87	On-Ramp	Restriping
SB 101	De La Cruz Blvd	Diagonal On-Ramp	Restriping
SB 101	De La Cruz Blvd	Loop On-Ramp	Modification
NB 101	Montague	Off-Ramp	Restriping
SB 101	Montague	On-Ramp	Restriping
NB 101	Montague	On-Ramp	Restriping
SB 101	Montague	Off-Ramp	Restriping
NB 101	Great America	Off-Ramp	Restriping
SB 101	Great America	Diagonal On-Ramp	Restriping
NB 101	Great America	Loop On-Ramp	Modification
SB 101	Great America	Loop On-Ramp	Modification
NB 101	Great America	Diagonal On-Ramp	Modification
SB 101	Great America	Off-Ramp	Modification
NB 101	Lawrence	Off-Ramp	Restriping
SB 101	Lawrence	Diagonal On-Ramp	Modification
SB 101	Lawrence	Loop On-Ramp	Modification
NB 101	Lawrence	Loop On-Ramp	Modification
NB 101	Lawrence	Diagonal On-Ramp	Modification
SB 101	Lawrence	Off-Ramp	Modification
NB 101	Fair Oaks Avenue	Off-Ramp	Restriping
SB 101	Fair Oaks Avenue	Diagonal On-Ramp	Restriping
SB 101	Fair Oaks Avenue	Loop Off-Ramp	Restriping
SB 101	Fair Oaks Avenue	Loop On-Ramp	Restriping
NB 101	Fair Oaks Avenue	On-Ramp	Restriping
SB 101	Fair Oaks Avenue	Diagonal Off-Ramp	Restriping
NB 101	Mathilda Avenue	Diagonal Off-Ramp	Restriping
SB 101	Mathilda Avenue	Off-Ramp	Restriping
SB 101	SR 237	On-Ramp	Restriping
SB 101	SR 237	Off-Ramp	Restriping
NB 101	SR 237	Off-Ramp	Restriping
NB 101	SR 237	On-Ramp	Restriping

- Restriping of the on- and off-ramps on US 101 to conform to the new mainline edge of traveled way is also assumed.



- New retaining walls within the Phase 5 Project are anticipated and briefly described in the following table:

Control Line	Station		Location	Wall Height	Length
	From	To		Feet	Feet
"A"	1329+25	1335+35	Rt	6	610
"A"	1340+00	1341+05	Lt	6	105
"A"	1341+05	1341+75	Lt	6	70
"A"	1358+80	1374+10	Lt	5	1530
"A"	1490+40	1491+75	Lt	6	135
"A"	1490+45	1491+80	Rt	6	135

- Ramp Metering/Traffic Operation System (“TOS”) assumptions are as follows: TOS equipment such as traffic monitoring stations, closed circuit television (“CCTV”), cameras, cabinets, and controllers are proposed for the outside edge of pavement within the existing right-of-way, if feasible. Existing loops, conduits, and pull boxes may be replaced or relocated as a result of the widening and shifting of lane lines. Maintenance Vehicle Pullouts (“MVPs”) are proposed for the shoulder areas to allow access to the TOS equipment. The specific locations of these features will need to be developed in conjunction with Caltrans.
- Based on consultation between the Project Development Team and Caltrans Landscape Unit during the PA/ED phase, it was determined that a landscaping concept plan would not be required. However, the Phase 5 Project assumes to restore or replace in-kind landscaping and irrigation systems that are impacted by the Phase 5 Project due to the installations of new overhead sign foundations, electrical conduits and cabinets for ETS, and addition of roadway widening and MVPs. Proposer will obtain available landscape and irrigation as-built plans within the Phase 5 Project limits from Caltrans. Existing highway planting is to be protected from the various impacts during construction where feasible. Proposer is to designate construction staging areas that avoid or minimize impacting existing highway planting.
- It is assumed that new sound walls will not be required within the Phase 5 Project limits. A noise abatement analysis was conducted that identified the feasibility of constructing or replacing noise barriers to reduce traffic noise levels. None of the sound walls evaluated during the PA/ED Phase met the feasibility and reasonableness criteria.
- Even though pedestrian and bicycle facilities exist along the local street interchanges within the Phase 5 Project limits, it is assumed any new pedestrian or bicycle facilities and/or modification to existing ones are not required for this Phase 5 Project.
- Bridge widening and modifications to bridge abutments required for the Phase 5 Project are detailed in the PR.





- Permanent right-of-way acquisitions are not anticipated. All proposed improvements for the Phase 5 Project are proposed to be constructed within the existing right-of-way. However, during design, Proposer will identify potential temporary or permanent easements. Example of possible permanent easement would be the placement of controller cabinet outside of Caltrans right-of-way and within adjacent public right-of-way due to space constraints.
- The ETS for the express lane facility is proposed to be designed, constructed, managed and maintained by VTA through a separate contract with VTA’s selected SI, TransCore, and a number of agreements with Caltrans and other agencies. The ETS would include a combination of electronic toll collection, detection of traffic in the express lanes and mixed flow lanes, video surveillance, VES and enhanced highway patrol enforcement to assure an acceptable level of compliance by express lane users. It is understood that coordination between Proposer and VTA’s SI Contractor is critical to the overall success of the SVEL Program.
- Utility relocations will be necessary where there is a conflict with the proposed improvements. Every effort will be made to minimize utility conflicts and relocations. It is assumed that utility relocations will be done prior to Phase 5 Project construction.

	Facility	Owner	State Obligation	Local Obligation	Utility Owner Obligation
A.	6" distribution gas in 8" casing (extend casing), station "A" 1410+50	PG&E	\$0	\$30,000	\$30,000
B.	20" water in 36" casing (extend casing), station "A" 1465+30	City of Santa Clara	\$0	\$80,000	\$0
C.	U/G electric in 48" casing (extend casing), station "A" 1494+70	City of Santa Clara	\$0	\$330,000	\$0
D.	12" water in casing (extend casing), station "A" 1510+70	City of Santa Clara	\$0	\$80,000	\$0
E.	12" Recycled water in 24" casing (extend casing), station "A" 1512+20	City of Santa Clara	\$0	\$80,000	\$0
F.	33" VCP sanitary sewer in 48" casing (extend casing), station "A" 1548+50	City of Sunnyvale	\$0	\$120,000	\$0
G.	20" transmission gas in 30" casing (extend casing), station "A" 1551+70	PG&E	\$0	\$90,000	\$0
H.	10" transmission gas in 16" casing (extend casing), station "A" 1551+90	PG&E	\$0	\$70,000	\$0
I.	18" water in 30" casing (extend casing), station "A" 1551+30	City of Sunnyvale	\$0	\$80,000	\$0
J.	4" distribution gas in 8" casing (extend casing), station "A" 1638+70	PG&E	\$0	\$30,000	\$30,000
Totals			\$0	\$990,000	\$60,000



## **E. FINAL DESIGN SCOPE OF SERVICES**

Proposer will provide engineering services for the Phase 5 Project, including all fieldwork, investigations, special studies, environmental clearance, preliminary design and completion of the PS&E phase.

Proposer will perform all Services in accordance with the standards outlined below:

### **APPLICABLE STANDARDS**

The documents, reports, and PS&E will be prepared in accordance with Caltrans' regulations, policies, procedures, manuals and standards, including compliance with FHWA requirements. The standards described below in a through j are not all-inclusive, but are intended only to illustrate types of sources.

- a. Roadway design must be in accordance with the latest editions, if applicable, of the Caltrans Highway Design Manual, the Caltrans Highway Design Standard Plans, Caltrans Standard Specifications, and the California Manual on Uniform Traffic Control Devices.
- b. Plans must be prepared in conformance with the latest editions of the Caltrans Plans Preparation Manual and the Caltrans CADD User's Manual.
- c. All surveys must conform to the current Caltrans Surveys Manual. Horizontal datum to be CCS 83, Epoch 2010.00 (California Coordinate System, North America Datum, 1983) and vertical datum to be NAVD 88 (North American Vertical Datum of 1988).
- d. All field and laboratory testing for geotechnical investigations must be performed and the Materials Report will be prepared in conformance with current editions of the Guidelines for Geotechnical Design Reports.
- e. Bridge plans, specifications, estimate and calculations must be in accordance with the Caltrans Division of Structures ("DOS") Bridge Design Details Manual, Bridge Design Aids Manual, Bridge Memos to Designers, Bridge Design Specifications, Improved Seismic Design Criteria for California Bridges, and the latest Seismic Design Criteria ("SDC").
- f. Design of improvements which impact existing or proposed underground utilities must conform to Caltrans Policy on High and Low Risk Underground Facilities Within Highway Right-of-Way.
- g. All right-of-way maps must conform to the current Caltrans Right-of-Way Manual. Design of the Phase 5 Project must be performed in accordance with Caltrans standards and practices. Any exceptions to applicable design standards must be approved by Caltrans via the process outlined in Caltrans Highway Design Manual and applicable memorandums and design bulletins published by Caltrans.



- h. All designs for the constructed improvements within the City right-of-way must conform to the City Standard Plans, Guidelines, Policy and Procedure, and City Ordinances.
- i. All designs for the constructed improvements must conform to FHWA requirements.
- j. All constructed improvements will be consistent with “Complete Streets” best practices in order to improve bicycle, pedestrian, and transit elements of the system. Design of bicycle improvements must comply with most recent version of VTA Bicycle Technical Guidelines (“BTG”).

The Scope of Services for the Phase 5 Project is divided into nine (9) tasks, numbered 1 through 9, as identified below.

Proposer will complete the following PS&E phase tasks:

- TASK 1. Project Management
- TASK 2. Environmental Clearance for Creek Bridges
- TASK 3. Final Design (35% PS&E)
- TASK 4. Final Design – Unchecked (65% PS&E)
- TASK 5. Final Design – Engineering Reports
- TASK 6. Final Design – Checked (95% PS&E)
- TASK 7. Final Design – 100% PS&E
- TASK 8. District 4/Caltrans Headquarters/VTA Final Review
- TASK 9. Construction Bidding Services

### **TASK 1: PROJECT MANAGEMENT**

Proposer will provide project management for each task for the entire duration of the Contract schedule as specified in **Appendix I** - Preliminary Milestone Schedule. The Proposer’s design documents will be bid-ready and constructible in accordance with Caltrans’ approved standards. The Proposer’s project management activities will consist of administration, coordination, supervision, project controls, attending meetings, and quality assurance and control as stated in the following:

#### **1.1 Project Administration/Project Coordination**

Proposer will perform the following project administrative duties:



- Prepare and submit monthly progress reports that will identify work performed on each task in the preceding month. Percent complete compared to percentages billed for each task will be shown.
- Prepare a monthly summary of total charges made to each task. This summary will present the Contract budget for each task, reallocated budget amounts, prior billing amount, current billing, total billed to date, and a total percent billed to date. An Engineering Progress and Performance Report (“EPPR”) or equivalent earned value analysis documentation will be attached as back-up sheets, which will include the Proposer’s charges to each sub-task with an estimated percent complete of work.
- Provide a summary table indicating the amount of firm participation each month based upon current billing and total billed to date.
- Provide a monthly invoice by task that will present charges by staff member at agreed to hourly rates, expense charges, and subcontractor charges. Support documentation for Proposer’s direct expenses and other charges will be attached.
- Prepare and submit quarterly Disadvantaged Business Enterprise (“DBE”) Utilization reports and Final DBE Utilization report.
- Prepare additional services proposal, as requested by VTA.

Proposer will not perform any extra work without prior written authorization from VTA.

Proposer will coordinate with other agencies, as required by VTA, for project development. Proposer will coordinate planning and preliminary design effort with team members as directed by VTA, including, but not limited to the following:

- VTA and its consultants
- SI Contractor, TransCore
- Caltrans (all offices, departments, divisions and groups as directed by Caltrans Project Development, including Caltrans Division of Structures (“DOS”))
- FHWA
- Federal Air Administration (“FAA”)
- Santa Clara Roads and Airport Department
- Santa Clara Valley Water District
- Mineta San Jose International Airport
- Cities (San Jose, Santa Clara, and Sunnyvale)
- Public Utility Commission
- Affected utility companies including railroad companies
- Private property owners

Proposer will coordinate with other projects that are under development by VTA, Caltrans, County, and the City as required for project development. Proposer will coordinate design efforts with other team members of other projects, including, but not limited to the following:

- US 101/SR85 Express Lanes – Phase 3 Project



- US 101/De La Cruz Blvd/Trimble Rd I/C Improvement Project
- US 101/Zanker Road Interchange Improvement Project
- Double Lane Southbound US 101 off-ramp to Southbound SR 87 Project
- County’s and City’s projects
- Caltrans’ US 101 Restriping Project
- Private developments planned and/or constructed within/adjacent to the Phase 5 Project footprint

### 1.2 Project Management and Control

As part of its project management and control activities, Proposer will:

- Supervise, coordinate, and monitor activities and product development for conformance with Caltrans, VTA, FHWA, County and City standards and policies;
- Maintain compliance with other codes and standards as acceptable to Caltrans, City, and as approved by VTA;
- Prior to start of any work, Proposer will interface with Caltrans and City staff to establish and maintain format consistency of all deliverable(s). Any deviation from the agreed-upon format will be Proposer’s responsibility, and no compensation will be permitted for such deviations;
- Coordinate in-house staff and subcontractors to assure free and timely flow of information for each task activity;
- Maintain project files in accordance with Caltrans' Uniform Filing System;
- Prepare a detailed Critical Path Method (“CPM”) schedule to reflect plan and progress of work and serve as a master schedule for the Phase 5 Project. Proposer will submit an updated electronic file schedule to VTA on a monthly basis to include key milestones and work completed;
- Prepare and maintain an Action Item Log;
- Prepare and maintain Data Request Log;
- Prepare and maintain a Submittals Registry Log, which will include scheduled and actual submittal dates, review periods, and receipt of comments;
- Prepare Risk Register and Risk Management Plan in accordance with Caltrans guidelines and requirements; and
- If required, Proposer will assist VTA with the preparation of any other required documentation such as cooperative activities or activities such as public outreach support that are needed for the Phase 5 Project.

### 1.3 Meeting Preparation and Attendance

Proposer will under VTA direction:

- Prepare for and attend monthly Project Development Team (“PDT”) meetings. Proposer will arrange meetings, provide discussion material, and prepare minutes;
- If required by VTA, conduct bi-weekly project coordination conference calls with VTA on critical issues;



- Prepare and submit meeting agendas to VTA one (1) week prior to the relevant meeting date. Prepare and distribute draft meeting minutes for VTA review within ten (10) working days after each meeting and allow two (2) weeks for receipt of any comments. Prepare and distribute final meeting minutes to the PDT incorporating relevant comments received on draft meeting minutes;
- Coordinate design workshop meetings with VTA, Caltrans, City, and other agencies to resolve outstanding issues;
- If requested by VTA, provide support for meetings with the VTA Technical Advisory Committee (TAC), the VTA Congestion Management Program and Planning (CMPP) standing committee, City Council meetings, and executive level meetings with VTA, Caltrans and others; and
- Prepare for and attend study sessions, stakeholder meetings, and City Council meetings as requested by VTA.

#### 1.4 Develop and Maintain a Quality Management Plan (“QMP”) and Procedures

Proposer will establish and maintain a QMP and Procedures that meet VTA’s QA Program requirements, and conduct independent quality review of reports, plans, specifications, calculations, estimate and other required deliverables. Proposer will:

- Within twenty (20) calendar days of the Contract Effective Date, update and submit the QMP for the Phase 5 Project for VTA’s approval, and within such QMP propose to implement the requirements of the Contract.
- Assure promulgation of and strict adherence to the VTA approved QMP and Procedures in the conduct of the work;
- Require that its subcontractors subscribe to Proposer’s approved QMP. Any waiver of this requirement must be approved in writing by the VTA QA Manager. If VTA grants a waiver of this requirement, the proposed substitute QMP must be approved and certified by Proposer as meeting VTA’s QA Program requirements; and
- Convene and document Quality Reviews, and make findings and corrective actions available for VTA’s review.

Proposer’s approach to quality will meet or exceed industry standards and practices and those of VTA’s QA Program requirements. Proposer will establish and maintain a QMP as part of the work plan. Proposer’s QMP will establish a process to ensure:

- 1) Quality control procedures strictly adhere to the approved Contractor’s QMP, and such procedures are properly documented throughout the entire course of the work;
- 2) Independent checking (check, back-check, and verification) of calculations, plans, specifications, and estimates;
- 3) Distribution of all Phase 5 Project correspondence and memoranda to appropriate personnel;
- 4) Those personnel responsible for assuring quality are independent of those having direct responsibility for the work being performed;



- 5) Proposer’s Discipline/Task Managers approve and certify that required intra-disciplinary review (refers to internal (independent check) process within each discipline) and quality control activities are satisfactorily performed prior to submittal to Proposer;
- 6) Proposer’s Project Manager approves and certifies that required inter-disciplinary review (refers to external review process between disciplines that are conducted to ensure proper interface/continuity and to prevent conflicts among various disciplines) and above requirements are satisfactorily performed prior to submittal to VTA or other approving agencies (Caltrans and City); and
- 7) Proposer’s Quality Assurance/Quality Control Manager conducts and documents random audits of Contractor’s and subcontractors’ work to check and certify compliance with the approved QMP.

The QMP will also establish a means to (i) evaluate quality of the interface/integration and (ii) confirm that conflicts do not exist in areas where various items of work are shown on several discipline drawings.

Proposer will verify that all design is accomplished in accordance with appropriate design criteria and required processes.

Proposer will conduct and document periodic audits of the project team (Contractor and subcontractors), and participate in VTA Quality Assurance Audits prior to submitting design for conformance with Contract requirements, design criteria, constructability, and other quality standards.

#### 1.5 FHWA Major Project Delivery – Project Management Plan and Cost Estimate Review

Proposer will assist VTA in the development of a Project Management Plan (“PMP”) in compliance with FHWA’s requirements for the US 101 Express Lanes corridor. Proposer will prepare and maintain the PMP to define how the Phase 5 Project is to be executed, monitored and controlled.

In addition, Proposer will provide an updated cost estimate for the corridor, with detailed costs for each segment of the corridor including the Phase 5 project. Proposer will attend the Cost Estimate Review (“CER”) as required to obtain FHWA approval.

#### **Task 1 Deliverables**

- Detailed CPM design schedule, with monthly updates
- Meeting agendas and draft/final meeting minutes
- Action Item Log
- Data Request Log
- Submittal Registry Log
- Invoices and progress reports, including EPPR
- DBE Quarterly and Final Utilization Reports
- Quality Management Plan
- FHWA Project Management Plan





- Risk Management Plan and Risk Registry
- Project Management Plan

## **TASK 2: ENVIRONMENTAL CLEARANCE FOR CREEK BRIDGES**

### 2.1 Environmental Clearance – Creek Bridges

Proposer will prepare supplemental environmental technical studies to support the CEQA and NEPA documents for the widening of three creek bridges, specifically along US 101 at Coyote Creek (PM 19.21), Guadalupe River (PM 40.19) (southbound only) and San Tomas Aquino Creek (PM 42.25) (southbound only). Proposer will review the approved US 101 Express Lanes Project Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact (EA 2G7100) to determine the required supplemental studies assessing the biological and cultural impacts. Environmental permits are anticipated.

### 2.2 Environmental Revalidation

Proposer will provide NEPA/CEQA revalidation services if necessary during the PS&E phase. It is assumed that the necessary NEPA/CEQA component will consist of preparing one revalidation document, as necessary, in accordance with Caltrans' Standard Environmental Reference. The purpose of the revalidation is to document any changes to the Phase 5 Project that have occurred subsequent to the NEPA/CEQA document approval and to determine if those changes will affect the conclusions of the previously completed environmental analyses. Proposer will review the proposed changes and ascertain that those changes will not warrant further study, and will not require preparing addenda to the environmental studies already completed during the PA/ED phase. All of this information will be summarized in the revalidation using the format contained in the Standard Environmental Reference. Proposer will submit the revalidation document to Caltrans, respond to Caltrans comments, and make the final revisions based on the comment resolutions agreed to with Caltrans. It is assumed two rounds of review (draft and final) for the revalidation documents are included in this scope of services and that the revalidation process does not entail a public review or circulation period.

## **TASK 3: FINAL DESIGN – 35% PS&E**

The purpose of Task 3, 35% PS&E, is to identify preliminary right-of-way, utilities easements, preliminary construction quantities, cost estimates, and permit requirements for the Phase 5 Project, including highway and structures. Deviations will be reconciled with the current VTA budget.

Proposer activities will include, but are not limited to, the following:

### 3.1 Highway Plan Sheets

Proposer will prepare, coordinate and submit Design Plan Sheets in English units for all highway design and assure that interface information is provided to the other design contractors. Proposer will prepare the following design plans and reports:





- 3.1.1 Title Sheet, Key Map, and Line Index - these sheets will be based on the proposed Phase 5 Project improvements.
- 3.1.2 Typical Cross Sections - these sheets will be based on the approved standard sections, including existing and proposed pavement structural sections.
- 3.1.3 Layout – these sheets will be prepared at 1"=50' scale on 22"x34" plan sheets with control line, existing right of way, and all basic layout information and identify proposed roadway improvements.
- 3.1.4 Profiles/Superelevation Diagrams - these sheets will be prepared per Caltrans standards. It is anticipated that mainline vertical design data will be detailed on pavement elevation sheets.
- 3.1.5 Drainage Plans, Profiles, Details & Quantities
- 3.1.6 Utility Plans and Details – Proposer will identify, propose final locations for, and prepare plans for utilities, which are affected by the Phase 5 Project, such as water, sewer, gas, electric, cable TV, and telephone per Caltrans standard Utility Occupation Plans. VTA will prepare the utility agreements and will provide utility coordination services.
- 3.1.7 Pavement Delineation & Sign Plans - these sheets will be prepared at 1"=50' scale. Field survey and develop relevant inventory of existing signs and confirm with as-builts. Develop plans depicting relevant signs within the Phase 5 Project limits at 1"=50' scale. Sign Sheets will be prepared based on the inventory of existing signs. A visual field survey will be performed to develop an inventory of existing signs and confirm as-built conditions. Develop plans depicting all signs required within the Phase 5 Project limits.
- 3.1.8 Electrical Plans and Toll Infrastructure Plans – Proposer will obtain electronic base plans and as-built electrical plans for the Phase 5 Project. Using the obtained information, Proposer will prepare electrical plans and quantities for highway lighting, overhead sign illumination for “One Mile Ahead” and action signs, CCTV, Dynamic Message Sign (“DMS”), Violation Enforcement System (“VES”) and Tolling Detection System (“TDE”, also known as Gantry System) at each of the express lanes entrances/exits. The electrical plans will also include Vehicle Detector Stations (“VDS”) and Microwave Vehicle Detection System (“MVDS”) at every mile along the express lane. The electrical plan will include pull boxes, conduits, conductors, electrical and telephone service conduits, detector lead-in cables, electrical service conductors, controller cabinets and service cabinets but exclude the following items, which will be specified by the System Integrator (SI):
- CCTV communication conductors and units
  - DMS communication conductors and units



- VES communication conductors and units
- TDE communication conductors and units
- VDS and MVDS communication conductors and units
- Other communication cabling

The cost of preparing and filing the application for new services with PG&E, AT&T, and other power and communications companies is not included in this scope of services and is the responsibility of VTA.

For the electrical, lighting, and toll infrastructure plans, it is assumed that:

- The total numbers of sign structures for overhead signs and variable message signs will remain approximately the same as the number of overhead (“OH”) signs shown on the preliminary design plans prepared during the PA/ED phase.
- Express lane lighting will be installed as needed at various locations along the highway.
- CCTV will be installed in advance of each Variable Toll Message Sign (“VTMS”) and as needed at other locations to monitor traffic along the highway.
- VES pole will be installed in advance of toll reader.
- VDS will be installed along the highway to monitor the freeway and express lane traffic to determine the toll.
- The design of the LED sign will indicate that the ETS equipment will be provided by the SI.
- Toll Reader detection devices and communication cable (including fiber optic cable and phone lines) will be designed and installed by the SI. Proposer plans will include conduits only.
- Proposer will identify possible telephone service point locations and coordinate the preferred connection points with the SI. Proposer is responsible for locating the electrical service points only and providing electrical services to the ETS equipment.

The following design plan sheets will not be required for 35% PS&E. These sheets will be included in Task 4 and subsequent tasks.

3.1.9 Construction Details

3.1.10 Temporary Water Pollution Plans & Quantities

3.1.11 Erosion Control Plans, Details & Quantities



3.1.12 Contour Grading

3.1.13 Construction Area Signs

3.1.14 Stage Construction Plans

3.1.15 Traffic Handling Plans & Quantities

3.1.16 Summary of Quantities

3.1.17 Erosion Control Plans, Details & Quantities

3.1.18 Retaining Wall Layout

3.1.19 Structure Plans. Proposer will provide plans to widen Guadalupe River (southbound only) and San Tomas Aquino Creek (southbound only) bridges.

3.1.20 Other pertinent plans. Proposer will be fully responsible for preparing and submitting an adequate number and type of plans in order to receive Caltrans' and other agencies' comments early in the design phase to minimize change in subsequent tasks.

3.2 Bridge General Plan (“GP”) – Proposer will interface with Caltrans' Project Development and Caltrans DOS to update the approved Advance Planning Study as required by Caltrans and prepare the GP for Caltrans approval.

3.3 Cost Estimate and Specification Outline – Proposer will prepare Basic Engineering Estimate System (“BEES”) level cost estimate and technical specifications outline.

Proposer will prepare preliminary construction quantity estimates for the Phase 5 Project, including highways and structures. Proposer's estimates will be prepared using a format acceptable to VTA and Caltrans District 4 and will be in accordance with Article 3, Project Estimate of Cost, of the PS&E Guide, latest version. These will be based upon the Caltrans' Standard Items of Work, with items added if necessary. Proposer's cost estimate will identify construction work items and quantities and unit costs and will summarize the estimated total Phase 5 Project cost, including allowances for supplemental work, VTA furnished materials, expenses, mobilization and contingencies.

3.4 Right-of-Way (R/W) Engineering

Proposer will be responsible for interfacing and coordinating selected right-of-way activities with VTA's R/W Engineering Consultant for the Phase 5 Project. Proposer will coordinate with VTA to update the right-of-way information shown on the plans.

3.4.1 Proposer will perform the following R/W activities:

- Determine all right-of-way needs for the Phase 5 Project, including easements



- (permanent and temporary as required), utilities and acquisition information and other right-of-way information necessary to complete the Phase 5 Project. Prepare drawings and exhibits necessary for right-of-way engineering, including the preparation of: Right-of Way Requirement Maps for all right-of-way needs, permanent and temporary easements, Right-of-Way Record Maps, Record of Surveys, Monumentation, Appraisal Maps, Plats and Legal Descriptions, and other information necessary to acquire the rights-of-way for the Phase 5 Project. Attend focused meetings with VTA to discuss utility and right-of-way related issues. Details of right-of-way needs within Phase 5 Project limits can be found in the PR.
- Communicate to VTA in a timely manner any change in design, which may have an impact on the right-of-way and acquisition process.
  - Include permit requirements in the Right-of-Way Certification.
  - Identify utility issues (relocation, notices, if required).
  - In accordance with VTA instructions, prepare the following documents for parcels, utilities, and construction and utility easements affected by the Phase 5 Project:
    - 1) Right-of-Way Data Sheet
    - 2) Utilities review checklist
    - 3) Right-of-Way status sheet
    - 4) Right-of-Way Requirement Maps
    - 5) Plats and Legal Descriptions for all new right-of-way including permanent and temporary easement, if required
    - 6) Appraisal Maps
    - 7) Right-of-Way Record Maps
    - 8) Record of Surveys
    - 9) Monumentation
  - Communicate with Caltrans and VTA to include proper dates into the certification for acquisitions, condemnations, clearances and other right-of-way related issues that may have an impact on the design schedule.
  - Review 100% plans to identify necessary right-of-way caused by the proposed construction.

3.4.2 Proposer will prepare the draft Right-of-Way Certification to ensure that all parcels which are required for the construction of the Phase 5 Project are included in the certification. Proposer will submit the draft Right-of-Way Certification for VTA review.

Proposer will review final Right-of-Way Certification when the plans are complete and all outstanding utility issues (notices, clearances, etc.) are complete. VTA is responsible for obtaining Caltrans approval of the Right-of-Certification with Contractor's inputs.

Proposer will also need to prepare, sign, and submit the Utility Certification documents to VTA. Proposer will assure that sufficiency of right-of-way has been secured early



enough in design to not impact the Phase 5 Project schedule during construction. Proposer will review and sign the right-of-way Sufficiency Certificate.

3.4.3 Work performed by VTA and others will include the following activities:

- Permit coordination
- Utility coordination
- Acquisition
- Right-of-Way coordination

### 3.5 Utility Design Process

Proposer will be responsible for interfacing utility design coordination with VTA's Utility Coordinator ("UC"), and the Cities of San Jose, Santa Clara, and Sunnyvale. Proposer will coordinate with UC to provide current utility information on plans and documents that are prepared by Proposer.

Proposer will perform the following work activities:

- Communicate with VTA's UC to identify utility issues (relocation and notices).
- Prepare input for utility notices.
- Accomplish potholing and verifications, including providing horizontal and vertical survey.
- Provide utility notices and potholing information in compliance with Caltrans' utility requirements.
- Communicate with right-of-way and VTA's UC to ensure inclusion of the proper utility permit requirements and other utility data for R/W certification and design.
- Address necessary utility impacts caused by the proposed construction.
- Prepare input for utility agreements.
- Develop utility plans.
- Promptly review and comment on utility notices and agreements.

### 3.6 Utility Coordination Responsibilities

3.6.1 Proposer has sole responsibility to communicate the scope or scope changes of the Phase 5 Project to private (PG&E, AT&T, Verizon, Sprint, Etc. (i.e. non-public utilities)) and public (City of San Jose Storm Drain, City Santa Clara Sanitary Sewer, Etc.) utility owners and collect applicable utility as-built plans, and/or record maps for existing and abandoned facilities that may not have been collected during the Preliminary Design Phase.

- Proposer will contact the VTA Utility Coordination Manager at (408) 321-5871 for the name and contact information of the VTA UC assigned to the Phase 5 Project.
- Proposer will provide the UC with a copy of all newly acquired utility as-built plans



and record maps.

- UC will assist in expediting receipt of as-built plans from private utility owners.

3.6.2 UC will provide Proposer with most recent utility owner contact information that VTA may have on file. Proposer will convey to UC updated contact information so that VTA can update master list. Proposer will contact USA North for a list of utility owners that USA North has on record in the area of the scope of the Phase 5 Project.

3.6.3 Proposer has sole responsibility for reviewing, further developing, and/or creating the final composite utility plan that identifies all known existing and abandoned private and public utilities located within the scope of the Phase 5 Project.

- The composite utility plan will be based on utility as-built plans, record maps, etc., and Proposer's field survey of visible above-ground utility facilities, such as manholes, valve boxes, and utility poles.
- Further development of the Composite Utility Plans will include but is not limited to the following: the use of surface geophysical techniques to determine the existence of horizontal position of underground utilities and the use of nondestructive digging equipment at critical points (pothole) to determine the precise horizontal and vertical position of underground utilities, as well as the type, size, condition, material, and other characteristics.
- Proposer and UC, with the VTA Project Manager's ("VTA PM") concurrence, will determine extent of pothole requirements.

3.6.4 Proposer has sole responsibility to create and/or finalize the development of the Master Utility Inventory Matrix ("Matrix") that identifies utilities that are known to be located within the scope of the Phase 5 Project. The Matrix will include but is not limited to the following:

- Utility type and size
- Owner
- Stationing
- Resolution, such as relocate, protect in place, abandon, lower, and remove.
- Property Rights, such as franchise, easement, and license agreement.
- Comments section

3.6.5 UC will develop and process utility relocation and new service agreements with private utility owners for utility engineering support, final design and/or construction, as necessary.

3.6.6 Proposer will coordinate meetings with the private and public utility owners to discuss and review potential utility conflicts, relocation and/or new service design issues.

- The PM and the UC will be invited to meetings.



- Proposer will record, maintain, and distribute meeting minutes and action item lists.
- Proposer may assist in coordinating the meetings.

3.6.7 Proposer will “copy” VTA PM and UC with all correspondence that is sent to private and public utility owners.

3.6.8 Proposer will further develop and/or finalize the following:

- Composite utility relocation plan
- Utility relocation budget
- Utility relocation schedule

3.6.9 Proposer will develop, perform and demonstrate to the UC Proposer’s quality assurance and quality control (“QA/QC”) processes used to develop or finalize the Composite Utility Plan. The Composite Utility Plan QA/QC process will include, but is not limited to the following:

- Proposer will review the utility as-built plans with the UC.
- Proposer will perform an on-site Phase 5 Project walkthrough with the UC.
- Proposer will review the Composite Utility Plan with the UC.

3.6.10 The UC will issue letters requesting private utility owners to commence with utility relocation design and request detailed cost estimates and utility relocation schedule. Proposer will provide the UC with design submittal drawings for distribution to utility owners.

3.6.11 Proposer will manually or electronically plot existing utility owners’ easements or other property rights (License and Permit) and finalize new utility easements/property rights and transcribe them onto the composite utility plans.

- Proposer will request copies of agreements, appraisal maps, and legal descriptions from VTA Real Estate, via the VTA PM.
- Proposer will request utility owners to submit evidence of their easements or other property rights.
- Proposer will obtain written verification from each of the utility owners that the property rights for their respective facilities have been accurately depicted.
- Proposer will coordinate with utility owners and VTA regarding their request for temporary construction easements (“TCEs”), staging areas and access rights to the Phase 5 Project.

3.6.12 Proposer will create a plan to integrate Proposer’s design process with the underground engineering (utility relocation plans) prepared by private utility owners. Proposer has responsibility to review the private utility owners’ utility relocation plans, identify any





betterments, and verify that the plans accommodate the Phase 5 Project. Proposer will review private utility owners' Utility Relocation Plans with the UC.

- 3.6.13 Proposer will assist VTA in coordinating with San Francisco Public Utilities Commission (SFPUC) to obtain approval of improvements within the SFPUC's right-of-way. SFPUC's right-of-way crosses US 101 north of Mathilda Avenue, and all improvements within the right-of-way will require a Letter of Consent. Proposer will prepare the Project Review Application, attend Project Review Meeting and provide necessary exhibits and plans to obtain approval of work from SFPUC.

### 3.7 Express Lanes Access Evaluation

The Build Alternative defined during the PA/ED phase assumed a limited access configuration where access to/from the express lanes would occur through a series of combined entry/exit points. The preliminary locations and lengths of these access points were selected to serve, in order of priority, the freeway-to-freeway interchanges, the major arterials, and the local streets. The introduction of the buffer striping was based on requirements for traffic operations, safety, tolling, and enforcement. The objective of this task as part of the final design phase is to evaluate the proposed access locations and verify whether the original assumptions are valid with the phasing of the Phase 5 Project.

It is assumed that the modifications to the recommended alternative as a result of Caltrans revised Traffic Operations Policy Directive will require re-evaluation of the facility to a more continuous access facility. This scope also assumes the express lanes access evaluation task will be completed in parallel with the 35% design task and the results will be incorporated in the 65% design plans. Such activities include meetings, data collection, and documentation.

This task consists of four primary subtasks:

- 3.7.1 Subtask 1: Summarize the key results and findings from the PA/ED analysis. While this subtask will focus on the analysis for the 2025 Build scenario from the PA/ED phase, it should also consider both the 2045 Build results and the No Build scenario. The former is important to help understand possible longer-term implications of any changes to the access design. Examination of the No Build results is valuable not only to provide insights into operations under a more open access configuration, but also under different demand conditions where the middle segments of SR 85 and US 101 remain a single-lane HOV. During the PA/ED phase, it was found that the conversion to express operation, but more importantly the addition of a second express lane in each direction through the significant portions of both the SR 85 and US 101 corridors, resulted in a significant change in demand along the corridor. Because these improvements would not be put in place with the implementation of Phases 3 and 4, it may be valuable to assess any access changes in the context of a No Build demand condition.

As part of this subtask, it is proposed that a limited data collection and field observation effort be conducted to verify current operating conditions relative to the "existing"





conditions defined during the PA/ED phase. For US 101, 2010 data were generally used to describe existing conditions. Travel demands have changed and roadway improvements implemented in the intervening years. As part of this effort, AM and PM peak period mainline counts, with a breakdown between general purpose and HOV lanes, will be conducted at up to five locations. Field observations will also be conducted to confirm current bottleneck locations and congestion patterns.

Proposer will summarize in a technical memorandum the key results and findings from the PA/ED analysis. A draft memo will be provided for review by VTA and other stakeholders. Based on comments received, Proposer will prepare a final technical memo.

Proposer will coordinate and hold two meetings with key stakeholders to discuss the findings of this technical memorandum.

- 3.7.2 Subtask 2: Identify potential design refinements. Using the insights from the prior subtask, Proposer will develop possible refinements to the access design to be considered for further evaluation. A focus will be placed on the relationship between the currently-defined access zones and forecasted bottleneck locations, recognizing a desire to locate the access zones away from the bottlenecks, and ideally beyond major queues. Consideration will also be given to a more continuous access configuration, especially in the uncongested areas. As part of this effort, Proposer's team will solicit input from key stakeholders, including VTA and Caltrans.

Proposer will identify the potential refinements, and supporting reasoning, to be documented in a technical memorandum. This memorandum will cover both Phases and will specify the access refinements to be examined in the next subtask. Proposer will provide a draft memorandum for review by VTA and other stakeholders. Based on comments received, Proposer will prepare a final technical memorandum.

Proposer will coordinate and hold two meetings with key stakeholders to review and discuss the potential refinements.

- 3.7.3 Subtask 3: Evaluate potential refinements. Following agreement on the potential refinements to be carried forward (up to two design refinement options), Proposer's team will evaluate the proposed refinements. Consistent with the PA/ED phase, this assessment will take into account geometric, safety, environmental, accessibility, and traffic operational considerations. With respect to the latter, the RFP states a preference that the operational evaluation be conducted using traffic operations tools other than simulation tools to facilitate quicker delivery of this evaluation.

With this in mind, the proposed approach de-emphasizes conducting additional micro-simulation model runs, and emphasizes using the results from the PA/ED phase to interpolate the expected operating conditions under the proposed access refinements. The results from both the Build and No Build alternatives must be used to provide



insights into possible operations under different access scenarios. As appropriate, spreadsheet-based tools, and possibly macroscopic models such as FREQ, will be utilized to estimate potential changes in operations includes flows and queue lengths. However, it is also proposed that application of the available VISSIM micro-simulation models remain a consideration for conducting this evaluation where it may be appropriate, and can be done efficiently and effectively.

This operational analysis must focus on near-term (2025) conditions to assess the potential implications of the design refinements and project phasing. However, consideration must also be given to longer-term conditions, and possible implications with implementation of all phases.

Proposer will evaluate potential refinements to be carried forward (up to two design refinement options). Proposer will provide preliminary evaluation results to the key stakeholders and meet with them to discuss prior to finalizing the results.

Proposer will coordinate and hold two meetings with the key stakeholders to review and discuss the evaluation results.

- 3.7.4 Document results: Proposer will consolidate the results from the prior subtasks into a single, comprehensive technical memorandum for review by the key stakeholders. Proposer will then meet with the stakeholders to discuss and resolve any comments. Based on comments received, a final technical memorandum will be prepared and submitted for VTA and Caltrans review and approval.

### 3.8 Corridor Wide Technical Support for System Integrator work

It is assumed that the SI will be under contract prior to completion of the 35% plans. Proposer will provide the SI with the 35% Plans and review/discuss any changes required by the SI to the tolling system during this phase. The agreed-to changes will be incorporated in the 35% PS&E.

### 3.9 VTA QA-QC Audit Meeting

Proposer will review and complete VTA's quality assurance checklist, prepare quality control documentation and participate in a Final Design (35%) VTA QA-QC audit meeting with VTA to review proposed submittals per agreed-upon project milestone schedule. After the audit, Proposer will prepare responses to corrective actions before submittal to Caltrans.

### 3.10 Additional Mapping

Proposer will prepare topographic mapping in accordance with current Caltrans photogrammetric procedures (i.e. Step "A+B+C" method). Mapping will be prepared in Microstation format, consistent with Caltrans drafting standards at a map scale of 1"=50'. The limits of the project area to be mapped are shown below with an assumed 600' swath



width centered along the centerlines of each freeway. Color orthographic photos will also be prepared for presentations and development of technical studies.

Under this task, Proposer will establish the survey control network, install flight control targets and set flight control, and complete the topographical mapping for the Phase 5 Project for the segment of US 101 from the US101/SR 237 interchange to US 101/I-880 interchange.

Proposer will establish a survey control network along US 101. The datum for this network will be based on the California Coordinate System criteria, NAD 83 and NAVD 88. The survey control work will follow Caltrans survey requirements and standards. It is assumed that the same datum and EPOCH used for mapping during the PA/ED phase will be used for the PS&E phase. Modifying or updating mapping information completed during the previous project phases is not included in this scope.

### 3.11 Update Design Survey and Survey Control Data

Proposer will provide supplemental design surveying services in support of PS&E Package for the Phase 5 Project. Proposer will review the existing mapping prepared for the PA/ED phase and will perform additional field surveys necessary to confirm mapping accuracy, topographic surveys to complete design, including but not limited to cross sections, verifying utilities and drainage facilities, right of way limits, pavement elevations and locations, pavement elevations at median barriers, potholing, boring locations, conforms, vertical clearances, obstructions, tree survey locations, lighting fixtures, fences, retaining walls, screen/sound walls, drainage swales and ditches and any other feature necessary to complete the designs.

### 3.12 Re-assessment of Striping and Signing

Proposer will review the previously approved GeDs and re-assess the proposed striping and signing based on the access evaluation performed above. The re-assessment will include decisions made from discussions with express lanes operations and coordination meetings with VTA and other stakeholders.

### **Task 3 Deliverables**

Proposer will perform in-house quality control review and submit the following project documents in accordance with the approved schedule:

- Design Plan Sheets
- Standard Special Provisions Outline
- Preliminary BEES estimate
- PDF files of plan sheets
- Updated APS
- R/W Documents, including Appraisal Maps, Plats and Legal Descriptions, and other information necessary to acquire the right-of-way for the Phase 5 Project



- Topographic Mapping (Submittals A, B, and C)
- Express Lanes Access Evaluation Results
- Update Design Surveys and Surveys Control Data

**TASK 4: FINAL DESIGN – UNCHECKED (65% PS&E)**

Proposer will perform this Task 4 only if authorized by VTA via a written amendment to the Contract.

Task 4 develops draft plans, specifications, and quantities for Final Design - (65% PS&E) submittal, and includes responding to comments received from the agencies' review of Task 3 submittals and identifying and resolving conflicts.

Proposer will provide a written response to all Final Design - (35% PS&E) review comments received for all documents and provide a justification for each response. Proposer will attend Joint Resolution Team (“JRT”) meetings with VTA, Caltrans, and other agencies to resolve issues from Final Design - (35% PS&E) review. Proposer will incorporate the agreed upon comments received from VTA, Caltrans, and other agencies. Proposer will perform final design and prepare Final Design - (65% PS&E) documents.

4.1 System Integrator Coordination

Proposer will provide the SI with the 65% Plans and review/discuss any changes required by the SI to the tolling system during this phase. The agreed-to changes will be incorporated in the 65% PS&E.

- It is assumed that 65% design will be based on a signing concept plan that incorporates a switchable tag technology (FasTrak<sup>®</sup> Flex). It is also assumed that implementing FasTrak<sup>®</sup> Flex will require minor tweaking to the sign panels to accommodate the FasTrak<sup>®</sup> Flex logos, which is different than the signing concept plan that was approved during the PA/ED phase.

4.2 VTA and Caltrans Review Comments

Proposer will review comments received from the 35% review, prepare a Response to Comments Matrix, and hold comment resolution meetings as necessary. Proposer will address and resolve comments before incorporating any revisions.

4.3 Design Plan Sheets

Proposer will prepare all final Design Plan Sheets in accordance with Caltrans requirements, including Caltrans' English Publication Plans, Specifications and Estimates Guide and, where applicable, to the OSFP Information and Procedures Guide and the Drafting and Plans Preparation Manual, all to be the latest editions. Title blocks will be signed and sealed by an appropriate California Registered Engineer.

4.3.1 Highway Design Plans



A set of highway design plans will contain some or all of the following Design Plan Sheets. Proposer will use the following code letters and sheet names and arrange sheets in the order per Caltrans standard.

<b>ID</b>	
<b>Lette</b>	<b>Sheet Name</b>
--	Title Sheet
X	Typical Cross Sections
PC	Project Controls
K	Key Map and Line Index
L	Layout
C	Construction Details
WPC	Water Pollution Control Plans and Quantities
EC	Erosion Control Plans, Details, and Quantities
D	Drainage Plans, Profiles, and Quantities
U	Utility Plans and Details
SC	Stage Construction Plans
TH	Traffic Handling Plans & Quantities
CS	Construction Area Signs
DE	Detour Plans
PD	Combined Pavement Delineation & Sign Plans, Details and Quantities
Q	Summary of Quantities
TI	Toll Infrastructure Plans
LOT	Log of Test Borings
E	Lighting and Sign Illumination and Details

For the purpose of this scope of services, it is assumed that the OH signs will consist of a single cast-in-drilled-hole (“CIDH”) pile using Standard Plan foundations according to the Preliminary Geotechnical Report. Site specific conditions should be evaluated to confirm the Standard Plan assumptions. It is assumed that OH signs where it will be a panel replacement only will not require analysis of existing capacity of sign foundations.

Additionally, it is anticipated that plans for temporary water pollution control which will be prepared for storm water pollution control plan and management are also required.

**4.3.2 Structure Design Plans**

Proposer will prepare a set of structure plans (Guadalupe River bridge, San Tomas Aquino Creek bridge, retaining walls) as applicable in accordance with Caltrans Bridge Manual and contain some or all of the following sheets. Proposer will use the following code letters and sheet names and arrange sheets in the order shown.

**ID Code Letter**      **Sheet Name**



GP	Bridge General Plan (general layout and index)
--	Abutment Plan & Elevation
--	Abutment Details
--	Bent Details
--	Girder Layout
--	Girder Details
R	Retaining Wall Plan (Standard)
--	Deck Contours
--	Typical Section
--	Foundation Plan
--	Structural Approach Slab
--	Structural Approach Drainage Details
--	Slope Paving – Full Slope
--	Log of Test Borings

#### 4.4 Combination of Plan Information

Subject to Caltrans prior approval, combining information from two or more of the above drawings on one design sheet may be allowed. Decisions to combine design information will be obtained prior to performance of any detail design in order to not impact the cost and schedule of the Phase 5 Project.

#### 4.5 Specifications and Standard Special Provisions

4.5.1 Proposer will review Caltrans Standard Specifications, latest edition, and Caltrans Standard Special Provisions (“SSP”) or Revised Standard Special Provisions (“RSSP”) applicable thereto, and prepare the project special provisions accordingly.

4.5.2 For all work items necessary for construction of the Phase 5 Project, Proposer will assemble data and prepare drafts of (1) necessary modifications to the Standard Special Provisions, and (2) additional specifications which may be necessary. Detailed information is provided in Article 4, entitled "Special Provisions," of the Caltrans PS&E Guide. Proposer will follow instructions contained in the latest edition of that publication. Proposer will prepare the equivalent of Caltrans SSP for Sections 8 (Materials), Section 9 (Description of work), and Section 10 (Construction details). VTA will furnish the front “boiler plate” special provisions for Proposer’s use in preparation of the project specifications. It is assumed that the Phase 5 Project will be administered, advertised, and awarded by VTA through an encroachment permit process. Proposer will submit the Special Provisions in Caltrans standard format.

4.5.3 Upon completion of the foregoing activities, Proposer will submit the SSP signature and seal sheet to VTA.

4.5.4 Proposer will coordinate specifications with other design contractors to assist design



interface activities. SSP will be submitted in MS Word format.

4.5.5 Proposer will prepare a draft Standard Special Provisions Appendix. The appendix will include the geotechnical design report, aerial lead test report, lane closure, permits, mitigation requirements, and Storm Water Pollution Prevention Plan (“SWPPP”).

#### 4.6 Draft Informational Handout, Cover Memorandum and Cover Memorandum Attachment A

Proposer will prepare a draft Informational Handout, Cover Memorandum, and Cover Memorandum Attachment A in accordance with Caltrans' Guide for the Submittal of Plans Specifications and Estimates, latest edition. Proposer will place this information along with the permit(s) mitigation requirements in an appendix to the Standard Special Provisions.

#### 4.7 Permits

Proposer will prepare drafts of all permit applications for the Phase 5 Project, including highways and structures, which will be reviewed by Caltrans' Project Development, Caltrans DOS, and Environmental staff.

Proposer's draft permit application(s) will include all attachments and exhibits and will fulfill all applicable conditions identified in the permits to meet Caltrans requirements as indicated in the Caltrans PS&E Guide, Cover Memorandum Attachment A, and the OSFP Information and Procedures Guide latest editions or current policy. VTA is responsible for obtaining all required permits for the Project

#### 4.8 Right-of-Way and Utility Certifications

Proposer will provide updated Phase 5 Project's right-of-way and utility requirements for VTA and/or its right-of-way consultant review. Proposer will update and submit the Draft Right-of-Way to VTA. Proposer will update, sign, and submit the Utility Certification documents to VTA. Proposer will review and sign the Right-of-Way Sufficiency Certificate.

#### 4.9 Construction Quantities and Cost Estimate

Proposer will update the estimate of Construction Quantities and Cost Estimates to reflect design development from Final Design (35% PS&E) to Final Design Unchecked (65% PS&E). Proposer will follow instructions provided in PS&E phase Task 3. The estimate format will be acceptable to the VTA and Caltrans District 4.

#### 4.10 Sign Structure Calculations

Proposer will review the proposed tolling signs and equipment for each sign structure and compare to Caltrans Standard Plans for Overhead Sign (Truss, Single Post Type) and Electrical Poles. Proposer will prepare structure calculations for non-standard OH sign structures encountered during the design process.

#### 4.11 Preliminary Construction Schedule





Proposer will prepare a preliminary construction schedule for the Phase 5 Project using Primavera, or in an equivalent scheduling software that is acceptable by VTA.

Proposer will coordinate all mitigation, highway and structures construction schedule information to prepare the Phase 5 Project construction schedule.

#### 4.12 Combining Highway and Structures PS&E Documents

Proposer will combine all highway and structures design documents and produce a single construction contract package. Such combination of documents will include the following:

- PS&E documents
- Right-of-way and utility relocation requirements and review of Right-of-way Certification documents

Proposer will perform this design combination prior to the PS&E phase Task 4 submittal.

#### 4.13 Design Standard Decision Document and Ramp Meter Fact Sheet

Proposer will review previously approved Mandatory and Advisory Fact Sheets, will update and submit a newly Caltrans formatted Design Standard Decision Document, summarizing known mandatory and advisory policy design exceptions for deviations from Caltrans' standards and policies in conjunction with any detailed design work. Proposer will include Design Standard Decision Document in the Resident Engineer's File.

Proposer will also prepare a separate Ramp Meter Fact Sheet and submit to Caltrans for review and approval. Proposer will include the Ramp Meter Fact Sheet in the Resident Engineer's File.

Geometric Drawings (GeDs) will be updated and include basic layout information and identify all major construction features and design exceptions.

#### 4.14 Design Checklists (DIB77, DIB78, and DIB82)

Proposer will prepare Design Checklists (DIB77, DIB78, and DIB82) as required by Caltrans for the Phase 5 Project. Proposer will review and update the available checklists, submit, coordinate, and secure approval of the checklist for the Build Alternative from Caltrans for the Phase 5 Project.

#### 4.15 VTA QA/QC Audit Meeting

VTA Quality Assurance Staff will review all Phase 5 Project documents for completeness and overall quality. Proposer will support VTA Quality Assurance staff during their review.

VTA will conduct a review of all Phase 5 Project documents to ensure that all the agreed upon comments received from VTA, Caltrans, and other agencies were incorporated into the



Final Design Unchecked (65% PS&E) package. Proposer will support VTA in this review.

#### 4.16 Joined Resolution Team (“JRT”) Meeting

Proposer will attend JRT meetings with VTA, Caltrans, and other agencies to review comments and to identify and resolve conflicts from the 65% PS&E Submittal review. Proposer will provide written response to all 65% PS&E Submittal review comments received for all documents and provide justification for written response.

#### 4.17 PS&E Documentation

Proposer will prepare a 65% PS&E package comprised of the deliverables listed in PS&E phase Task 4 together with the following supporting documents:

- Draft Damage Clause Calculations for lane closure (SSP 12-200)
- Draft right-of-Way Sufficiency Certification
- Draft Cost Certification
- Draft Caltrans Certification for Compliance with ADA Standards Crumb Rubber Usage report

#### **Task 4 Deliverables**

Proposer will perform in-house quality control review and submit the following Phase 5 Project documents in accordance with the approved schedule:

- Design Plan Sheets
- Specifications and Special Provisions
- Structures Calculations
- Quantity Calculations
- Cost Estimate
- Draft Permit Applications and Permits
- Draft Encroachment Policy Variance Request
- Draft Right-of-Way and Utility Certification
- Design Standard Decision Document and Ramp Meter Fact Sheet
- Draft Design Checklist DIB77, DIB78 and DIB82 as required
- Preliminary Construction Schedule
- CD-Sample Structure Plans
- Storm Water Pollution Prevention Plan
- Storm Water Data Report
- Draft Caltrans Certification for Compliance with ADA Standards
- Draft Crumb Rubber Usage Report
- Draft Informational Handout

#### **TASK 5. FINAL DESIGN – ENGINEERING REPORTS**

Proposer will perform this Task 5 only if authorized by VTA via a written amendment to the Contract.



Proposer will prepare and update design reports for highways and structures, and provide all design interface information to the other design consultants for preparation of other reports. Proposer's submittal will contain sufficient design calculations and other information based upon established Caltrans' design criteria.

Proposer will prepare, update, and submit the following design reports:

5.1 Traffic Safety Exceptions, Safety Analysis Recommendations, and Traffic Safety Analysis Report

Proposer will prepare an Exception to Traffic Safety System Standards in accordance with Caltrans Traffic Safety Systems Guidance Manual. Proposer will also prepare supplemental Safety Analysis Recommendation Memorandum (“SARM”) and a supplemental Traffic Safety Analysis Report (“TSAR”) for the Phase 5 Project. VTA will provide samples of approved SARM and TSAR to Proposer.

5.2 Supplemental Project Report

Proposer will assist VTA to prepare a Supplemental Project Report (“PR”) for the Phase 5 Project. This Supplemental Project Report identifies changes since the August 11, 2015 approval of the Final Project Report entitled, “Project Report, On Route US 101, in Santa Clara County, From US 101/East Dunne Ave Interchange in Morgan Hill To Santa Clara/San Mateo County Line in Palo Alto” under EA# 04-2G7100. The focus of this supplemental report is a phased improvement approach, set forth by the original and comprehensive corridor improvements approved in the August 2015 Project Report and to identify the modified scope of work for the Phase 5 Project. VTA will provide samples of existing approved supplemental PRs to Proposer.

5.3 Transportation Management Plan (“TMP”)

Proposer will update a TMP identifying TMP element to minimize construction-related congestion impacts and mitigate those impacts where appropriate through awareness strategies. The TMP report will be prepared using Caltrans latest TMP Guidelines.

5.4 Lane Closure Report (“LCR”)

Proposer will prepare a Lane Closure Report, presenting the traffic data and methodologies used to develop Phase 5 Project lane closure charts. Lane closure charts will show the number of lanes required during different hours of the day. Shoulder closure charts will show the hours that the freeway mainline and ramp shoulders can be closed outside of the approved freeway mainline and ramp closure charts' hours. Reported closures to include freeway mainline, local roads, and interchange ramps.

Proposer will collect seven-day/24-hour traffic counts from Caltrans. If the counts are not available, Proposer will perform seven-day/24-hour traffic count at mainline and for all ramps where closures are required, including local streets. Proposer will perform lane closure and shoulder closure calculations per Caltrans' standard methodology and submit draft Lane



Closure Report to Caltrans for review.

#### 5.5 Drainage/Hydromodification Report

Proposer will prepare the Drainage/Hydromodification Report in conformance to Phase 5 Project needs. The drainage report will include the following:

- Existing conditions
- Unusual and special conditions
- Drainage mapping
- Hydraulic analysis
- Proposed systems and permanent water quality Best Management Practice (“BMP”) features
- Alteration of facilities of other agencies and agreements

#### 5.6 Floodplain Evaluation Summary Report and Location Hydraulic Study Report

Proposer will prepare the Floodplain Evaluation Summary Report and Location Hydraulic Study Report for the Phase 5 Project. The reports will focus on the floodplain impacts from the proposed Phase 5 Project and potential mitigation measures. Proposer will work with Caltrans, VTA, regulatory agencies, and local cities to obtain necessary hydrologic and hydraulic data for all major creek crossings. Proposer will perform necessary analysis to determine the Phase 5 Project impacts and design approach.

#### 5.7 Storm Water Data Report (“SWDR”) and Treatment BMP Checklist

Proposer will update the (i) SWDR prepared during the PA/ED phase for the Phase 5 Project and (ii) Treatment BMP Checklists in accordance with current Caltrans standards.

#### 5.8 Utility Policy Variance Request (“UPVR”)

Proposer will prepare the necessary exhibits and list of tolling equipment and submit them to VTA for the preparation of UPVR. VTA will prepare and submit UPVR to Caltrans. Proposer will assist VTA with the approval process.

#### 5.9 Right of Way Certification/High and Low Risk

Proposer will prepare and submit the Draft Right of Way Certification documents to VTA. Proposer will assure that sufficiency of right of way has been secured early enough in design to not impact the Phase 5 Project schedule during construction. Proposer will review and sign the Right-of-Way Certificate of Sufficiency. It is assumed up to twenty (20) potholes is required to satisfy High and Low Risk requirements.

#### 5.10 Geotechnical Investigation – Foundation Report & Geotechnical Design and Materials Report



The Phase 5 project proposes overhead sign structures to support the advance tolling signs, the dynamic message signs (“DMS”), and the toll entry signs based on the Tolling Concept Plans. It is estimated that forty-eight (48) new overhead sign structures along the Phase 5 segment of the project are required. The majority of the sign structures are within the median of the roadway. The pole structures are expected to be supported by about 25 feet to 33 feet deep 5-foot diameter CIDH piles. Of the 48 new overhead sign structures, replacement of twenty (20) existing overhead sign structures are anticipated due to the widening of US 101 in order to add a second express lane in each direction between I-880 and Fair Oaks Avenue. Replacement of existing sign panels on existing overhead sign structures is not anticipated for this project.

For the two creek bridges within the limits of the Phase 5 Project (Guadalupe River and San Tomas Aquino Creek), foundation reports are required for the widening of those bridges.

#### Geotechnical Design Foundation Report

Proposer understands that Caltrans requires a boring at each proposed overhead sign structure. The median along this corridor has limited space for the field explorations and closure of the median will require significant permitting and Caltrans traffic operations coordination. It may be necessary to perform the field work during off peak hours and/or at night. The borings may require traffic lane closures. Roadway improvements, including pavement, retaining walls or similar civil work is expected, therefore preparation of a Geotechnical Design and Materials Report (“GDMR”) should be included.

Proposer will evaluate the geotechnical conditions within the Phase 5 Project. Prior to performing the subsurface exploration at the site, Proposer will:

- Submit a sample/testing/boring workplan for Caltrans review and concurrence;
- Make a preliminary site visit to identify potential boring locations and mark them on the ground;
- Write a site-specific Health and Safety Workplan that recognizes the intrinsic hazards of working around traffic and heavy equipment and also the health hazards posed by exposure to the anticipated air borne lead and possible hydrocarbon soil contaminants;
- Obtain the necessary drilling permits from the SCVWD; and
- Notify USA 48 hours before drilling to locate all buried utilities in the vicinity of the proposed drilling locations.

Proposer will perform the following:

- Research and Data Collection: Proposer will review readily available geologic and soil literature in the vicinity of the site and request any existing Caltrans Log of Test Borings



(“LOTB”) be provided for reference and use.

- **Field Exploration:** The proposed boring program will include a boring for each overhead sign location, borings at the two bridge widenings (at the approximate locations of abutments and piers) and at proposed retaining walls. Drilling services for test borings will be provided by Proposer. LTOB will be provided with the Bridge General Plan to Caltrans on plan sheets per Caltrans requirements.
- **Laboratory Testing:** Proposer will perform laboratory tests on representative soil samples such as moisture density, unconfined compression, gradation analyses, corrosion tests and Plasticity Index test, as necessary.
- **Engineering Analysis/Evaluation:** Proposer will perform engineering analyses and develop design recommendations for the structure foundations based on the field and laboratory data. Using the loading criteria, the standard and non-standard foundations will be evaluated for the geotechnical design.

Proposer will be familiar with current seismic design standards and Caltrans response spectrum approach. Seismic Strategy meeting with Caltrans Office of Structure Design may be required in Sacramento. Seismic design will be in accordance with Caltrans requirements.

- **Prepare Foundation Reports:** Proposer will prepare separate Foundation Reports (overhead sign structures, bridges and walls), and signed by an Engineering Geologist or Geotechnical Engineer, with deep foundation experience, registered in the State of California. Geotechnical investigations will conform to the requirements of Caltrans Bridge Design Specifications, latest edition.

#### **Geotechnical Design and Materials Report**

Proposer will update a combined Materials and Geotechnical Design Report (“GDMR”) in accordance with current Caltrans requirements. This will include exploratory borings, laboratory testing, engineering analysis, and report.

Proposer’s Combined GDMR will include all necessary information required to complete the PS&E for the Phase 5 project. This will include recommendations for the pavement structure section, standard retaining walls, slope cuts, embankments, and culverts.

#### **5.11 Soils and Hazardous Materials Investigation Reports**

An Initial Site Assessment (“ISA”) was prepared during the PA/ED phase for the US 101 Express Lanes Project. Proposer will review the report, conduct site/field investigation and testing, and prepare a Hazardous Materials Investigation Report for the project. Assume Aerial Lead Deposit (“ADL”) surveys, groundwater sampling and borings will be required including a work plan for the field investigation and testing within the project limits.



Proposer will prepare a Workplan and Health and Safety Plan for Caltrans' review and approval and perform borings to collect soil samples for initial hazardous waste testing and groundwater samples for groundwater contamination. The Workplan must include procedures for collecting and analyzing representative samples from the project site that could be disturbed during proposed construction.

#### 5.12 VTA QA/QC Audit Meeting

Proposer will prepare QC documentation and participate in a 65% PS&E submittal VTA QA-QC audit meeting with VTA to review proposed engineering report submittals per agreed-upon project milestone schedule. After audit, Proposer will prepare response to any corrective actions before submittal to Caltrans.

#### **Task 5 Deliverables**

Proposer will perform in-house quality control review and submit the following project documents in accordance with the approved schedule:

- Geotechnical Design and Materials Report
- Foundation Report and Log of Test Borings
- Soils and Hazardous Materials Investigation Report
- Drainage/Hydromodification Report
- Floodplain Evaluation Summary Report
- Location Hydraulic Study Report
- Storm Water Data Report
- Lane Closure Report
- Transportation Management Plan
- Exceptions to Traffic Safety System Standards
- Supplemental Safety Analysis Recommendation Memorandum
- Supplemental Traffic Safety Analysis Report
- Supplemental Project Report

#### **TASK 6: FINAL DESIGN – CHECKED (95% PS&E)**

Proposer will perform this Task 6 only if authorized by VTA via a written amendment to the Contract.

Prior to making submittals of the Final Design - (95% PS&E) documents, Proposer will assure that all comments are incorporated and resolved with Caltrans and its functional units, as well as, other reviewing agencies, and that structures approval has been received from Caltrans' DOS. Proposer will provide written response to Final Design - (65% PS&E) review comments, with justification noted for each comment not incorporated. Proposer will attend comment resolution meetings with the VTA, Caltrans, and other agencies to resolve issues.





Review at this stage of design will require several revisions and resubmittal of plans, specifications, quantities, and cost estimates. Proposer will allow adequate provisions in the design for these changes.

The submittal will be a complete, bid-ready set of documents, checked, stamped and signed. Proposer will perform the following activities:

#### 6.1 System Integrator Coordination

Proposer will update and review the 65% Plans with the SI and will discuss Caltrans comments on the preliminary tolling system. SI will evaluate the 65% Plans and will recommend updates of the tolling system, which will be incorporated in the 95% PS&E documents.

#### 6.2 VTA and Caltrans Review Comments

Proposer will review Caltrans, VTA and other comments and provide written response to 65% review comments received for all documents and provide justification for each comment that is not incorporated. Proposer will hold meetings with Caltrans and other agencies to resolve issues from the 65% submittal review. Proposer will resolve comments before incorporating any revisions. All agreed upon comments will be incorporated into the 95% PS&E documents.

#### 6.3 Design Plan Sheets and Reports

Proposer will incorporate all agreed-upon comments received from Caltrans, VTA and other agencies into the design plan sheets submitted as directed in Final Design (65% PS&E) and prepare complete highway and structure construction plans.

Proposer will respond to Caltrans' comments on the final design reports submitted in Final Design (65% PS&E), complete all required revisions, and prepare and produce the updated final design reports for Caltrans approval(s).

#### 6.4 Specifications and Special Provisions

6.4.1 Proposer will incorporate all agreed-upon comments into the Standard Special Provisions submitted and prepare Special Provisions that are specific to the Phase 5 Project for use with Caltrans' 2015 Standard Specifications or latest edition. SP will be submitted in MS Word format and Caltrans Standard format.

6.4.2 Proposer will assure that every construction work item for the Phase 5 Project has a method of payment stated in the Specifications and is accounted for in the Construction Cost Estimate ("BEES").



6.5 Right-of-Way Certification

Proposer will update right-of-way requirements and provide them to VTA in accordance with requirements as directed in Final Design (65% PS&E). Proposer will assist VTA in finalizing R/W Certification and sign as Engineer of Record, where required. Proposer will assure that sufficiency of rights of way has been secured early enough in design to not impact the Phase 5 Project schedule during construction. Proposer will review update, and sign the Right-of-Way Sufficiency Certificate.

6.6 Construction Quantities and Cost Estimate

Proposer will update the BEES. Proposer will submit updated quantity calculations showing all sketches, diagrams, and dimensions necessary for VTA use by field inspectors. All quantity calculations will be independently checked.

6.7 Final Draft Standard Special Provisions Appendix

Proposer will update the Draft Standard Special Provisions Appendix for final review.

6.8 Permit Applications

Proposer will update drafts of all permit applications and correspondences for the Phase 5 Project that will be reviewed by Caltrans Project Development. The Final Design (95% PS&E) submittal will be used in preparing necessary environmental assessments and/or conceptual re-vegetation plans to accompany draft permit applications. Permits include those required for conducting all field investigations and final permits for construction.

The permit applications will include all attachments and exhibits and will fulfill all applicable conditions identified in the permits to meet Caltrans requirements as indicated in the RTL Guide, and Cover Memorandum Attachment A.

Other applicable permits may include California Department of Fish and Game, the U.S. Army Corps of Engineers, the California Water Quality Control Board, the U.S. Fish & Wildlife Service, and Santa Clara County drilling permits, and others.

6.9 Utility Certifications

Proposer will update and submit the draft utility certification for VTA review.

6.10 Informational Handout, Cover Memorandum

Proposer will update the Informational Handout, Cover Memorandum, and Cover Memorandum Attachment A in accordance with Caltrans' RTL Guide, latest edition. Proposer will place this information along with the permit(s) mitigation requirements in an appendix to the Special Provisions.

6.11 Construction Schedule

Proposer will update the Preliminary Construction Schedule for the Phase 5 Project based on the data developed by Proposer in previous tasks. The schedule will be prepared using Microsoft Project. Proposer will promptly notify the VTA of any differences between the



update and the Construction Schedule for the Phase 5 Project in the most recent VTA schedule. Proposer will coordinate all mitigation, highway and structures construction schedule information to prepare the Phase 5 Project Construction Schedule.

**6.12 Structures Independent Check Calculation**

Proposer will perform an independent structure check calculation for all structural elements per Caltrans Standard procedures.

**6.13 Independent Quantity Check Calculation**

Proposer will perform an independent check of all drawings and calculations per Caltrans Standard procedures. Proposer will prepare independent quantity calculations and review the special provisions independently.

**6.14 VTA QA-QC Audit Meeting**

Proposer will review and complete VTA's quality assurance for 95% PS&E checklist, prepare quality control documentation and participate in a 95% PS&E submittal VTA QA/QC audit meeting with VTA to review proposed submittals per agreed-upon project milestone schedule. After audit, Proposer will prepare response to any corrective actions before submittal to Caltrans.

**Task 6 Deliverables**

Proposer will perform in-house quality control review and submit the following Phase 5 Project documents in accordance with the approved schedule:

- Design Plan Sheets
- Updated Reports
- Specifications and Special Provisions
- Right of Way Certification Documents
- Draft Permit Applications and Permits
- Utility Certification
- Final Draft Informational Handout, Cover Memorandum, and Standard Special Provisions Appendix
- Quantity and Cost Estimate
- Draft Construction Schedule
- Responses to 65% PS&E review comments
- Electronic files of plan sheets submitted
- Independent Structural Check Calculations
- Independent Structural Quantity Check Calculations

**TASK 7: FINAL DESIGN – 100% PS&E**

Proposer will perform this Task 7 only if authorized by VTA via a written amendment to the Contract.



Task 7 produces Final PS&E (100%) documents ready for Caltrans District 4 and DOS review and VTA advertisement. Proposer will review comments received from the reviewing agencies on the Task 6 submittals and attend comment resolution meetings with VTA, Caltrans, and other agencies to resolve issues. Proposer will incorporate agreed-upon comments and assist VTA in preparing bid documents for advertisement.

The following services and submittals are required from Proposer:

7.1 System Integrator Coordination

Proposer will update and review the 95% PS&E with the SI and will discuss Caltrans comments on the preliminary tolling system. SI will evaluate the 95% Plans and will recommend updates of the tolling system during Proposer's 100% Phase, which will be incorporated in the 100% PS&E documents.

7.2 VTA and Caltrans Review Comments

Proposer will review Caltrans' and VTA's comments and prepare Response to Comments Matrix. Proposer will resolve comments before incorporating any revisions.

7.3 Plans, Specifications and Estimates

Proposer will update and incorporate into the Design Sheets, Special Provisions and Quantity Estimates submitted for Task 6 the comments received from VTA, Caltrans and its functional units, and other agencies.

Proposer will submit to VTA and Caltrans the revised Quantities and Cost Estimate.

Proposer will coordinate the plans, specifications, and estimates with those of other design contractors and assure that highway design interfaces with structures design when all documents are combined to form a single project PS&E package.

7.4 Right of way Certification

If required, Proposer will provide updated project right-of-way and utility requirements to VTA and update and submit the final Right-of-Way Certification.

7.5 Permits

After receipt of permits from the permitting agencies, Proposer will review conditions of all project permits, determine if conditions can be accommodated in the Phase 5 Project, and update the design documents accordingly, if necessary.

The task scope is based on the following deliverables:

- Revised draft permit applications for 100% submittal (5 copies)
- Final permit applications for Final submittal (5 copies)

7.6 Construction Bid Documents



Proposer will prepare and submit the preliminary or "dummy" construction bid documents for all highway and structures design to the VTA's design coordination staff for their review prior to VTA advertisement.

Proposer will perform in-house quality control review and submit the following documents:

- Final Design Plan Sheets
- Cross Sections (earthwork only)
- Special Provisions and Standard Special Provisions Appendix (Caltrans format)
- Permits, Certifications and Agreements
- Cost Estimate and Quantities
- Materials Information Handout
- Justification letter for deviations from standards and prices
- Updated Quantities including a Marginal Estimate for structures with "USE" column completed
- Quantity Summary forms for structures
- Final Design Calculations (if revised)
- Final Design Check Calculations (if revised)

Proposer will incorporate into the bid documents comments received from VTA, Caltrans, and other reviewers.

7.7 Resident Engineer's File

The Resident Engineer's ("RE") File will not be submitted until Task 8 – District 4/Caltrans HQ/VTA Final Review.

7.8 Survey File

The Survey File will not be submitted until Task 8 – District 4/Caltrans HQ/VTA Final Review.

7.9 Standard Special Provisions Appendix

Proposer will update the Standard Special Provisions.

7.10 Final Construction Schedule

Proposer will update and finalize the Construction Schedule that was prepared for the 95% PS&E and will promptly notify the VTA of any differences between the update and the Construction Schedule for the Phase 5 Project in the most recent VTA schedule.

7.11 VTA QA/QC Audit Meeting

Proposer will review and complete VTA's quality assurance for 100% PS&E checklist, prepare quality control documentation and participate in a 100% PS&E submittal VTA QA-QC audit meeting with VTA to review proposed submittals per agreed-upon project



milestone schedule. After audit, Proposer will prepare response to corrective actions, if any, before submittal to Caltrans.

### **Task 7 Deliverables**

Proposer will perform in-house quality control review and submit the following documents:

- Construction bid documents as listed above
- Standard Special Provisions Appendix
- Permits and Certificates
- Final Construction Schedule
- Response to 95% PS&E review comments

### **TASK 8: DISTRICT 4/CALTRANS HEADQUARTERS/VTA FINAL REVIEW**

Proposer will perform this Task 8 only if authorized by VTA via a written amendment to the Contract.

Task 8 consists of incorporating comments received from Caltrans' (District 4 and Headquarters) review comments of Task 7 submittals and submitting the Resident Engineer's file and Survey File as required.

Proposer will meet with Caltrans District 4, HQ and VTA to resolve any disputes if necessary. Proposer will coordinate with other design contractors and update Phase 5 Project documents as required.

#### **8.1 Resident Engineer's File**

Proposer will prepare and submit a RE file in accordance with Caltrans' Project Development Procedures Manual, EFPB Information and Procedures Guide, Bridge Memo to Designers and include all Phase 5 Project-relevant items identified in the Resident Engineer's File check-off list.

The following items, as a minimum, will be included in the RE File:

- Bridge deck contour (4 scale) plans in accordance with Caltrans Memo to Designers 2-2 or latest practice
- Final Foundation Report
- Cross sections
- All final/approved reports
- Quantity calculations (Roadway and Structures)
- SWPPP and Estimates
- Joint Movement Rating calculations



## 8.2 Survey File

Proposer will prepare the sample Survey File and submit it to Caltrans Project Development and VTA. The Survey File submittal will conform to Caltrans' Project Development Procedures Manual and include:

- Control traverses and bench circuits used to design the Phase 5 Project
- Alignment traverses of all center lines
- Right of way record maps
- Grid grades at proposed tolling sign locations with data for:
  - Finish grade stakes
  - Other stakes as required

VTA will be responsible for preparing the front “boiler plate” special provisions for Proposer’s use in preparation of the project specifications, packaging the bid set documents, and the AAA (administrating, advertising and awarding) of this Phase 5 Project. Task 8 requires Proposer to provide the construction plans, technical specifications, engineer’s estimate, and quantities in compliance with the VTA guidelines.

### **Task 8 Deliverables**

Proposer will perform in-house QC review and submit the following documents:

- Bid Documents Revisions
- Resident Engineer's File
- Survey File
- Final Information Hand-out & Cover Memorandum, if changed
- Caltrans Construction Encroachment Permit
- CAD electronic submittals
- Public Information Meeting Materials
- Responses to 100% PS&E review comments

### **TASK 9: CONSTRUCTION BIDDING SERVICES**

Proposer will perform this Task 9 only if authorized by VTA via a written amendment to the Contract.

Construction bidding procedures are the responsibility of VTA. Task 9 scope will require Proposer to provide engineering services to support the construction bidding phase of the Phase 5 Project as described herein.

9.1 The following types of services are anticipated under this task:

9.1.1 Minor clarification of existing design.

9.1.2 Providing information in response to bidders’ questions regarding the bid documents.





- 9.1.3 Attendance at the Pre-Bid Meeting, and other meetings as requested by VTA.
  - 9.1.4 Preparation of addenda to the bid documents, as requested by VTA
  - 9.1.5 Revision of bid documents as may be necessary to achieve an acceptable bid.
- 9.2 The types of services listed below are “in-scope services” that shall be performed by Proposer but which will not be reimbursed.
- 9.2.1 Corrections of errors and omissions in the bid documents.
  - 9.2.2 Providing data missing from the submittals required in the Scope of Services for the Final PS&E.

## **F. WORK SCHEDULE**

Proposers will include separate detailed schedules for completing the major subtasks specified in the Scope of Work and an overall proposed duration for completing the Environmental Clearance for Creek Bridges and PS&E for the Phase 5 Project in the proposals. Proposers will prepare schedules included in the proposals in Gantt chart format (e.g. Microsoft Project or Primavera). A preliminary project milestone schedule can be seen in **Appendix I**.



**IX. ADMINISTRATIVE SUBMITTALS**

**Proposer must submit all forms as part of the Proposal. Forms No. 3, 4, 5, 6, and 12 must be printed and submitted in a separate and sealed envelope.as part of the Proposal.**

**FORM 1. GENERAL INFORMATION**

**FORM 2. LEVINE ACT STATEMENT**

**FORM 3. EXCEPTIONS TO THE CONTRACT**

**FORM 4. COST PROPOSAL FORM**

**FORM 5. LISTING OF DBE PRIME AND SUBCONTRACTORS**

**FORM 6. DESIGNATION OF SUBCONTRACTORS AND SUPPLIERS**

**FORM 7. LOCAL FIRM CERTIFICATION**

**FORM 8. CERTIFICATION OF RESTRICTIONS ON LOBBYING**

**FORM 9. CERTIFICATE OF CONSULTANT**

**FORM 10. KEY STAFF AVAILABILITY**

**FORM 11. RESOURCE PLAN (Hours)**

**FORM 12. RESOURCE PLAN (Dollars)**



**FORM 1. GENERAL INFORMATION**

*Instructions: Please complete this form and include in your Proposal. On a separate page, list all subconsultants; include company name, address, phone number and type of service.*

Company Name			
Street Address			
City/State/Zip			
Phone No.		DIR No.	
DUNS No.		CAGE No.*	
Federal Taxpayer ID No.		NAICS Codes	

\*Commercial and Government Entity ([www.sam.gov](http://www.sam.gov))

**POINT(S) OF CONTACT**

<b><u>Primary</u></b>	
Name/Title	_____
Phone No.	_____
Cell Phone No.	_____
E-mail	_____

<b><u>Alternate</u></b>	
Name/Title	_____
Phone No.	_____
Cell Phone No.	_____
E-mail	_____

**AUTHORIZED SIGNATORIES:**

<b><u>Primary</u></b>	
Name/Title	_____
Signature	_____
E-mail	_____

<b><u>Alternate</u></b>	
Name/Title	_____
Signature	_____
E-mail	_____



**FORM 2. LEVINE ACT STATEMENT**

Prime Proposer and Subconsultants must submit a signed Levine Act Statement

California Government Code § 84308, commonly referred to as the "Levine Act," precludes an elected or appointed officer, or alternate, of a local government agency from participating in the award of a contract if he or she receives any contributions totaling more than \$250 in the twelve (12) months preceding the pendency of the contract award, and for three (3) months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for elective office or on behalf of any committee in federal, state or local elections.

VTA's [Board members](#) and their alternates as of the date of this RFP are as follows:

Name	Title	Represents
Teresa O'Neill	Chairperson	City of Santa Clara
Cindy Chavez	Vice Chairperson	County of Santa Clara
Magdalena Carrasco	VTA Board Member	City of San Jose
Charles "Chappie" Jones	VTA Board Member	City of San Jose
Lan Diep	VTA Board Member	City of San Jose
Sam Liccardo	VTA Board Member	City of San Jose
Raul Peralez	VTA Board Member	City of San Jose
Devora "Dev" Davis	VTA Alternate Board Member	City of San Jose
John McAlister	VTA Board Member	City of Mountain View
Adrian Fine	VTA Alternate Board Member	City of Palo Alto
Rob Rennie	VTA Board Member	Town of Los Gatos
Howard Miller	VTA Alternate Board Member	City of Saratoga
Larry Carr	VTA Board Member	City of Morgan Hill
Marie Blankley	VTA Alternate Board Member	City of Gilroy
Rich Tran	VTA Board Member	City of Milpitas
Glenn Hendricks	VTA Alternate Board Member	City of Sunnyvale
Dave Cortese	VTA Board Member	County of Santa Clara
Susan Ellenberg	VTA Alternate Board Member	County of Santa Clara
Jeannie Bruins	Ex-Officio Member	Metropolitan Transportation Commission

1. Have you or your company, or any agent on behalf of you or your company, made any contributions of more than \$250 to any VTA Board member or alternate in the twelve (12) months preceding the date of the issuance of this RFP?

No \_\_\_ Yes \_\_\_ Please identify the Board member or alternate: \_\_\_\_\_

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any contributions of more than \$250 to any VTA Board member or alternate in the three months following the award of the contract?

No \_\_\_ Yes \_\_\_ Please identify the Board member or alternate: \_\_\_\_\_

Answering yes to either of the two questions above does not preclude VTA from awarding a contract to your firm. It does, however, preclude the identified Board member or alternate from participating in the contract award process for this contract.

\_\_\_\_\_  
Signature: Firm Name: Date:



**FORM 3. EXCEPTIONS TO THE CONTRACT  
SUBMIT IN A SEPARATE SEALED ENVELOPE**

This form shall include any exceptions the Proposer takes to the Contract, which includes the “Compensation, Invoicing and Payment” and “Indemnity and Defense of Claims” and “Insurance Requirements.” If Proposer takes no exceptions, check the field “Proposer takes no exceptions” below.

All exceptions to the Contract terms and conditions must be stated on this form and submitted with the Proposal. Proposer’s failure to take timely exception to VTA’s terms and conditions expressly waives Proposer’s right to challenge or request modification of such terms and conditions and is conclusive evidence of Proposer’s assent thereto.

Proposer takes exception to the following:

Section Reference		Disposition (For VTA Use Only)
*Insert proposed changes here		
Section Reference		Disposition (For VTA Use Only)
*Insert proposed changes here		

\*Make copies of this page if necessary

“Proposer takes no exceptions”

Firm Name:

Name

Title

Signature

Date



**FORM 4. COST PROPOSAL FORM**

**SUBMIT IN A SEPARATELY SEALED ENVELOPE**

Proposer:				
<b>DETAIL DESCRIPTION OF COST ELEMENTS</b>				
<b>1. DIRECT LABOR (Specify)</b>	<b>ESTIMATED HOURS</b>	<b>RATE/HOUR</b>	<b>ESTIMATED COST (\$)</b>	
<b>TOTAL DIRECT LABOR</b>				
<b>2. LABOR OVERHEAD</b>	<b>O.H. RATE</b>	<b>X BASE =</b>	<b>ESTIMATED COST</b>	
<b>TOTAL LABOR OVERHEAD</b>				
<b>TOTAL DIRECT LABOR AND OVERHEAD</b>				
<b>3. PROFIT %</b>				
<b>4. SUBCONSULTANT COSTS (Attach Itemization)</b>				
<b>5. OTHER DIRECT COSTS (Attach Itemization)</b>				
<b>TOTAL COST PROPOSAL</b>				

Firm Name: \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_



**FORM 5. LISTING OF DBE PRIME AND SUBCONTRACTORS  
SUBMIT IN A SEPARATE SEALED ENVELOPE**

Firm (Prime): \_\_\_\_\_ Phone: \_\_\_\_\_

DBE:             Yes         No            Age of Firm \_\_\_\_\_

Address: \_\_\_\_\_ Name & Title: \_\_\_\_\_

City, State, \_\_\_\_\_ Signature/ \_\_\_\_\_

Zip: \_\_\_\_\_ Date \_\_\_\_\_

***Contract dollar value must exclude work performed by non-DBE except materials or equipment purchased and used in this contract.***

**CREDIT FOR DBE VENDOR** of materials or supplies is **limited to 60%** of its expenditures for materials and supplies required under this Contract and obtained from a DBE regular dealer. Credit for DBE manufacturers is given at 100% toward the DBE goal **only where the DBE vendor manufactures or substantially alters the material prior to resale.**

**CREDIT FOR DBE BROKERS** (Distributor or Representative) is limited to the fees and commissions of the amount paid. All other firms receive 100% credit, less work subcontracted by the DBE to non-DBE firms, towards the DBE goal.

***A DBE must be certified or accepted as Certified by VTA. Refer to 49CFR Part 26.***

Name & Address of Certified DBE	Certification Number	Agency Certifying	Age of Firm	Dollar Value Of Contract
1.				
2.				
3.				
4.				
5.				

**Description of Work**

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

**DBE GOALS ARE DETERMINED ON BASE PROPOSAL AMOUNT:**

Total Contract Amount                    \$ \_\_\_\_\_

DBE Contract Amount                      \$ \_\_\_\_\_

DBE Contract Amount                      DBE Goal Achieved                      DBE Contract Goal

X 100 =                      Base Contract                      \_\_\_\_\_ %                      \_\_\_\_\_ %





**FORM 6. DESIGNATION OF SUBCONTRACTORS AND SUPPLIERS  
FOR  
DATA COLLECTION REQUIREMENTS  
SUBMIT IN A SEPARATE SEALED ENVELOPE**

Proposer: \_\_\_\_\_

Proposer shall completely fill in the form below for each proposed subcontract for all subcontractors, suppliers of materials, subconsultants. Include all firms, regardless of ethnicity, gender or SBE or DBE status. Some information, such as ethnicity and gender is for information purposes only.

*This form is to be completed and submitted with your Proposal.*

Firm Name	City and State	Portion of Work or Proposed Item	Ethnicity*	Gender+	Estimated Dollar Amount of Subcontract

*A=Asian	*AI= Asian Indian	*B=Black	*C=Caucasian
*H=Hispanic	*NA=Native American	*O=Other	

+F=Female	+M=Male
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Total Proposed Amount: \$ \_\_\_\_\_

Amount to be subcontracted: \$ \_\_\_\_\_

Percent to be subcontracted: \_\_\_\_\_ %



**FORM 7. LOCAL FIRM CERTIFICATION**

1. Proposer hereby certifies that it is \_\_\_ / is not \_\_\_ a local firm. A local firm is a firm that currently has its main office or a branch office with meaningful production capability located within Santa Clara County, or a firm that, upon award of the contract by VTA, will establish such a local office.

If a local firm, specify local address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Proposer hereby certifies that \_\_\_\_\_% of the dollar value of services to be rendered will be performed by the following local firms (including Proposer, if applicable):

Name of Proposer or Subcontractor	% of Dollar Value
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. The above-listed subcontractors are local firms as defined in paragraph 1 above, and are located at the following local addresses:

Subcontractor Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Firm Name: \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_



**FORM 8. CERTIFICATION OF RESTRICTIONS ON LOBBYING**

Proposer hereby certifies as follows:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Proposer, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Proposer shall complete and submit Standard Form “Certificate of Restrictions on Lobbying,” in accordance with its instructions.
3. Proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Firm Name:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**FORM 9. CERTIFICATE OF CONSULTANT**

I hereby certify that I am the duly authorized representative of the firm listed below, and that, except as hereby expressly stated, neither I nor the above firm that represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Contract; nor
- (c) paid, or agreed to pay to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, consideration or any kind for, or in connection with procuring or carrying out this Contract.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this Contract involving participation of Federal-aid Highway funds, and is subject to applicable state and Federal laws, both criminal and civil.

\_\_\_\_\_  
Firm Name and Address:

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**FORM 10. KEY STAFF AVAILABILITY**

Key Staff	Location	Company Name	Role	Current Projects (*)	Current Workload % (*)	Availability	Estimated Person Hours
				1.			
				2.			
				3.			
				1.			
				2.			
				3.			
				1.			
				2.			
				3.			
				1.			
				2.			
				3.			
				1.			
				2.			
				3.			
				1.			
				2.			
				3.			

Note:

\* List all projects and current workload for each project. Add additional rows as needed.



**FORM 11. RESOURCE PLAN (Hours)**

**EXCEL File Filename: “Form 11 RESOURCE PLAN (Hours).xls”  
TO BE DOWNLOADED FROM VTA WEBSITE**



**FORM 12. RESOURCE PLAN (Dollars)**

**EXCEL File Filename: “Form 12 RESOURCE PLAN (\$).xls”  
TO BE DOWNLOADED FROM VTA WEBSITE**

**SUBMIT IN A SEPARATELY SEALED ENVELOPE**





**X. EXHIBITS**

EXHIBIT A SAMPLE CONTRACT

EXHIBIT A1 SCOPE OF SERVICES

EXHIBIT A2 COMPENSATION, INVOICING and PAYMENT

EXHIBIT A3 RATE SCHEDULE

EXHIBIT A4 APPROVED SUBCONTRACTORS

EXHIBIT A5 INSURANCE REQUIREMENTS

EXHIBIT A6 DISADVANTAGED BUSINESS ENTERPRISES (DBE) REQUIREMENT

EXHIBIT A7 REQUIRED FTA CLAUSES PART 1

EXHIBIT A8 REQUIRED FTA CLAUSES PART 2

EXHIBIT A9 PREVAILING WAGE REQUIREMENTS

EXHIBIT A10 DESIGN PROFESSIONAL SERVICES SPECIAL TERMS AND  
CONDITIONS



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**EXHIBIT A SAMPLE CONTRACT**  
BETWEEN  
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY  
AND  
**CONTNAME**  
FOR  
SILICON VALLEY EXPRESS LANES PROGRAM  
US 101 PHASE 5

CONTRACT NO. S19160

THIS CONTRACT for professional services (“Contract”) is entered into between the Santa Clara Valley Transportation Authority (“VTA”) and **Contname** (“Contractor”).

- A. SERVICES TO BE PERFORMED:** Contractor shall furnish all technical and professional labor, and materials to perform the services described in Exhibit [ ] (herein referred to as “Services”).
- B. TERM OF THIS CONTRACT:** The term of this Contract shall commence on the Effective Date (as defined in the signature block below) and continue through December 31, 2021 (unless otherwise earlier terminated pursuant to the terms and conditions set forth herein).
- C. DAYS:** For purposes of this Contract, all references herein to “day” shall mean calendar day, unless specified otherwise. All references to “calendar day” shall mean any day, including Saturday, Sunday and all legal holidays. All references to “working day” or “business day” shall mean any business day, excluding Saturdays, Sundays and legal holidays.
- D. COMPENSATION:** Contractor shall be paid in accordance with Exhibit [ ] for the Services.

Total compensation for the Services provided hereunder shall not exceed \$xx,xxx.00.

**E. PERFORMANCE OF THE SERVICES:**

1. Contractor represents that it is sufficiently experienced, properly qualified, registered, licensed, equipped, organized and financed to perform the Services.
2. Contractor shall perform the Services with the degree of skill and judgment normally exercised by firms performing services of a similar nature. In addition to other rights and remedies that VTA may have, VTA, at its option, may require Contractor, at Contractor’s expense, to re-perform any Services that fail to meet the above standards.

**F. ASSIGNMENT AND SUBCONTRACTS:**

1. Contractor shall not assign or transfer this Contract or any portion thereof without the prior written consent of VTA. Additionally, Contractor shall not subcontract any part of its



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Services other than to those subcontractors that may be identified herein **or** in Exhibit [ ], **if needed**. Any assignment, transfer, change or subcontract in violation of this Contract shall be void.

2. Contractor shall be fully responsible and liable for the Services, products and actions of all subcontractors and suppliers of any tier, and shall include in each subcontract any provisions necessary to make all the terms and conditions of this Contract fully effective.

**G. CHANGES:** By written notice from VTA's Authorized Representative (as defined in Section L.1), VTA may, from time to time, order work suspension or make changes within the general scope of this Contract. If any such changes cause an increase or decrease in Contractor's cost to perform the Service or in the time required for its performance, Contractor shall promptly notify VTA thereof and assert its claim for adjustment within ten (10) days after the change is ordered, and an equitable adjustment shall be negotiated.

**H. AUDIT AND RECORDS:**

1. Contractor shall maintain, in accordance with generally accepted accounting principles and practices, complete books, accounts, records and data with respect to actual time devoted and costs incurred for the Services. Such documentation shall be supported by properly executed payrolls, invoices, contracts and vouchers evidencing in detail the nature and propriety of any charges. Such documentation shall be sufficient to allow a proper audit of the Services. All checks, payrolls, invoices, contracts and other accounting documents pertaining in whole or in part to the Services shall be clearly identified and readily accessible.
2. For the duration of this Contract, and for a period of three (3) years thereafter, VTA, its representatives and the state auditor shall have the right to examine and audit during Contractor's normal business hours the books, accounts, records, data and other relevant information to the extent required to verify the costs incurred hereunder where such costs are the basis for billings under this Contract.
3. Contractor shall report indirect costs in accordance with the cost principles contained in 48 CFR, Part 31, and follow the uniform administrative requirements set forth in 49 CFR, Part 18.
4. The provisions of this AUDIT AND RECORDS section shall be included in any subcontracts hereunder.

**I. PROHIBITED INTERESTS:**

1. **SOLICITATION:** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award



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or making of this Contract. For breach or violation of this warranty, VTA shall have the right to rescind this Contract without liability.

2. **INTEREST OF PUBLIC OFFICIALS:** No Board Member, officer or employee of the VTA during his or her tenure or for two (2) years thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.
3. **INTEREST OF THE CONTRACTOR:** The Contractor covenants that, presently, Contractor, its officers, directors or agents, have no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree (or create an appearance of conflict) with the performance of the Services. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be knowingly employed.

#### **J. TERMINATION AND SUSPENSION:**

1. VTA may, by giving at least ten (10) business days' written notice to Contractor, terminate this Contract, or suspend performance hereunder, in whole or in part at any time for VTA's convenience. Contractor shall be compensated (i) in accordance with the terms of this Contract for the Services satisfactorily performed prior to the effective date and time of termination or suspension, or (ii) the minimum dollar amount stated herein, whichever is applicable. Contractor shall have no right to recover lost profits on the balance of the Services.
2. VTA, by written notice given to Contractor, may declare default in Contractor's performance of any term of this Contract, specifying with particularity the basis for such default. Contractor shall deliver a response thereto in writing to VTA within two (2) business days of receipt of the notice, setting forth a reasonable proposal to cure the default. If Contractor fails to deliver the foregoing response on time or fails to cure the default within ten (10) business days after receipt of the notice (or within such additional time the Parties may agree upon in writing), VTA may elect to terminate this Contract for cause by serving written notice thereof to Contractor.
3. In the event of such termination for cause, VTA shall be relieved of any obligation of further payment to Contractor, including its obligation to procure the minimum dollar amount stated herein (if any), and may complete the remainder of the Services by itself, or by using an alternative, third party contractor. The additional cost to VTA for completing the Services shall be deducted from any sum due to the Contractor and the balance, if any, shall be paid to the Contractor upon demand. The foregoing shall be in addition to any other legal or equitable remedies available to VTA.
4. If, after termination for failure to fulfill Contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of VTA.

#### **K. GENERAL PROVISIONS:**



1. **OWNERSHIP OF DATA:** All drawings, specifications, reports and other data developed by Contractor, its assigned employees or subcontractors pursuant to this Contract shall become the property of VTA as prepared, whether delivered to VTA or not. Unless otherwise provided herein, all such data shall be delivered to VTA or its designee upon completion of this Contract or at such other times as VTA or its designee may request.
2. **CIVIL RIGHTS:**
  1. **NONDISCRIMINATION:** During performance of this Contract, Contractor, its employees and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any person because of race, religious creed, color, sex, gender, gender identity, gender expression, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition (including cancer), genetic information, marital status, age (over 40), sexual orientation, or military and veteran status. In addition, Contractor and any subcontractor shall not unlawfully deny any of their employees family care leave or discriminate against such employees on the basis of having to use family care leave. Contractor shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment.
  2. **ADA Accessible Information and Communications:** Any and all deliverables provided by Contractor to VTA pursuant to the Contract must be prepared and delivered in a format that is accessible to individuals with disabilities, as required by (i) the American with Disabilities Act of 1990 (ADA); (ii) 28 CFR Parts 35 and 36; (iii) 49 CFR Part 37; (iv) Section 504 of the Rehabilitation Act of 1973, as amended; and (v) California's Unruh Civil Rights Act.
3. **GOVERNING LAW:** The laws of the State of California will govern these terms and conditions, as well as any claim that might arise between Contractor and VTA, without regard to conflict of law provisions.
4. **FORUM SELECTION:** Any lawsuit or legal action arising from this Contract shall be commenced and prosecuted in the courts of Santa Clara County, California. Contractor agrees to submit to the personal jurisdiction of the courts located in Santa Clara County, California for the purpose of litigating all such claims.
5. **CONFIDENTIALITY AND DISCLOSURE:** Except as set forth in this paragraph, Contractor must not disclose to third parties any information, data, or materials that the Contractor obtains from VTA or otherwise learns of or is exposed to in the course of the performance of this Contract or information developed or obtained by Contractor in the performance of this Contract ("**Confidential Information**"). In addition, Contractor must not disclose or use any Confidential Information for any purpose other than the performance of the Services. Notwithstanding the foregoing, Contractor may disclose Confidential Information to third parties or use such information for purposes other than performance of the Services if: (1) VTA provides express written consent for such use or disclosure; (2)



the information is known to Contractor prior to obtaining such information from VTA or performing Services under this Contract; (3) the information is, at the time of disclosure by Contractor, then in the public domain; (4) the information is obtained by or from a third party who did not receive it, directly or indirectly, from VTA and who has no obligation of confidentiality with respect thereto. In addition, Contractor may disclose Confidential Information if required to do so by court order. However, upon receipt of an order requiring such disclosure, Contractor must inform VTA as soon as practicable in order to allow VTA to challenge such order if it determines that such challenge is appropriate. For purposes of this Section, "third parties" do not include those employees or authorized subcontractors engaged in the performance of the Services.

6. **NONWAIVER:** Failure of VTA to insist upon strict performance of any terms or conditions of this Contract or failure or delay in exercising any rights or remedies provided herein or by law or its failure to properly notify Contractor in the event of breach or its acceptance of or payment for any Services hereunder shall not release Contractor from the representations or obligations of this Contract and will not be deemed a waiver of any right of VTA to insist upon strict performance hereof or any of its rights or remedies hereunder.
7. **SEVERABILITY:** If any of the provisions of this Contract (or portions or applications thereof) are held to be unenforceable or invalid by any court of competent jurisdiction, VTA and Contractor shall negotiate an equitable adjustment in the provisions this Contract with a view toward effecting the purpose of this Contract, and the validity and enforceability of the remaining provisions or portions or applications thereof will not be affected thereby.
8. **INDEPENDENT CONTRACTOR:** In performance of the Services, Contractor will be acting as an independent contractor and not the agent or employee of VTA.
9. **ENTIRE CONTRACT:** This Contract constitutes the entire contract between VTA and Contractor relating to the subject matter hereof and supersedes any previous contracts, agreements, or understandings, whether oral or written.
10. **AMENDMENT:** Except as expressly provided herein, the provisions of this Contract cannot be altered, modified or amended except through the execution of a written amendment executed by VTA and Contractor.
11. **COMPLIANCE WITH APPLICABLE LAW:** In the performance of the Services, Contractor and its subcontractors shall comply with all applicable requirements of state, federal and local law. The provision of this paragraph shall be included in any subcontracts hereunder.
12. **DOCUMENTS AND WRITTEN REPORTS:** In accordance with Government Code § 7550(a), any document or written report prepared in whole or in part by nonemployees of VTA shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the document or written report if the total cost of the work performed by nonemployees of the agency exceeds five thousand dollars (\$5,000.00). The contract and



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subcontract numbers and dollar amounts shall be contained in a separate section of the document or written report.

**13. INCORPORATION OF EXHIBITS AND ATTACHMENTS:** All exhibits and attachments referenced in this Contract are incorporated herein by this reference.

**L. AUTHORIZED REPRESENTATIVES AND POINTS OF CONTACT:** The Authorized Representatives identified below, or assigned designees, have authority to authorize changes to the scope, terms and conditions of this Contract, as set forth herein.

**1. AUTHORIZED REPRESENTATIVES:**

**VTA:**

Thor Vue, Chief Procurement Officer  
3331 N. First Street, Bldg. A  
San Jose, CA 95134-1927  
[thor.vue@vta.org](mailto:thor.vue@vta.org)

**Contractor:**

Name/Title  
Company Name  
Address  
City/State/Zip  
Telephone  
Email

**2. NOTICES:** Notices shall be in writing and addressed to the Authorized Representatives at the addresses set forth above.

**3. POINTS OF CONTACT:** The Points of Contact listed below are authorized to communicate regarding contract matters, except in the case where correspondence regarding legal notices must be addressed to the Authorized Representatives.

**VTA:**

Norman David, Contracts Administrator  
3331 N. First Street, Bldg. A  
San Jose, CA 95134-1927  
[norman.david@vta.org](mailto:norman.david@vta.org)

**Contractor:**

Name/Title  
Company Name  
Address  
City/State/Zip  
Telephone  
Email





- 
4. Written notification to the other Party shall be provided, in advance, for changes in the name or address of the designated Authorized Representatives or Points of Contact stated above

**M. INSURANCE:** Contractor shall adhere to the insurance requirements set forth in Exhibit [ ].

**N. INDEMNITY AND DEFENSE OF CLAIMS:**

1. To the greatest extent permitted by law, Contractor shall indemnify and hold harmless VTA, its board members, officers, agents, employees, and consultants (collectively, the “Indemnitees”) from any claims, liabilities, losses, injuries, damages, expenses, fines, penalties, liens, stop notices, or fees and costs (including attorneys’ and experts’ fees and costs) (each a “Claim” and collectively “Claims”), to the extent that the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor and/or its agents, employees, or subcontractors, whether such Claims are based upon a contract, or for personal injury, death, or property damage, or upon any other legal or equitable theory whatsoever. It is the specific intent of VTA and Contractor that Contractor be required to provide the full breadth of indemnities allowed by California Civil Code section 2782.8. Notwithstanding the foregoing, Contractor is not obliged to indemnify and/or hold harmless the Indemnitees from any Claims to the extent that the Claims are caused in any part by (i) VTA or its agents, servants, or independent contractors who are acting on behalf of VTA, or (ii) damages for defects in designs furnished by those persons.
2. To the greatest extent permitted by law, Contractor agrees, at its own expense, and upon written request by VTA or any individual Indemnitee, to immediately defend any suit, action, proceeding, dispute, or demand brought against any Indemnitee founded upon, alleging, or implicating any Claims covered by Contractor’s indemnity obligation set forth in subparagraph (1) immediately above and regardless of whether Contractor and/or any of its agents, employees, or subcontractors was in fact negligent or reckless or engaged in willful misconduct. In the event a court of competent jurisdiction determines that any suit, action, claim, or demand brought against any Indemnitee was caused in any part by VTA or its agents, servants, or independent contractors who are acting on behalf of VTA, VTA shall promptly reimburse Contractor for costs of defending the Indemnitees in such action incurred by Contractor, but only in proportion to the liability of VTA or its agents, servants, or independent contractors who are acting on behalf of VTA. In no event will the cost to defend charged to Contractor exceed Contractor’s proportionate percentage of fault. However, notwithstanding the previous sentence, in the event that one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution, Contractor must meet and confer with other parties regarding unpaid defense costs.
3. This indemnity and defense of claims provision will survive the expiration or termination of this Contract and remain in full force and effect.

**O. BUSINESS DIVERSITY PROGRAM REQUIREMENTS:** Contractor shall adhere to the Disadvantaged Business Enterprise requirements set forth in Exhibit [ ].



**P. SPECIAL PROVISIONS:**

1. **FEDERAL REQUIREMENTS:** Contractor, its employees and subcontractors performing the Services hereunder shall comply with the laws and regulations set forth in Exhibit [ ].
2. **PREVAILING WAGE REQUIREMENTS:** Contractor shall adhere to the prevailing wage requirements set forth in Exhibit [ ].
3. **HIGHWAY PROJECT REQUIREMENTS:** All files and drawings shall comply with the CALTRANS current CADD User’s Manual and current Drafting and Plans Manuals.

IN WITNESS WHEREOF, VTA and Contractor have executed this Contract as of the last date set forth below (“Effective Date”).

*Santa Clara Valley  
Transportation Authority*

*[Contractor Name]*

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form

\_\_\_\_\_  
VTA Counsel



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**EXHIBIT A1 SCOPE OF SERVICES**

[TO BE INSERTED AT TIME OF CONTRACT AWARD]



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## EXHIBIT A2 COMPENSATION, INVOICING and PAYMENT COST PLUS FIXED-FEE

For the satisfactory performance and completion of the Services under this Contract, VTA will pay Contractor compensation as set forth herein.

**A. COMPENSATION:** This is a cost plus fixed-fee Contract with a maximum value of **\$XX,XXX.00**], for which amount Contractor agrees to complete the Services defined in this Contract.

Compensation for the Services shall be on a cost reimbursement basis and shall be the sum of direct labor costs, indirect labor costs (fringes and overhead), a fixed-professional fee, subcontractor costs and other direct costs, described below:

**1. DIRECT LABOR COSTS:** Direct labor costs shall be the total number of hours worked by each employee multiplied by the rate for such employee's labor category as set forth in the attached Exhibit [ ]. This exhibit shall contain the names and rates for Exempt and Non-Exempt Personnel.

**Exempt Personnel:** The rates for exempt personnel shall be applicable to both straight time, overtime, and premium time.

**Non-Exempt Personnel:** Non-exempt personnel shall be compensated premium time in accordance with prevailing California laws.

**Overtime:** Premium rates shall be compensated in accordance with prevailing California laws. All premium time shall be pre-approved in advance by VTA.

**2. LABOR RATE ADJUSTMENTS:**

a. Contractor may request increases in labor rates. Increases in labor rates may occur only once in a twelve (12) month period per individual. Contractor must make all requests in writing and deliver them to VTA at least thirty (30) days prior to the date the requested new rates are to become effective. VTA will review the request and, at its sole discretion, approve or deny the request in writing. VTA will issue adjustments, if any, prior to the effective date of the new labor rates.

b. The labor rate paid by Contractor to each employee may not increase more than the annual average of the Consumer Price Index for the San Francisco Bay Area, using the **CPI-U, All Urban Consumers** index type for the twelve (12) month period preceding a new rate. The CPI is as a guideline only, and VTA is not obligated to match or increase this rate.



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- c. At its discretion, VTA will consider individual exceptions to the above limitations, on a case-by-case basis, not to exceed one (1) adjustment per employee per year, where Contractor can demonstrate that additional compensation is necessary to retain a specific employee VTA considers, in its sole discretion, to be essential.
- 3. INDIRECT LABOR COSTS:** Indirect labor costs shall be the direct labor costs multiplied by a field or home office provisional overhead rate. Based upon **YYYY** audited overhead rates, the provisional field office overhead rate at the inception of this Contract is [ ] % and the provisional home office overhead rate at the inception of this Contract is [ ] %. These rates shall be subject to adjustment annually, based on an audit by a recognized independent auditing firm, which shall determine the actual rate for the period in which services are provided hereunder.
- a. Contractor shall submit to VTA the audited overhead rates for Contractor's most recently audited fiscal year within thirty (30) days of receipt of such rates from their independent auditor.
- b. Upon VTA's acceptance of the actual rates, any overpayment or underpayment resulting from a variance between the actual and provisional rates shall be refunded or credited in total to VTA or paid to Contractor.
- 4. FIXED FEE:** VTA shall pay the Contractor a fixed professional fee of **\$XX,XXX.00** for the Services described in Section 1 of this Contract.

Each invoice submitted by Contractor shall include a progress payment of a portion of the fixed-fee. The portion of the fixed-fee included in each invoice shall be determined by multiplying the fixed-fee by the percent of total progress reported to VTA for that invoice period, less the total amount of the fixed-fee previously invoiced and paid.

Progress Percentage = (Total Costs Incurred to Date/Total Estimated Budget) X 100.

- 5. SUBCONTRACTOR COSTS:** Subcontractor costs shall be reimbursed at actual cost with no markup. Subcontractor costs shall be supported by appropriate documentation for reimbursement.
- 6. OTHER DIRECT COSTS (ODCs):** ODCs shall be authorized and reimbursed as follows. All ODCs shall be reimbursed at actual cost without mark-up and include the following types of expenses.
- a. Travel expenses related to the performance of Services shall be reimbursed for actual and reasonable costs incurred for mileage, transportation, lodging, meals, and other miscellaneous expenses. Air travel, auto rental, and lodging should be "economy" based and traveler should obtain the lowest price possible. Lodging rates for the Palo Alto, Sunnyvale, and San Jose area are defined by the GSA website [www.gsa.gov](http://www.gsa.gov). The meals and incidental expenses shall not exceed the per diem rates, as stated on GSA website [www.gsa.gov/mie](http://www.gsa.gov/mie). At no time shall alcohol, travel upgrades, fines,



memberships, loss of personal property or cash, “no shows,” or personal itinerary changes be subject to reimbursement by VTA.

Invoicing travel expenses: All expenses related to travel shall be verified by legible, itemized receipts attached to a summary that provides the name of traveler, the date(s) traveled, and an itemized a description of each expense.

- b. Parking, tolls, deliveries, printing, plan reproduction, and blue print services expenses directly associated with the work will be reimbursed at cost. Except as otherwise provided herein, telephone, computer costs, CAD machine charges, in-house copying and facsimile charges shall be included in overhead.
- c. All ODCs shall require appropriate documentation for reimbursement. VTA must approve in writing any ODC item estimated to exceed \$500.00 prior to incurring the expense.

## **B. INVOICING:**

**1. INVOICE FORMAT:** Contractor shall be compensated and reimbursed by VTA on the basis of invoices submitted every month for the Services performed during the preceding month. The charges for each individual assigned under this Contract shall be listed separately. Further, invoices shall be in a form acceptable to VTA and each invoice must include:

- Description of the work performed.
- Hours worked by personnel classification.
- Rate per personnel classification.
- Other Direct Costs.
- Subcontractor Costs supported by itemization in the same format.
- Fixed-Fee.
- Total Costs.
- Percent of Schedule and Budget Expended.

**2. WAIVER:** Contractor shall be deemed to have waived the right to payment for Services not invoiced within six (6) months of the date the Services were performed. For purposes of this provision the date of the invoice shall be the date it is received by VTA.

**3. INVOICE SUBMITTAL:** Contractor shall submit invoices by e-mail to the address listed below. Invoices shall be in a PDF, Word, or Excel format.

Email: [VTAAccountsPayable@vta.org](mailto:VTAAccountsPayable@vta.org)

**4.** Should VTA contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. VTA may, at any time, conduct an audit of any and all records kept by Contractor for the Services. Any overpayment



uncovered in such an audit may be charged against the Contractor's future invoices and any retention funds.

**C. PROMPT PAYMENT:** VTA will pay Contractor within thirty (30) days after receipt by VTA of a proper, fully documented, invoice. Contractor shall pay subcontractors for satisfactory performance of any of the Services performed by subcontractors within thirty (30) days of receipt of payment by VTA for such Services. Contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed.





**EXHIBIT A3 RATE SCHEDULE**

Effective Date **MM/DD/20YY**

Identify the named key personnel, firm name, classification and labor rate. Provide the classification and labor rate for all your proposed staff.

Key Personnel:

Personnel Name	Classification	Direct Labor Rate	Home Office Overhead Rate	Field Office Overhead Rate	Profit (%)	Home Office Fully Burdened Rate	Field Office Fully Burdened Rate

Unnamed Personnel:

Classification	Direct Labor Rate	Home Office Overhead Rate	Field Office Overhead Rate	Profit (%)	Home Office Fully Burdened Rate	Field Office Fully Burdened Rate



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**EXHIBIT A4 APPROVED SUBCONTRACTORS**

[TO BE INSERTED AT TIME OF CONTRACT AWARD]



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## EXHIBIT A5 INSURANCE REQUIREMENTS

**INSURANCE:** Without limiting the Contractor's indemnification of VTA, the Contractor must procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees, or subcontractors. The cost of such insurance must be included in the Contract. The Contractor must furnish complete copies of all insurance policies, within three (3) business days of any such request by VTA.

### A. LIABILITY AND WORKERS' COMPENSATION INSURANCE:

#### 1. Minimum Scope of Coverage: Coverage must be at least as broad as:

- a. Insurance Services Office General Liability coverage ("occurrence" form CG 0001). General Liability insurance written on a "claims made" basis is not acceptable.
- b. Insurance Services Office Business Auto Coverage, Insurance Services Office form number CA 0001, covering Automobile Liability, code 1 "any auto." Auto Liability written on a "claims-made" basis is not acceptable.
- c. Workers' Compensation insurance as required by the Labor Code of the State of California, and Employers Liability insurance.
- d. Professional Liability, including limited contractual liability coverage, covering liability arising out of any negligent act, error, mistake or omission in the performance of Contractor's services under this Contract. This coverage must be maintained for a minimum of two (2) years following completion of this Contract. This coverage may be written on a "claims made" basis, if so, please see special provisions in Section B.

#### 2. Minimum Limits of Insurance: Contractor must maintain limits no less than:

- a. General Liability \$2,000,000 limit per occurrence for bodily injury, personal injury, and property damage. If a General Liability or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. In no event may the General Liability primary policy limit per occurrence be less than \$2,000,000.
- b. Automobile Liability \$1,000,000 limit per accident for bodily injury and property damage.



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- c. Workers' Compensation and Employers Liability: Statutory Workers' Compensation limits and Employers Liability limits of \$1,000,000 per accident.
  - d. Professional Liability: \$2,000,000 each occurrence/aggregate minimum limit per claim.
- 3. Self-Insured Retention:** Any self-insured retention or deductible in excess of \$50,000 (\$100,000 if Contractor is a publicly-traded company) must be declared to and approved by VTA. If Contractor is a governmental authority such as a state, municipality or special district, self-insurance is permitted. To apply for approval for a level of retention in excess of the stipulated amounts stated herein, the Contractor must provide a current financial statement documenting the ability to pay claims falling within the self-insured retention. At the option of VTA, either: the insurer must reduce or eliminate such self-insured retention as respects VTA, its officers, officials, employees and volunteers; or the Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- B. CLAIMS MADE PROVISIONS (NOT APPLICABLE TO GENERAL LIABILITY OR AUTOMOBILE LIABILITY):** Claims-made coverage is never acceptable for General Liability or Auto Liability. Claims-made may be considered for Professional, Environmental/Pollution, or Cyber Liability. If coverage is written on a claims-made basis, the Certificate of Insurance must clearly state so. In addition to all other coverage requirements, such policy must provide that:
- 1. The policy must be in effect as of the date of this Contract and the retroactive date must be no later than the date of this Contract.
  - 2. If any policy is not renewed or the retroactive date of such policy is to be changed, the Contractor must obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision must be of at least two (2) years.
  - 3. No prior acts exclusion to which coverage is subject that predates the date of this Contract.
  - 4. Policy allows for reporting of circumstances or incidents that might give rise to future claims.
- C. OTHER PROVISIONS:** The policies are to contain, or be endorsed to contain, the following provisions:
- 1. General Liability and Automobile Liability:**
    - a. VTA, its officers, officials, employees and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of



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the Contractor, including VTA's general supervision of the Contractor; products and completed operations of the Contractor and its subcontractors; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage must contain no special limitations on the scope of protection afforded to VTA, its officers, officials, employees, or volunteers. Additional Insured endorsements must provide coverage at least as broad as afforded by the combination of ISO CG 20 10 10 01 and CG 20 37 10 01.

- b. The Contractor's insurance coverage must be primary insurance as respects VTA, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by VTA, its officers, officials, employees, or volunteers must be excess of the Contractor's insurance and may not contribute with it.
- c. Any failure to comply with reporting provisions of the policies may not affect coverage provided to VTA, its officers, officials, employees, or volunteers.
- d. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. The General Liability General Aggregate limit must apply per project, not per policy.
- f. The General Liability policy must be endorsed to remove the exclusion for railroad liabilities, with coverage at least as broad as afforded by ISO CG 24 17.

## **2. All Coverages:**

- a. The insurer must agree to waive all rights of subrogation against VTA, its officers, officials, employees, and volunteers for losses arising from work performed by the Contractor and its subcontractors for VTA.
- b. If any coverage forms or endorsements required by this Contract are updated by their publishers, whether they be the insurance carrier(s), the Insurance Services office, or the American Association of Insurance Services, during the duration of this Contract, VTA reserves the right to require the Contractor to procure said coverage forms or endorsements using the updated versions upon the next renewal cycle.

**D. ACCEPTABILITY OF INSURERS:** Insurance and bonds must be placed with insurers with an A.M. Best's rating of no less than A VII (financial strength rating of no less than A and financial size category of no less than VII), unless specific prior written approval has been granted by VTA.

**E. CERTIFICATES OF INSURANCE:** Contractor must furnish VTA with a Certificate of Insurance. The certificates for each insurance policy are to be signed by an authorized



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representative of that insurer. The certificates will be issued on a standard ACORD Form. The contractor must instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to [Insurance.certificates@vta.org](mailto:Insurance.certificates@vta.org).

The certificates will (1) identify the underwriters, the types of insurance, the insurance limits, the deductibles and the policy term, (2) include copies of all the actual policy endorsements required herewith, and (3) in the “Certificate Holder” box include:

Santa Clara Valley Transportation Authority  
Procurement, Contracts and Materials Management  
3331 North First Street  
San Jose, CA 95134  
Contract No. S19160

In the Description of Operations/Locations/Vehicles/Special Items Box, the VTA Contract number must appear, the list of policies scheduled as underlying on the Umbrella policy must be listed, Certificate Holder should be named as additional insured, and Waiver of Subrogation must be indicated as endorsed to all policies as stated in the Contract Documents.

All certificates and endorsements are to be received and approved by VTA before work commences. VTA reserves the rights to require complete, certified copies of all required insurance policies, at any time.

If the Contractor receives any notice that any of the insurance policies required by this Exhibit may be cancelled or coverage reduced for any reason whatsoever, Contractor or insurer must immediately provide written notice to VTA that such insurance policy required by this Exhibit is canceled or coverage is reduced.

- F. MAINTENANCE OF INSURANCE:** If Contractor fails to maintain such insurance as is called for herein, VTA, at its option, may suspend payment for work performed and/or may order the Contractor to suspend work at Contractor’s expense until a new policy of insurance is in effect.



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## EXHIBIT A6 DISADVANTAGED BUSINESS ENTERPRISES (DBE) REQUIREMENT

- A. It is VTA policy to ensure that DBE firms, as defined in Federal Regulations at 13 CFR Part 121 and 49 CFR Part 26, have an equitable opportunity to participate in the performance of Contracts and subcontracts.

In connection with its performance under this Contract, Contractor agrees to cooperate with VTA in meeting the **9%** DBE utilization goal set for this project.

- B. VTA will monitor compliance with Contract requirements for DBE firms. Electronic submittal will be on a web-based online system (B2Gnow), accessed from any computer via the internet at the following website: <https://VTA.sdbbe.com>. Contractor and its subcontractors will receive an email providing a Log-On identification, password, and instruction on how to use the system. All lower-tier subcontractors and vendors will be required to provide or verify DBE utilization documentation.
- C. Contractor will be required to submit monthly DBE utilization reports electronically to the VTA Office of Business Diversity Programs. These reports shall be submitted electronically by the Contractor and will document when payments to subcontractors were made, the dollar value of the payments to DBE firms, and the percentage of the contract completed.
- D. At the conclusion of this Contract, Contractor shall submit a final DBE utilization report electronically to the VTA Office of Business Diversity Programs at: [OSDB.OSDB@VTA.org](mailto:OSDB.OSDB@VTA.org) by indicating a final audit where requested in the B2Gnow system. This final report will document when payments to subcontractors were made, the dollar value of payments to DBE firms, and the percentage of the Services completed.
- E. **CONTRACTOR ASSURANCES (as required by 49 C.F.R. 26.13):** The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient<sup>1</sup> deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the Contractor from future bidding as non-responsible.

Contractor must include this assurance in each of its subcontracts related to this Contract.

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<sup>1</sup> "Recipient" is VTA.





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## EXHIBIT A7 REQUIRED FHWA CLAUSES PART 1

In its performance under the Contract, Contractor will comply with all of the Federal Highway Administration (“FHWA”) clauses which are identified below as applicable (if the box next to the clause is checked, the clause is applicable). The substance of these applicable requirements is set forth on the following pages of this Exhibit.

- A. ACCESS TO RECORDS AND REPORTS
- B. BUY AMERICA REQUIREMENTS
- C. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT
- D. DISADVANTAGED BUSINESS ENTERPRISE (DBE)
- E. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
- F. ENERGY CONSERVATION
- G. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
- H. LOBBYING RESTRICTIONS
- I. NO GOVERNMENT OBLIGATION TO THIRD PARTIES
- J. PATENT RIGHTS AND RIGHTS IN DATA
- K. PROCUREMENT OF RECOVERED MATERIALS
- L. TERMINATION
- M. VIOLATION AND BREACH OF CONTRACT
- N. SPECIAL DOL EEO CLAUSE FOR CONSTRUCTION PROJECTS



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## EXHIBIT A8 REQUIRED FHWA CLAUSES PART 2

These FHWA terms and conditions (“FHWA Clauses”) are required by the FHWA and apply to all third party contracts awarded by VTA that are funded in whole or in part with FHWA assistance. Unless specifically defined herein, the capitalized terms used in these FHWA Clauses have the meanings as defined in the solicitation and/or Contract, as applicable. Contractor is responsible for its subcontractors’ compliance, as applicable, with these FHWA Clauses. To the extent applicable, Form FHWA-1273 Required Contract Provisions is incorporated herein by this reference as if fully set forth herein.

In the event that any of these FHWA Clauses conflict with other terms of the Contract, these FHWA Clauses will prevail.

**A. ACCESS TO RECORDS AND REPORTS:** In addition to any other audit and record retention requirements set forth in the Contract, Contractor will comply with the following:

- 1. Flow Down:** The requirements of this Section A apply to Contractor and its Contract subcontractors at every tier. Contractor will ensure compliance with this Section A by all of its subcontractors of every tier.
- 2. Record Retention:** Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- 3. Retention Period:** Contractor will comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of the Contract, except in the event of litigation or settlement of claims arising from the performance of the Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- 4. Access to Records:** Contractor will provide sufficient access to the FHWA and its contractors to inspect and audit records and information related to performance of the Contract as reasonably may be required.
- 5. Access to the Site of Performance:** Contractor will permit FHWA and its contractors access to the sites of performance under the Contract as reasonably may be required.

**B. BUY AMERICA REQUIREMENTS: OMITTED.**



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**C. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT:** If the Contract has a total value of more than \$150,000, Contractor will comply with the following:

1. **Flow Down:** The requirements of this Section C apply to Contractor and its Contract subcontractors at every tier. Contractor is responsible for ensuring that all lower tier contractors and subcontractors are in compliance with this Section C.
2. Contractor will:
  - a. Not utilize any person to perform under the Contract who is prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act;
  - b. Not use any violating facilities;
  - c. Report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
  - d. Report violations of use of prohibited facilities to FHWA; and
  - e. Comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

**D. DISADVANTAGED BUSINESS ENTERPRISE (“DBE”):** Contractor will comply with the DBE requirements set forth elsewhere in the Contract.

**E. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:**

1. **Overtime Requirements:** No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in paragraph (a) of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with



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respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

3. **Withholding for Unpaid Wages and Liquidated Damages:** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
4. **Subcontracts:** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

**F. ENERGY CONSERVATION:** Contractor will at all times comply with the following requirements and will include these requirements in each subcontract entered into as part of the Contract:

1. **Flow Down:** The requirements of this Section F apply to Contractor and its Contract subcontractors at every tier. Contractor is responsible for ensuring that all lower tier contractors and subcontractors are in compliance with this Section F.
2. **Mandatory Standards and Policies:** Contractor will comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**G. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION:** If the Contract has a total value of \$25,000 or more, Contractor will comply with the following:

1. **Flow Down:** If Contractor and/or any of its subcontractors enter into covered transactions with a participant at the next lower level, Contractor and/or its subcontractor, as applicable, must require that participant to: (a) comply with subpart C of 2 C.F.R. Part 180, as supplemented by 2 C.F.R. Part 1200; and (b) pass the requirement to comply with



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subpart C of 2 C.F.R. Part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.

2. **Compliance with Federal Law:** Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” 2 C.F.R. Part 180. These provisions apply to the Contract and to (i) any subcontract at any tier of \$25,000 or more, and (ii) each contract at any tier for a federally required audit (irrespective of the contract amount), and (iii) each contract at any tier that must be approved by an FHWA official irrespective of the contract amount.
3. **Certification:** By executing this Contract, Contractor hereby certifies that its principals, affiliates, and subcontractors are eligible to participate in the federally funded Contract and are not presently declared by any federal department or agency to be:
  - a. Debarred from participation in any federally assisted award;
  - b. Suspended from participation in any federally assisted award;
  - c. Proposed for debarment from participation in any federally assisted award;
  - d. Declared ineligible to participate in any federally assisted award;
  - e. Voluntarily excluded from participation in any federally assisted award; or
  - f. Disqualified from participation in any federally assisted award.

This certification is a material representation of fact relied upon by VTA. If it is later determined by VTA that Contractor knowingly rendered an erroneous certification, in addition to remedies available to VTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

**H. LOBBYING RESTRICTIONS:** If the Contract has a total value of \$100,000 or more, Contractor will comply with the following:

1. **Flow Down:** The requirements of this Section H apply to Contractor and its Contract subcontractors at every tier if such subcontract has a total value of \$100,000 or more. Contractor is responsible for ensuring that all relevant lower tier contractors and subcontractors are in compliance with this Section H.



- 2. Certification:** Contractor must submit to VTA the appropriate Restrictions on Lobbying certification attached to the solicitation or otherwise provided by VTA with its (i) Bid or Proposal, or (ii) prior to the execution of the Contract, whichever occurs earlier.
  
- I. NO GOVERNMENT OBLIGATION TO THIRD PARTIES:** Contractor will at all times comply with the following requirements:
  - 1. Flow Down:** The requirements of this Section I apply to Contractor and its Contract subcontractors at every tier. Contractor is responsible for ensuring that all lower tier contractors and subcontractors are in compliance with this Section I.
  - 2. No Obligation:** Contractor acknowledges that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the federal government, the federal government is not a party to the Contract and shall not be subject to any obligations or liabilities of VTA, Contractor or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the underlying Contract.
  
- J. PATENT RIGHTS AND RIGHTS IN DATA:** If the Contract is for the performance of experimental, developmental, or research work, Contractor will comply with the following:
  - 1. Flow Down:** The requirements of this Section J apply to Contractor and its Contract subcontractors at every tier if the relevant subcontract meets the definition of a research-type project under 37 U.S.C. § 401.2. Contractor is responsible for ensuring that all relevant lower tier contractors and subcontractors are in compliance with this Section J.
  - 2. Intellectual Property Rights:** Certain Patent Rights and Data Rights apply to all subject data first produced in the performance of the Contract. Contractor grants VTA intellectual property access and licenses deemed necessary for the work performed under the Contract and in accordance with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FHWA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of the Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FHWA, until such time as FHWA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of the Contract, the term “subject data” means recorded information, whether or not copyrighted, that is delivered or specified to be delivered by the Contract.



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3. The federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data or copyright described as follows:
    - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
    - b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FHWA.
  4. “Federal Government Purposes,” means use only for the direct purposes of the federal government. The federal government may not extend its federal license to any other party without the copyright owner’s consent.
  5. Unless FHWA determines otherwise, Contractor will permit FHWA to make available to the public, either FHWA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the federal government may direct.
  6. Unless prohibited by state law, upon request by the federal government, Contractor will indemnify, save, and hold harmless the federal government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor will indemnify the federal government for any such liability arising out of the wrongful act of any employee, official, or agents of the federal government.
  7. Nothing contained in this clause on rights in data shall imply a license to the federal government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the federal government under any patent.
  8. Data developed by Contractor and financed entirely without using federal assistance provided by the federal government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.





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9. Contractor will include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.
- K. PROCUREMENT OF RECOVERED MATERIALS:** If (i) the Contract is for the purchase of items designated in guidelines of the U.S. Environmental Protection Agency (“EPA”) at 40 C.F.R. Part 247 and (ii) the purchase price of the relevant item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, Contractor will comply with the following:
1. **Flow Down:** The requirements of this Section K apply to Contractor and its Contract subcontractors at every tier if the subcontract involves the purchase of EPA-selected items valued at \$10,000 or more. Contractor is responsible for ensuring that all relevant lower tier contractors and subcontractors are in compliance with this Section K.
  2. Contractor will provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6962, and EPA, “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. Part 247.
- L. TERMINATION:** Contractor will comply with the termination provisions set forth elsewhere in the Contract. The requirements of this Section L apply to Contractor and its Contract subcontractors at every tier. Contractor is responsible for ensuring that all lower tier contractors and subcontractors are in compliance with this Section L.
- M. VIOLATION AND BREACH OF CONTRACT:** If the Contract has a total value exceeding the simplified acquisition threshold as defined by 48 C.F.R. 2.101(b) (“Simplified Acquisition Threshold”), Contractor will comply with the following:
1. **Flow Down:** The requirements of this Section M apply to Contractor and its Contract subcontractors at every tier. Contractor is responsible for ensuring that all lower tier contractors and subcontractors are in compliance with this Section M.
  2. **Disputes:** VTA and Contractor intend to resolve all disputes under the Contract to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the VTA’s and Contractor’s organization. In the event that a resolution





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of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with VTA's direction or decisions made thereof.

3. **Performance During Dispute:** Unless otherwise directed by VTA, Contractor shall continue performance under the Contract while matters in dispute are being resolved.
4. **Remedies:** The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by VTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**N. SPECIAL U.S. DOL EEO CLAUSE FOR CONSTRUCTION PROJECTS:** If the Contract has a total value of \$10,000 or more and is for construction work as defined in 41 C.F.R. §60-1.3, Contractor will comply with the following:

1. **Flow Down:** The requirements of this Section N apply to Contractor and its Contract subcontractors performing construction work at every tier. Contractor is responsible for ensuring that all applicable lower tier contractors and subcontractors are in compliance with this Section N.
2. Contractor will comply with (i) U.S. DOL regulations set forth in 41 C.F.R. Part 60-4, (ii) Executive Order 11246 "Equal Employment Opportunity," as amended (including by Executive Order 11375), and (iii) 42 U.S.C. § 2000e *et seq.*
3. Contractor will comply with the equal opportunity clause set forth in 41 C.F.R. § 60-1.4(b), which is incorporated herein by reference pursuant to 41 C.F.R. § 60-1.4(d).
4. Contractor will comply with the "Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)" set forth in 41 C.F.R. § 60-4.3, which specifications are attached hereto (if applicable).



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## EXHIBIT A9 PREVAILING WAGE REQUIREMENTS

- A. CALIFORNIA PREVAILING WAGE LAW:** This Contract is a “public work” as defined in Section 1720 through 1720.6 of the California Labor Code (“Labor Code”) and is therefore subject to the requirements of Labor Code Section 1720 et seq. requiring the payment of prevailing wages and compliance with other applicable requirements. Contractors and subcontractors of all tiers who perform work under this Contract are required to comply with these requirements.
- B. FEDERAL PREVAILING WAGE LAW:** This Contract is federally funded and is therefore also subject to federal prevailing wage requirements. Under 49 U.S.C. §5333(a), prevailing wage protections apply to laborers and mechanics employed on Federal Transit Administration (“FTA”) assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§3141-3144 and 3146-3148 as supplemented by U.S. Department of Labor (“DOL”) regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.”
- C. DIR REGISTRATION:** Contractor and subcontractors of all tiers used for the Contract must be registered with the DIR pursuant to Labor Code Section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)) prior to (i) submission of the bid or proposal and/or (ii) execution of the Contract, as applicable. Those who fail to register and maintain their status as a public works contractor are not permitted to perform work hereunder.
- D. SUBCONTRACTOR LISTING:** Contractor must provide VTA with a list of all subcontractors of every tier, for any dollar amount. Contractor must not allow any unidentified subcontractor of any tier to perform work under this Contract.
- E. APPLICABLE RATES:** Workers employed under the Contract must be paid at the rates at least equal to the prevailing wage rates as adopted. If Contractor uses a craft or classification not shown on the prevailing wage determinations, Contractor may be required to pay the wage rate of that craft or classification most closely related to it as shown in the general determinations effective at the time of Contract award.
- 1. CALIFORNIA PREVAILING WAGE RATES:** The applicable California prevailing wage rates can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the Contracts Office at VTA, which will be available to any interested party upon request. Contractor is also required to have a copy of the applicable prevailing wage rates posted and/or available at the jobsite or material staging area.
  - 2. SPECIAL PREVAILING WAGE RATES:** Special prevailing wage rates generally apply to work performed on weekends, holidays, and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractor is on notice, and responsible for ensuring that its subcontractors of all tiers are on notice, that information about such special



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rates, holidays, premium pay, shift work, and travel and subsistence requirements can be found at [www.dir.ca.gov](http://www.dir.ca.gov).

- 3. FEDERAL PREVAILING WAGE RATES:** This Contract is also subject to federal requirements for payment of prevailing wages as determined by the Secretary of Labor. Federal wage rates are available at the DOL website at <https://www.wdol.gov/dba.aspx> and at the Contracts Office of VTA. The applicable federal wage rate determinations are attached hereto as Exhibit [X]. Where there are differences between federal and state wage rates, the higher will apply. In addition, Contractor will pay wages not less than once per week.

**F. APPRENTICES:** In the performance of work under this Contract, Contractor is responsible for compliance with Labor Code Section 1777.5, pertaining to the employment of registered apprentices.

**G. CERTIFIED PAYROLLS:**

- 1. SUBMISSION TO VTA:** In the performance of work under this Contract, Contractor is responsible for its compliance, as well as that of its subcontractors of every tier, with Labor Code Section 1776. On a weekly basis, Contractor will present to VTA all applicable and necessary certified payrolls (for itself and all applicable subcontractors of every tier) for the time period covering the immediately preceding week. The term “certified payroll” includes all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by VTA.
- 2. SUBMISSION TO THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (“DIR”):** In addition to submitting the certified payrolls and related documentation to VTA, on a weekly basis Contractor and subcontractors of all tiers must submit certified payroll and related documents electronically to the DIR. Failure to submit payrolls to the DIR when mandated by the Contract will also result in the withholding of progress, retention, and final payment, if applicable.
- 3. FLOW DOWN:** Contractor will incorporate into every lower-tier subcontract and purchase order these instructions where labor compliance documentation is required.

**H. FAILURE TO COMPLY:** VTA or the DIR may impose penalties upon Contractor and subcontractors of any tier for failure to comply with prevailing wage requirements. This Contract is subject to compliance monitoring and enforcement by the DIR.



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## EXHIBIT A10 DESIGN PROFESSIONAL SERVICES SPECIAL TERMS AND CONDITIONS

**A. DEFINITIONS:** In addition to other definitions set forth elsewhere in the Contract, the following definitions will apply to this Exhibit.

**Contractor Intellectual Property** means all Intellectual Property developed by Contractor and/or its subcontractors of any tier either (i) prior to the Effective Date, or (ii) independently of the Contract, or (iii) any Intellectual Property that is an improvement, continuation, or adaptation of Intellectual Property subject to (i) and/or (ii) herein, and is authored, created, invented, and/or put into practice under and/or for the purposes of the Project and incorporated into the Design Intellectual Property, Deliverable(s), Instruments of Service, and/or Services.

**Deliverable(s)** means, whether singular or plural, items and/or services provided or to be provided by Contractor under this Contract identified as a deliverable by designation, number, or context, in any scope of work, a schedule, or any document associated with the foregoing.

**Design Intellectual Property** means all Intellectual Property authored, created, developed, and/or invented under or for the purposes of the Contract and/or any Deliverable(s), Instruments of Service, and/or Services, excluding Intellectual Property that is (i) an improvement, continuation, or adaptation of Contractor Intellectual Property and (ii) authored, created, invented, and/or put into practice under and/or for the purposes of the Project.

**Instruments of Service** means all physical, electronic, and/or mechanical embodiments of, and documents disclosing, Intellectual Property. Without limiting the generality of the foregoing, Instruments of Service includes embodiments, documents, and/or Deliverables incorporating concepts, inventions (whether or not protected under patent laws), works of authorship, information, new or useful art, combinations, discoveries, formulae, algorithms, specifications, manufacturing techniques, technical developments, systems, computer architecture, artwork, models, designs, procedures, processes, and methods of doing business, and any other media, materials, plans, reports, project plans, work plans, training materials, and other tangible objects produced by Contractor under this Contract. Without limiting the generality of the foregoing, Instruments of Service include architectural plans, models, or drawings, formal or informal, complete or incomplete, and regardless of whether such is useful or instructive to VTA.

**Intellectual Property** means all current and future legal and/or equitable rights and interests in know-how, patents (including applications), copyrights (including moral rights), trademarks (registered and unregistered), service marks, trade secrets, designs (registered and unregistered), utility models, circuit layouts, business and domain names, inventions, solutions embodied in technology, and other intellectual activity. Without limiting the generality of the



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foregoing, Intellectual Property includes original architectural design in any tangible medium of expression, including a constructed building or structure, or architectural plans, models, or drawings.

**VTA Intellectual Property** means any Intellectual Property that is owned by, controlled by, or licensed to, VTA.

**Third Party Intellectual Property** means any Intellectual Property that is not owned by Contractor and is not VTA Intellectual Property.

**Project** means engineering services to convert existing HOV lanes into express lanes on US-101 from near SR-237 in Sunnyvale to I-880 in San Jose, and add a second express lane in each direction from Fair Oaks Avenue to I-880. In addition, the project will add an auxiliary lane on northbound US 101 between Lawrence Expressway and Fair Oaks Avenue, add an auxiliary lane in both directions of US 101 between Great America Parkway and Lawrence Expressway, and widen the Guadalupe River and San Tomas Aquino Creek bridges to accommodate the added second express lane.

## **B. INTELLECTUAL PROPERTY RIGHTS:**

- 1. OWNERSHIP:** Except for Contractor Intellectual Property, Contractor acknowledges and agrees that all Design Intellectual Property, in any medium, is specially ordered or commissioned by VTA, including works made for hire in accordance with Section 101 of the Copyright Act of the United States, and VTA shall be the owner and legal author thereof. To the extent that Design Intellectual Property does not qualify as a work made for hire in accordance with Section 101 of the Copyright Act, Contractor hereby irrevocably and exclusively assigns all right, title, and interest to Design Intellectual Property (including all patent, copyright, trademark, trade secret, and any other intellectual property right therein) to VTA immediately upon creation, authorship, development, or invention without any restriction, limitation, or condition precedent thereto. Contractor agrees to execute such further documents and to do such further acts, at VTA's expense, as may be necessary to perfect, register, or enforce VTA's ownership of such rights, in whole or in part. If Contractor fails or refuses to execute any such documents, Contractor hereby appoints VTA as Contractor's attorney-in-fact (this appointment to be irrevocable and a power coupled with an interest) to act on Contractor's behalf and to execute such documents.
  
- 2. VARA:** VTA acknowledges that Contractor may have rights pursuant to Section 106A ("VARA") of the Copyright Act of the United States related to the Design Intellectual Property and that Contractor may, in its sole discretion, elect to disclaim authorship or other attribution related to the Design Intellectual Property or Instruments of Service.



Contractor hereby forever waives and agrees never to assert against VTA, its successors, or licensees any other rights pursuant to VARA not specifically identified in the preceding sentence that Contractor may have in Design Intellectual Property or Instruments of Service even after expiration or termination of this Contract. Subject to the right pursuant to VARA described above, Contractor specifically waives any and all rights, title, and interest to Design Intellectual Property and acknowledges VTA's ownership thereof including without limitation any know-how, trade secrets, or design elements.

**3. LICENSE GRANT TO CONTRACTOR:** VTA hereby grants to Contractor a limited, non-exclusive license to use, exploit, manufacture, distribute, reproduce, adapt, and display the VTA Intellectual Property, Design Intellectual Property, and all Instruments of Service, as appropriate, solely in connection with and limited to the Allowed Uses (hereinafter referred to as "Design License"). "Allowed Uses" are: (a) incorporation into the Project and (b) performance, provision, furnishing, and discharge of the Services under the Contract. Any rights not specifically granted by VTA to Contractor under this **Section B.3. License Grant to Contractor** are reserved to VTA. This Design License will expire upon the termination or expiration of the Contract.

**4. CONTRACTOR INTELLECTUAL PROPERTY:**

**i. Contractor Intellectual Property/License:** Contractor hereby grants to VTA an irrevocable, perpetual, non-exclusive, transferable, fully paid-up right and license to make, sell, use, execute, reproduce, adapt, display, perform, distribute, make derivative works of, export, disclose, and otherwise disseminate or transfer any and all rights in and to the Contractor Intellectual Property that is required by, incorporated in, or exercised as part of, the Design Intellectual Property and/or Instruments of Service. The license granted under this **Section B.4.i. Contractor Intellectual Property/License** permits VTA to authorize its consultants (including but not limited to any replacement design professional firm(s)), contractors, subcontractors, sub-subcontractors, and suppliers, to reproduce applicable portions of the Instruments of Service, solely for purposes related to the Project. Any rights not specifically granted by Contractor to VTA under this **B.4.i. Contractor Intellectual Property/License** are reserved to Contractor.

**ii. Identification of Contractor Intellectual Property:** Contractor shall identify and disclose to VTA all Contractor Intellectual Property required by, incorporated in, or exercised as part of, the Design Intellectual Property, including using reasonable efforts to provide, to the extent reasonably available: (i) full and specific information detailing Contractor Intellectual Property claimed; (ii) date of authorship, creation, and/or invention; (iii) date of application(s); (iv) application number(s) and registering entity(ies); (v) date of registration(s); (vi) registration number(s) and registering entity(ies), if any; and (vii) owner including person or entity name and address.



**5. THIRD PARTY INTELLECTUAL PROPERTY:**

- i. Third Party Intellectual Property/License:** Contractor will not create any Design Intellectual Property and/or Instruments of Service that require, incorporate, or exercise any Third Party Intellectual Property, unless VTA provides advance written approval of such. If VTA provides such approval, Contractor shall either (a) demonstrate it already has or (b) secure: an irrevocable, perpetual license(s) in the name of VTA to make, sell, use, execute, reproduce, adapt, display, perform, distribute, make derivative works of, export, disclose, and otherwise disseminate or transfer any and all rights in and to the Third Party Intellectual Property that is required by, incorporated in, or exercised as part of, the Design Intellectual Property and/or Instruments of Service, including a representation and warranty that the Third Party Intellectual Property does not infringe the rights, including Intellectual Property rights, of any other person or entity.
- ii. Identification of Third Party Intellectual Property:** Contractor shall identify and disclose to VTA all Third Party Intellectual Property required by, incorporated in, or exercised as part of, the Design Intellectual Property and/or Instruments of Service, including using reasonable efforts to provide, to the extent reasonably available: (i) full and specific information detailing Third Party Intellectual Property claimed; (ii) date of authorship, creation, and/or invention; (iii) date of application(s); (iv) application number(s) and registering entity(ies); (v) date of registration(s); (vi) registration number(s) and registering entity(ies), if any; and (vii) owner, including person or entity name and address.

**6. PAYMENTS INCLUSIVE:** Contractor acknowledges and agrees that the total compensation paid for the Services pursuant to **Contract Section []. COMPENSATION and Exhibit [] (Compensation, Invoicing and Payment)** includes all royalties, fees, costs, and expenses arising from or related to the Design Intellectual Property, Instruments of Service, and any licenses granted hereunder.

**C. NON-INTELLECTUAL PROPERTY RIGHTS:** Unless otherwise specified by VTA in writing, Contractor shall deliver to VTA all Instruments of Service, documents, results, and related materials created in the development of Design Intellectual Property as soon as reasonably practicable, but in no event later than the effective date of Contract expiration or termination. Contractor and Contractor's subcontractors and consultants grant to VTA all physical ownership and possession of the Instruments of Service created under and for the purpose of the Contract. Contractor acknowledges and agrees that all Instruments of Service, documents, results, and related materials created in the development of Design Intellectual Property will be owned by VTA upon creation regardless of when they may be physically delivered to VTA.





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## **D. STANDARDS OF CARE; REPRESENTATIONS AND WARRANTIES:**

### **1. LICENSES, CERTIFICATIONS, REGISTRATIONS, OTHER APPROVALS:**

- i.** All Services and/or Deliverables furnished by Contractor will be performed by, or under the supervision of, persons who (i) hold all necessary licenses, certifications, registrations, permits, or approvals to practice in the State of California; (ii) are experienced, competent, and skilled in their respective trades or professions; (iii) are professionally qualified to perform the Services; and (iv) will assume professional responsibility for the accuracy and completeness of the Deliverables, including designs, plans, and other documents prepared or checked by them. Contractor shall perform the Services with the degree of skill and judgment normally exercised by firms performing services of a similar nature. Contractor represents that it is sufficiently organized and financed to perform the Services.
- ii.** In addition to the other rights and remedies that VTA may have, VTA, at its option, may require Contractor, at Contractor's expense, to re-perform any Services that fail to meet the above standards.

### **2. POWER, AUTHORITY, AND QUALIFICATION:**

- i.** Contractor is a **[INSERT ORGANIZATION TYPE]**, duly organized and validly existing under the laws of **[INSERT STATE]**, having the requisite power and all required licenses to carry on its present and proposed activities. Contractor has the full power, right, and authority to execute and deliver this Contract and to perform each and all of the obligations of Contractor provided for under this Contract. Contractor is duly qualified to do business and is in good standing in the State of California as of the Effective Date, and will remain duly qualified and in good standing throughout the Contract term and for as long as any obligations remain outstanding under the Contract.
- ii.** The execution, delivery, and performance of this Contract has been duly authorized by all necessary action of Contractor's governing body. Each person executing this Contract has been duly authorized to execute and deliver each such document on behalf of Contractor.

**3. COMPLIANCE WITH APPLICABLE LAW:** As of the Effective Date, Contractor is not in breach of any applicable law that would have a material adverse effect on the Services or the performance of any of its obligations under the Contract.

**4. NO PENDING LEGAL ACTION:** As of the Effective Date, there is no action, suit, proceeding, investigation, or litigation pending and served on Contractor which challenges Contractor's





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authority to execute, deliver, or perform, or the validity or enforceability of, this Contract, or which challenges the authority of the representative of Contractor executing this Contract; and Contractor has disclosed to VTA before the Effective Date any pending and un-served or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which Contractor is aware.

**5. NON-INFRINGEMENT:** Contractor represents and warrants that the Design Intellectual Property, Instruments of Service, and any Contractor Intellectual Property required by, incorporated in, or exercised as part of, the Design Intellectual Property does not infringe upon any right, title, or interest of any person or entity including, without limitation, Intellectual Property rights under applicable United States law or international treaties to which the United States is a member or signatory party. Contractor further represents and warrants that, prior to any delivery of any Design Intellectual Property, Instruments of Service, or Contractor Intellectual Property to VTA, Contractor has conducted a diligent and comprehensive search and evaluation to ensure non-infringement of such upon any right, title, or interest of any person or entity including, without limitation, Intellectual Property rights under applicable United States law or international treaties to which the United States is a member or signatory party.

**6. NON-PROJECT USE AND MODIFICATION:**

**i. Disclaimer of Suitability for Non-Project Use:** Contractor does not represent that the Instruments of Service, as prepared and delivered by Contractor, are suitable for reuse by VTA or other parties for any purposes other than the Project. Reuse of the Instruments of Service by VTA for any purpose unrelated to the Project will be at VTA's sole risk without any liability to Contractor.

**ii. VTA Non-Project Use:** If VTA uses the Instruments of Service for purposes other than the Project, VTA shall indemnify, defend, and hold harmless Contractor from all third-party claims, damages, and expenses, including reasonable attorneys' fees, to the extent that the claim(s) is/are caused by such use by VTA.

**iii. VTA Independent Modification:** If VTA independently modifies the Instruments of Service without Contractor's involvement or consent, VTA shall indemnify, defend, and hold harmless Contractor from all third-party claims, damages, and expenses, including reasonable attorneys' fees, to the extent that the claim(s) is/are caused by such modification by VTA.

**E. INDEMNIFICATION AND DEFENSE OF CLAIMS:**

**1. GENERAL INDEMNIFICATION AND DEFENSE OF CLAIMS:**



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**i. Indemnification:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor will indemnify, defend, and hold harmless VTA, its board members, officers, agents, employees, and consultants (collectively, the “Indemnitees”) from any claims, causes of action, suits, legal or administrative proceedings, judgment, settlement monies (regardless of stated purpose or designation), liabilities, losses, injuries, damages, expenses, fines, penalties, liens, stop notices, or fees and costs (including attorneys’ and experts’ fees and costs) (each a “Claim” and collectively “Claims”), to the extent that the Claims arise out of, pertain to, are caused by, or relate to the negligence, recklessness, or willful misconduct of Contractor and/or its agents, employees, or subcontractors, whether such Claims are based upon a contract, or for personal injury, death, or property damage, or upon any other legal or equitable theory whatsoever.

**ii. Defense:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor will, at its own expense, and upon written request by VTA or any individual Indemnitee, immediately defend any suit, action, proceeding, dispute, or demand brought against any Indemnitee founded upon, alleging, or implicating any Claims covered by Contractor’s indemnity obligation set forth in subparagraph (i) immediately above, regardless of whether Contractor and/or any of its agents, employees, or subcontractors was in fact negligent or reckless or engaged in willful misconduct. In the event a court of competent jurisdiction determines that any suit, action, claim, or demand brought against any Indemnitee was caused in any part by VTA or its agents, servants, or independent contractors who are acting on behalf of VTA, VTA shall promptly reimburse Contractor for the costs of defending the Indemnitees in such action incurred by Contractor, but only in proportion to the liability of VTA or its agents, servants, or independent contractors who are acting on behalf of VTA. In no event will the cost to defend charged to Contractor exceed Contractor’s proportionate percentage of fault. However, notwithstanding the previous sentence, in the event that one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution, Contractor must meet and confer with other parties regarding unpaid defense costs.

**2. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION AND DEFENSE OF CLAIMS:**

**i. Indemnification:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor will indemnify, defend, and hold harmless the Indemnitees from and against any and all Claims which may be suffered by, incurred by, accrued against, charged to, or recoverable by a third party from any Indemnitee, by reason of any such



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Claim arising out of or relating to any actual or alleged infringement of any Intellectual Property rights by any (i) Design Intellectual Property, (ii) Instruments of Service, (iii) Contractor Intellectual Property, or (iv) use of any of the aforementioned.

- ii. Defense:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor will, at its own expense, and upon written request by VTA, or any individual Indemnitee, immediately defend any suit, action, claim, or demand brought against any Indemnitee founded upon, alleging, or implicating any claims, liabilities, losses, injuries, damages, expenses, fines, penalties, or fees and costs covered by Contractor's indemnity obligation set forth in subparagraph (i) immediately above, regardless of whether any of the (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property did, in fact, infringe upon any Intellectual Property rights.
- iii. Additional Remedies:** If any part of the (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property is, or in Contractor's judgment may become, the subject of any infringement Claim, or is likely to be claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property right, Contractor will, at its expense and option, do one of the following: (a) procure for VTA the necessary right (including without limitation payment of any settlement monies, royalty, or license fee) to continue using such (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property, whether on its own and/or as incorporated into any Instruments of Service, the Project, or any building structure (regardless of construction status or operational status); (b) except when the Claim concerns a building structure (regardless of construction status or operational status), replace or modify the infringing portion of the (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property, so it becomes non-infringing; or (c) if (i) the Claim does not involve a building structure (regardless of construction status or operational status) and (ii) none of the foregoing are commercially reasonable, take back the infringing Instruments of Service and refund to VTA a pro-rated amount of any fees paid for the infringing portion of the Instruments of Service. If, in the sole opinion of VTA, the return of such infringing Instruments of Service makes the retention of other Instruments of Service acquired from Contractor under this Contract impractical, incomplete, or otherwise rendered useless for purposes of the Project, VTA will then have the option of terminating this Contract, or applicable portions hereof, without penalty. Contractor will take back such Instruments of Service and refund any fees VTA has paid Contractor.
- iv. Limitation on Infringement Indemnification and Defense of Claims:** Contractor shall have no liability or obligation under **Section E.2. Intellectual Property Infringement Indemnification and Defense of Claims** with respect to any Claim to



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the extent the Claim is based upon (a) any reuse of the Instruments of Service by VTA for any purpose unrelated to the Project, or (b) modifications, alterations, combinations, or enhancements of the Instruments of Service by any person or entity other than, and independent of, Contractor, and at the request of VTA, but only to the extent of such modifications, alterations, combinations, or enhancements.

- v. **Procedures:** Contractor's obligations under **Section E.2. Intellectual Property Infringement Indemnification and Defense of Claims** are conditioned on the following: VTA must (a) promptly notify Contractor, in writing, of any Claim subject to **Section E.2. Intellectual Property Infringement Indemnification and Defense of Claims** of which VTA has actual knowledge (provided that failure to do so will only release Contractor from this indemnity and defense of claims obligation to the extent that such failure led to material prejudice); (b) in writing, grant Contractor control of the defense of any such Claim and of all negotiations for its settlement or compromise, subject to VTA's right to participate in the defense of such Claim (at VTA's own expense), and provided that no such settlement or compromise may impose any liability or other obligations on VTA; and (c) reasonably cooperate with Contractor to facilitate the settlement or defense of the Claim.
3. **LIMITATION ON INDEMNIFICATION AND DEFENSE OF CLAIMS:** Nothing in **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** is intended to impose on Contractor a duty to defend, indemnify, or hold harmless that is prohibited by applicable law. Contractor's obligations under **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** do not extend to Claims to the extent caused by the sole or active negligence or willful misconduct of VTA or its agents, servants, or independent contractors who are acting on behalf of VTA or from damages for defects in designs furnished by those persons. Furthermore, to the extent that Contractor's Services giving rise to a Claim under **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** are subject to California Civil Code Section 2782.8, Contractor's obligations under **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** shall be limited, to the extent required by Civil Code Section 2782.8, to any liabilities, losses, injuries, damages, expenses, fines, penalties, liens, stop notices, or fees and costs (including attorneys' and experts' fees and costs) that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, and in no event shall the cost to defend charged to Contractor exceed Contractor's proportionate percentage of fault.
4. **SURVIVAL:** All of the requirements of **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** will survive the expiration or termination of this Contract and remain in full force and effect.



## **XI. APPENDICES**

### **ALL APPENDICES ARE AVAILABLE AND DOWNLOADABLE FROM VTA WEBSITE**

Appendix A – US 101 Express Lanes Project’s Final Initial Study/Environmental Assessment, July 2015

Appendix B – US 101 Express Lanes Project’s Project Report, August 2015

Appendix C – Project Location Map

Appendix D – Approved Geometric Drawings (GeDs)

Appendix E – VTA’s 2009 adopted Multi-Modal Design Practices and Principles

Appendix F – VTA’s 2017 adopted Complete Streets Resolution and Policy

Appendix G – VTA’s 2017 adopted 2016 Measure B Complete Streets Reporting Requirements

Appendix H – Preliminary Exhibits for Creek Bridges Widening

Appendix I – Preliminary Project Milestone Schedule