

Request for Proposals RFP P19157

Water Delivery Services

January 17, 2020
Kathy Cheng, Buyer III

TABLE OF CONTENTS

INTRODUCTION ----- 3

I. INSTRUCTIONS TO PROPOSERS----- 5

II. PROPOSER’S MINIMUM QUALIFICATIONS ----- 9

III. EVALUATION AND SELECTION -----10

IV. PROPOSAL FORMAT AND CONTENT -----13

V. BUSINESS DIVERSITY PROGRAM POLICY-----14

VI. INSURANCE REQUIREMENTS -----15

VII. QUALITY ASSURANCE AND WARRANTY PROVISION:-----16

VIII. PROTESTS -----17

IX. SCOPE OF SERVICES-----17

X. ADMINISTRATIVE SUBMITTALS -----24

XI. EXHIBITS-----38



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. The administrative headquarters is located separately from these four facilities.

For more information about VTA, log on to www.VTA.org.

ABOUT RFP P19157: VTA seeks proposals from qualified firms (“Proposers”) who will supply drinking water, distilled water, half-liter bottles of drinking water, water dispensers for bulk five-gallon and three-gallon water bottles, and municipal-sourced-water filtration units (collectively, the “Services”). The Services will cover all VTA facilities within Santa Clara County and all VTA special events such as July 4th in San Jose and Levi’s Stadium events in Santa Clara.

VTA will evaluate and select the contractor-proposed solution that meets its best overall interest.

NOTICE TO PROPOSERS OF LIMITATION OF FUTURE CONTRACTING: The Proposer(s) selected under this 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 as an addendum. All references in this RFP to “time” are Pacific Time.

Table 1

ACTIVITY	DATE/TIME
Issue RFP	January 22, 2020
Pre-Proposal Conference	February 4, 2020 at 10:00 a.m.
Deadline to Submit Questions	February 6, 2020 at 5:00 p.m.
Deadline to Submit Proposal	February 28, 2020 at 2:00 p.m.
Interviews (if needed)	Week of March 16 – 20, 2020

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 P19157 for Water Delivery Services”. 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:

Kathy Cheng, Buyer III
Santa Clara Valley Transportation Authority
3331 North First Street, Building A
San Jose, California 95134
Email: Kathy.Cheng@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 A, Room A108
San Jose, California 95134

Attendance may be in person or via teleconference. Email the Designated Point of Contact listed above to register as a teleconference attendee. Teleconference registration deadline is January 30, 2020 by 2:00 p.m.



D. WEBSITE REGISTRATION:

Proposers must register on VTA’s website as a condition of proposing to ensure receiving notification of any potential addenda or other pertinent information, as well as notification of closing and award even if this was a manually processed RFP. Go to <http://www.vta.org>, click “About” and go to “Business Center”, then select “Get Registered”. The system will take you to the registration page where you will enter all your registration information. In the “NAICS Email Subscription Settings”, check the box “New Solicitation and Updates Including Plan Holder Updates”. Then check all the NAICS code boxes for the categories of business that represent your company.

Once you are confirmed as a registered vendor, click the “View Solicitations” link on the page. This will take you to the “Solicitations” page where you will select this solicitation. Once you are on the page for this solicitation, you will need to register and log in to download the solicitation documents. You do this by entering in your email address and password in the boxes indicated. You will finalize your registration by downloading all the solicitation documents. This will register you as a plan holder for this solicitation.

It is vital to register as a plan holder, because if any addenda or notifications are posted for this solicitation, you will get an email directing you to go to the site for viewing and possible download.

Note: To review Proposals after award of Contract, contact the Designated Point of Contact listed in the Instructions section.

E. 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.

F. 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 addendum and other related materials will be posted to the VTA.org solicitation site. Prospective Proposers will be notified by email when information has been posted to the VTA solicitation 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 P19157 QUESTIONS” in the subject line.

Responses from VTA will be published on the VTA online solicitations website.



G. 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 six (6) printed copies and one (1) copy of the Proposal in an electronic format in the form of a flash drive.

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

“RFP P19157 WATER DELIVERY SERVICES”

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.

H. 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.

I. 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 goods and 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 none, some, or all of the Proposers.
- Waive informalities and irregularities in Proposals.
- Conduct interviews at its discretion.
- Accept other than the lowest offer.
- Negotiate with any, all or none of the Proposers.

J. TERM OF CONTRACT: The term of the contract (“Contract”) awarded to the successful Proposer (herein also referred to as the “Contractor”) shall be five (5) years from date of award by VTA.



K. CONTRACT TYPE: It is anticipated that VTA will award a contract (“Contract”). If awarded, the Contract will be firm-fixed price Contract. 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.

VTA also anticipates the award of a requirements contract as a result of this solicitation.

This is an exclusive contract. Except as the Contract otherwise provides, VTA shall order from the Contractor all the goods or services specified in the Scope of Work and/or Cost Proposal Form (Form 4) that are required to be purchased by VTA. The quantities of the various unit price items or services specified in the Scope of Work and/or Cost Proposal Form are the estimated total quantities of such items or services required by VTA. The estimate is not a representation to Contractor that the estimated quantities will be required or ordered, or that conditions affecting requirements will be stable or normal. The estimates are not in any way guaranteed and will not form any basis for any claims or damages including, but not limited to, lost profits should the estimates change in any way.

This is a requirements contract for the goods or services specified, and effective for the period stated, in the Contract. The quantities of goods or services specified herein are estimates only and are not purchased by this Contract, Except as this Contract may otherwise provide, if VTA’s requirements do not result in orders in the quantities described as “estimated” herein, that fact shall not constitute the basis for an equitable price adjustment.

The Contractor shall furnish to VTA all goods or services specified herein and called for by purchase orders issued in accordance with the Contract.

VTA may issue purchase orders requiring delivery to multiple destinations or performance at multiple locations.

Except as this Contract otherwise provides, VTA shall exclusively order from the Contractor all the goods or services specified herein that are required by VTA.

If VTA urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this Contract, and if the Contractor will not accept an order providing for the accelerated delivery, VTA may acquire the urgently required goods or services from another source, which will not constitute a breach of this Contract.

Any purchase order issued during the effective period of this Contract but not completed within that period shall be completed by the Contractor within the time specified in the order. This Contract shall govern the Contractor’s and VTA’s rights and obligations with respect to that order to the same extent as if the order were completed during the Contract’s effective period.



L. EXERCISE OPTIONS: “OMITTED”

M. FREIGHT TERMS: All materials shall be FOB Destination, prepaid and allowed, at no additional cost to VTA unless specified otherwise in the Scope of Work, attached hereto. Destination is defined for purposes of this Contract as the VTA locations as specified under Delivery or on the individual purchase orders associated with this Contract. Any exception to this requirement renders the Proposal non-responsive.

N. DELIVERY ADDRESSES: See Attachment A for the delivery addresses for this Contract.

O. 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.

P. 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.

Q. 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.

R. 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 are the minimum required qualifications that a Proposer must have in order for a Proposal to be considered:



1. The Proposer must have three years of experience in providing the Services to institutional- and/or industrial-type sites.
2. During the last three years the Proposer must have administratively managed at least one contract of this size (in terms of dollar value) while maintaining the delivery timelines required as proposed.
3. The Proposer must have and maintain staffing levels and fleet of delivery vehicles sufficient to provide adequate service levels to all sites listed in Attachment A.
4. The Proposer shall possess knowledge of laws, regulations and codes regarding delivery of drinking water, maintenance of water coolers/dispensers and filtration units, and production, quality and process control procedures of the Services. The Proposer shall also be familiar with local conditions relating to delivery of the Services in Santa Clara County.

B. PREFERRED QUALIFICATIONS:

1. Proposer has five (5) years of experience in providing the Services to institutional- and/or industrial-type sites.
2. Proposer has experience in delivering the Services to other transit agencies or other public agencies in California, preferably in the Bay Area.

III. EVALUATION AND SELECTION

A. EVALUATION CRITERIA: The following criteria listed in order of relative importance will be used to evaluate Proposals:

Proposed Solution, Work Plan and Project Understanding	25 Points
Cost Proposal	25 Points
Qualification of the Firm and Past Performance	20 Points
Staffing and Project Organization	20 Points
Local Firm Preference	10 Points



- 1. PROPOSED SOLUTION, WORK PLAN AND PROJECT UNDERSTANDING:** Proposer's demonstrated understanding of the project requirements, potential problem areas, project approach, work plan, will be evaluated.
- 2. COST PROPOSAL:** VTA will evaluate the reasonableness of the total price against the competitiveness of this amount with other Proposals received and adequacy of the data submitted supporting the figures quoted. Proposals in which the costs do not reflect a reasonable relationship to the work to be conducted may be viewed as failing to comprehend the requirements of the Scope of Work, and, therefore, cause for the proposal to be rejected as being non-responsive.

VTA will assign points based on the following formula calculated for each Cost Proposal: $((\text{Highest Proposed Price} - (\text{Proposed Price} - \text{Lowest Proposed Price})) \div (\text{Highest Proposed Price} \div \text{Criterion Weight})) = \text{Assigned Points for Cost Proposal being evaluated.}$

- 3. QUALIFICATION OF THE FIRM AND PAST PERFORMANCE:** Qualifications to be considered include but are not limited to: Proposer's profile of their firm, experience in performing the Services of a closely similar nature; experience working with transit properties or other public agencies; record of completing the Services on schedule; strength and stability of the firm; experiences and responsiveness in handling special work orders or emergency situations; capability in contract management, especially in accurate billing; and assessments by client references.
- 4. STAFFING AND PROJECT ORGANIZATION:** VTA will be evaluating this section based on the Proposer's staffing and organization of this project. Proposer's project team members shall be identified by name, location, specific responsibilities on the project. The project manager and delivery personnel will be an important factor considered by the review board. Other factors to be considered include key personnel's level of involvement in performing related work; adequacy of labor commitment; and concurrence in the restrictions on changes in key personnel. Once the Proposal is submitted, there can be no change of key personnel without the prior approval of VTA.
- 5. LOCAL FIRM PREFERENCE:** Proposer must have a local office in the San Francisco area or surrounding communities with local contact or personnel other than delivery person to address questions, resolve issues, and/or, coordinate deliveries with the VTA Authorized Representative.

Five (5) points shall be awarded if at least fifty percent (50%) 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 (10%) of the dollar value of services to be performed by a local firm, to a maximum point award of ten (10) 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 may 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.

This is a “best value” procurement based on procedures consistent with California public contract code section 20301(a). “Best value” is a selection process where the award is based on a combination of price and qualitative considerations. A best value procurement requires tradeoffs between price and non-price factors to select the best overall value to VTA.

Subject to VTA’s right to reject any or all proposals, or to waive for any informalities or technicalities in any proposal, the Proposer whose Proposal is found to be most advantageous to VTA will be selected based upon consideration of the evaluation criteria.

Thus, VTA will make the award to the responsible Proposer whose Proposal is most advantageous to VTA. Accordingly, VTA may not necessarily make an award to the Proposer with the highest technical ranking nor award to the proposer with the lowest price Proposal if doing so would not be in the overall best interest of 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. Proposer must organize and label each section as shown below, example Section 1: Proposed Solution, Work Plan and Project Understanding, Section 2: Cost Proposal, etc.:

- 1. PROPOSED SOLUTION, WORK PLAN AND PROJECT UNDERSTANDING:** This section shall include a presentation of a well-conceived work plan and establish the Proposer's understanding of VTA's objectives, work requirements and the Scope of Work section of the RFP, including identifying potential problem areas, and providing an overview of the Proposer's project approach. Proposer's project approach and work plan should showcase Proposer's ability to satisfy those objectives and requirements. The work plan shall describe the work assigned to the prime and each subcontractor, if any. The work plan shall also include a timetable/schedule for completing all work specified in the Scope of Work.

Proposer must also submit quality assurance and warranty policies as stipulated in Section VII – Quality Assurance and Warranty Provision in this RFP.

- 2. COST/PRICING INFORMATION:** This section shall include the Proposer's price for providing the product and services discussed in the Scope of Work. The attached Form 4 – Cost Proposal Form must be completed and submitted with the proposal. VTA has provided estimated requirements in Form 4.
- 3. QUALIFICATIONS OF THE FIRM AND PAST PERFORMANCE:** This section shall include the following:
 - a. A profile of the firm, including a brief description of the firm's size, local organization structure, number of years in providing the Services.
 - b. A discussion of the firm's financial stability, capacity and resources. The Proposer must submit the firm's most recent three (3) years of complete financial statements, including footnotes and auditor's opinion or other financial instrument that would establish the firm's ability to complete the obligations of the contract resulting from this solicitation.
 - c. Experience in performing work of a similar nature, preferably with other transit agencies or public agencies; record of completing work on schedule; experience in responding to emergency or special work orders; and contract management skills with an emphasis on billing accuracy.



- d. A list 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.
 - e. Complete Form 9 – References by providing three (3) current and three (3) previous clients, preferably with other transit agencies or public agencies in the Bay Area or in California, where the Proposers performed similar work to VTA’s requirements. VTA will be contacting the references that are provided.
- 4. STAFFING AND PROJECT ORGANIZATION:** This section shall discuss how the Proposer would propose to staff this project. Qualifications of project staff will be considered, particularly key personnel, and especially the project manager, delivery personnel and administrative staff. Proposer’s project team members shall be identified by name, location, specific responsibilities on the project and the estimated hours per person of participation. An organizational chart for the project team and resumes for key personnel shall be included. Key personnel will be an important factor considered by the review board. Other factors to be considered include key personnel’s level of involvement in performing related work; the logic of the project organization; adequacy of labor commitment; and concurrence in the restrictions on changes in key personnel. Contractor will supply an alternate delivery personnel if scheduled trained personnel are not available to service areas requiring Railway Workers Protection Training and a Restricted Access Permit. Once the Proposal is submitted, there can be no change of key personnel without the prior approval of VTA.
- 5. LOCAL FIRM PREFERENCES:** Complete Form 8 – Local Firm Certification and submit with the Proposal.
- 6. ADMINISTRATIVE SUBMITTALS:** The Proposer must complete all the forms attached hereto and submit in the Proposal.

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

A. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE POLICY AND REQUIREMENTS: It is the policy of the Santa Clara Valley Transportation Authority to ensure that Minority and Women-Owned Business Enterprises (“MWBE”), as defined in the VTA MWBE Program, have an equitable opportunity to participate in the performance of contracts and subcontracts financed with local funds. VTA has an 18% MWBE aspirational goal. In this regard, Proposer will use its best efforts to ensure that MWBE firms have an equitable opportunity to compete for subcontract work.

For more information on VTA’s Business Diversity Programs, please see website at www.vta.org/osdb or call the Office of Business Diversity Programs at (408) 321-5962 for



assistance in identifying eligible MWBE firms. Listings of eligible firms are also available at the following:

<https://vta.sdbbe.com/FrontEnd/VendorSearchPublic.asp?TN=vta&XID=5635>

B. SMALL BUSINESS ENTERPRISE POLICY AND REQUIREMENTS: It is VTA policy to ensure that Small Business Enterprise (“SBE”) firms, as defined in Federal Regulations 13 CFR Part 121 and 49 CFR Part 26, have an equitable opportunity to participate in the performance of contracts and subcontracts.

1. SBE WITH NO SET GOAL ASSIGNMENT: VTA has not established a contract specific SBE goal for this project. However, Proposer is encouraged to make every effort to meet VTA’s overall agency goal of 19% where possible. In this regard, Proposer will use its best efforts to ensure that SBE firms shall have an equitable opportunity to compete for subcontract work under this Contract. Any certified Disadvantaged Business Enterprise (“DBE”) is eligible to participate towards the SBE overall participation goal. SBE firms must be certified or accepted as certified by the VTA Office of Business Diversity Programs (“OBDP”).

Listings for SBE and DBE firms are:

VTA SBE Database:

- <http://www.VTA.org/about-us/doing-business-with-VTA-search-for-sbes>

California UCP DBE Database:

- <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-search>

2. CONSULTANT REGISTRATION: All SBE DBE and MWBE firms listed on Form 5, Listing of MWBE Prime and Subcontractors and Form 6, Listing of SBE Prime and Subcontractors, must be certified by VTA’s OBDP, the California Unified Certification Program (“CUCP”), and/or accepted as certified by VTA’s OBDP at the time of the Proposal due date to be counted toward VTA’s 19% overall SBE goal. Proposers must comply with VTA's SBE Program Policy and Requirements on utilization of SBE.

- a. Form 5, MWBE Listing of Prime and Subcontractors, Form 6, SBE Listing of Prime and Subcontractors, Form 7, Designation of Subcontractors and Suppliers, in compliance with SBE Program Policy and Requirements, must be submitted at time of Proposal submittal.
- b. It is the Proposer’s sole responsibility to verify to VTA that a sub-consultant has a SBE/DBE certification.

VI. INSURANCE REQUIREMENTS: Contractor shall adhere to the insurance requirements set forth in Exhibit G-1. 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.

VII. QUALITY ASSURANCE AND WARRANTY PROVISION:

- A. QUALITY ASSURANCE SYSTEM POLICY:** The Contractor and/or supplier shall have and maintain an effectively defined and documented Quality Assurance System which demonstrates the Contractor and/or supplier's policy, objective, and commitment to quality at all levels of the organization. This system manual or current quality program certification document shall be submitted in writing to VTA as part of the Proposal package for approval. The Contractor and/or supplier shall also have the capability to ensure original design integrity, inspection, testing, adhering to Scope of Work and/or technical specification by preventing nonconformity at all stages from production through delivery.
- B. MANAGEMENT ORGANIZATION:** The Contractor and/or supplier shall have a designated quality assurance representative with the defined responsibility and authority to verify Contract conformance and initiate corrective and/or preventative actions on the occurrence of any nonconformance relating to product (systems, parts, components, materials, and services), performance, customer service, process and/or Quality Assurance System. VTA reserves the right to audit and assess the effectiveness of this Quality Assurance System organization. The Contractor and/or supplier shall:
1. Identify, document and communicate changes to the Quality Assurance System, and any problems relating to the system and its nonconformity.
 2. Initiate, recommend or provide solutions through designated channels.
 3. Verify the implementation of corrections, preventative actions and/or solutions.
 4. Ensure that the Quality Assurance System requirements of this Contract are established, implemented and maintained.
 5. Review, audit and report on the Quality Assurance System at defined intervals sufficient to ensure its continuing suitability and effectiveness in satisfying the requirements of this Contract.
- C. WARRANTY:** Warranties in this Document are in addition to any statutory remedies or warranties imposed on the Contractor and/or supplier. Consistent with this requirement, the Contractor and/or supplier shall guarantee and warrant all products adhering to products manufacture performance requirements and VTA's specified requirements. The Contractor and/or supplier shall also have and maintain an effectively defined and documented warranty administration system that demonstrates the Contractor and/or supplier's and/or Products Manufacturer's policy, procedure and commitment to respond to and resolve product returns and warranty claims within a reasonable time. The Contractor and/or supplier is required to submit warranty policy, procedure, and forms for VTA review.



VIII. 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: 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 may be obtained 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.

IX. SCOPE OF SERVICES:

REQUIREMENTS:

1. WATER COOLERS/DISPENSERS

Contractor will deliver water cooler/dispenser units to various VTA locations within Santa Clara County. Contractor is responsible for complete delivery, set-up, electrical connection (plug in), and clean-up of the delivery site after installation.



Contractor must submit delivery and set-up schedule and begin delivery to all locations within thirty (30) days of award of the Contract. Rollout of deliveries will be performed in stages. The roll-out will be coordinated between the VTA Authorized Representative and the Contractor. Scheduling and implementation will be coordinated in advance with the VTA Authorized Representative or Designated Contact to ensure a timely and efficient delivery process. Contractor may be required to perform site visits before the scheduling of deliveries to insure correct placement at each location. Contractor must coordinate all work with the VTA Authorized Representative or his or her designee(s).

2. WATER COOLER/DISPENSER COLOR/STYLE

VTA recognizes that water dispenser styles and colors change due to design changes based on consumer interest and other market forces. Therefore, the VTA Authorized Representative will choose from the available models being offered by Contractor or Contractor's suppliers or subcontractor(s).

3. WATER COOLER/DISPENSER UNIT TYPES

Contractor must provide the following deliverables as described in paragraph 1:

- Hot and cold water coolers/dispensers (as specified below)
 - Cold only water coolers/dispensers (as specified below)
 - Carbon Filtration units with hot and cold dispensers (as specified below)
- a. All units possessing heating and cooling characteristics must and run off a standard A/C electrical connection, on a standard three-prong grounded plug with no more than a 10-amp draw.
 - b. All units must have a safety flow valve on the hot water dispenser, such that the dispensing lever/button will not release hot water unless a safety release is depressed or activated. This device must be operable utilizing only one hand.
 - c. All units must stand on the ground and be resistant to tipping over.
 - d. Electrical connections must be insulated to protect from electric shock when both wet and dry.
 - e. Units providing hot water must be insulated so as to prevent burns when touched. These units must also be insulated such that items in the immediate proximity are not subject to melting or ignition as a result of coming into contact with or being near the unit.
 - f. Coolers must hold containers of water between a minimum of three gallons and a maximum of five gallon containers.
 - g. Dispensers must have a minimum service filter life of 180 days.

4. WATER COOLER/DISPENSER OPERATION

- a. Coolers must operate via gravity-flow operation, such that water is released from a three- or five-gallon water bottle, placed on or in the dispenser.
- b. Water must dispense through an opening fitted with a flow regulator. The flow regulator must be designed such that it can be operated by individuals with disabilities, as well as by any other user.



- c. Flow regulators must be clearly marked for hot, cold, and room temperature water, as appropriate. Colors will suffice for this type of identification, so long as the color red is for 'hot', blue is for 'cold', and any other color is for 'room temperature'.
- d. All units must release water only when activated to do so by use of the flow regulator. Units failing to perform properly within this parameter are to be replaced immediately.
- e. All units must possess a shut-off valve that can stop the flow of water immediately. Any form of operational lever, valve, or dial will suffice for this requirement.
- f. All units must have a collection reservoir that will collect drips from the water spout.
- g. Units that dispense hot water must heat the water to a minimum of 185 degrees Fahrenheit, and a maximum of 195 degrees Fahrenheit.

5. WATER QUALITY AND SANITATION

- a. Bottled water supplied to VTA must meet current FDA standards. Water quality must meet the standards outlined in 21 CFR Part 165, which outlines the standards of quality for bottled water.
- b. In addition to water quality, Contractor must ensure that the bottles containing the water are cleaned and sanitized in a manner that meets FDA standards as outlined in 21 CFR Part 129.
- c. Contractor must continue to comply with FDA standards, as those standards may from time to time be amended or revised, at all times during the lifetime of the Contract.

6. FILTRATION REQUIREMENTS FOR FILTRATION DISPENSERS

Contractor must replace water filters on all municipal water service dispensers every six (6) months on a regularly scheduled basis, and must date the filters upon changing. All filtration units must have at least the following two stages of filtration:

- Five-micron sediment filter, and
- Ten-micron activated carbon filter

7. VTA-OWNED COUNTERTOP WATER DISPENSERS

VTA currently owns five (5) countertop water dispensers. Contractor must replace and supply water filters for the VTA-owned countertop water dispensers. Filter changes will be every six (6) months and include the same specifications as item 6, directly above. VTA reserves the right to add or remove VTA-owned countertop water dispensers.

8. CARBON FILTRATION:

Freestanding units in both floor and countertop models must possess carbon filtration device. VTA requires a filtering system (to reduce chlorine, sediment, pesticides, and heavy metal pollutants) that is one (1) micron rating or lower and must inhibit cryptosporidium, Giardia, and prescription medication residues.

9. SERVICE AND REPAIRS:

- a. All units must be free from leaks. Leaking units must be replaced within one (1) business day of notice to Contractor. There is to be no additional charge for replacement of a leaking unit.



- b. Any unit deemed unacceptable to VTA is to be repaired, removed or replaced as requested by VTA. Such repair, removal or replacement is to be carried out within one (1) business day, unless otherwise noted in writing by VTA.

10. LEASE ON CONTRACTOR OWNED UNITS:

All units are to be leased from Contractor. Leases will run for an initial period of one (1) year; however the lease term of one (1) year will not be guaranteed for any unit. All units leased to VTA will be on the same billing cycle. If and/or when new water coolers/dispensers are installed throughout the Contract, the lease dollar amount will be pro-rated to coincide with the lease period established for all other water coolers/dispensers. If and/or when any water cooler/dispenser is removed or cancelled, Contractor will issue a refund based on the prorated number of months, and days remaining on the lease term.

All leased units must be clearly marked with the name of the owner, address of the owner, and a contact number for the owner. In addition, the model number and serial number of the unit must be displayed in a manner that allows for easy identification without having to move the unit.

Contractor must maintain a complete and accurate list, by serial number, of all units installed at VTA. Each unit will be identified by a serial number affixed to the outside of the unit. The inventory list is to be made available to VTA at the beginning of service.

Any unit that is removed or replaced must be recorded as such on the inventory list. Additionally, a record of each transaction that takes place as the result of a new installation, a replaced unit, a relocated unit, or a removed unit, is to be followed by a report of such transaction to the VTA Authorized Representative.

No unit is to be changed without the express written approval of the VTA Authorized Representative. A "Change Form" document designed and created by VTA will be utilized for this purpose. As necessary, the Change Form will be issued to Contractor, indicating the location, serial number, and reason for requested service. Contractor will then have a maximum of five (5) business days to make the requested delivery, removal, or change, as requested. Contractor is responsible for recording all information about the change on the inventory list. Further, Contractor will complete and sign the Change Form. The Change Form will then be emailed to the VTA Authorized Representative.

11. WATER BOTTLES AND DELIVERY OF ALL MATERIALS:

Delivery of filled water bottles is to be made to the physical location of each water cooler/dispenser. Contractor is responsible for the actual delivery, set-up, and movement of all water bottle delivery to VTA. Contractor must provide water bottles to VTA at a fixed price, as negotiated based on the Cost Proposal Form. There will be no adjustments to the cost of water. Annual price escalations must be as indicated on the Cost Proposal Form or as negotiated prior to Contract execution. After initial delivery and installation of water



coolers/dispensers, Contractor will commence filled water bottle delivery to all VTA locations based on the weekly schedule. Contractor shall deliver water before 12 noon and per arranged schedule with the VTA Authorized Representative(s) for additionally requested deliveries. In addition, to alleviate the need for fast turnaround emergency water requests, Contractor must allow an VTA Authorized Representative to pick up water at the nearest warehouse or public access point as determined by the request's origin location. For example, in the event of an emergency pick-up request originating from VTA's North Yard in Mountain View, Contractor will make the water available at its location nearest to North Santa Clara County.

Contractor will initiate a weekly delivery schedule with the VTA Authorized Representative(s) after approval of the schedule submitted in writing before deliveries can begin. After initial delivery and installation of water coolers/dispensers, or the continued use of existing water coolers/dispensers, Contractor will commence filled water bottle delivery and removal of empty containers to all VTA locations based on the weekly schedule. Delivery of filled water bottles is to be made to the physical location of each water cooler/dispenser, or as indicated in the case of ½ liter water bottles. Contractor is responsible for the actual delivery, set-up, and movement of all water bottle delivery to VTA. Contractor must obtain the approval of VTA Authorized Representative for any deviations or changes in schedule a minimum of two (2) business days in advance with the Authorized VTA Representative.

12. FURTHER DELIVERY REQUIREMENTS:

- a. Contractor is responsible for all deliveries assigned by the VTA Authorized Representative(s). Authorization of work will be in the form of a written request from the VTA Authorized Representative(s). Only the VTA Authorized Representative(s) may give authorization for services or deliveries.
- b. Contractor's delivery personnel must check in with the VTA Authorized Representative(s) upon arriving at the work site and check out once the delivery is complete or completed for the day. The delivery personnel must not engage in any work until s/he has received approval from the VTA Authorized Representative(s) or has received prior instructions or approvals from the VTA Authorized Representative(s). Delivery personnel must have signatures for completed deliveries from the VTA Authorized Representative(s) before leaving the site unless previous arrangements have been made with the VTA Authorized Representative(s).
- c. VTA will identify the VTA Authorized Representative(s) in writing. No other VTA personnel may give instructions to Contractor's personnel. If contacted for issues related to this Contract by non-authorized VTA personnel, Contractor and its employee must tell the requestor that s/he is not authorized to make changes without approval from the VTA Authorized Representative(s).
- d. Contractor must provide stackable crates for three- and five-gallon bottles of water free of charge for all water bottles upon initial delivery of water for each site where water



bottles are used. The number of crates must be equivalent to the number of bottles used for each site or location including stored emergency water. as required and as requested by VTA. VTA may request, on occasion, other types of water in various packaging, such as distilled water or other specialty types. This will be covered within the Contract under provisions for water deliveries on Cost Proposal Form (Form 4).

- e. **HALF-LITER BOTTLED WATER AND ONE-GALLON DISTILLED WATER:**
Contractor must provide half-liter bottled water and one-gallon bottled distilled water. Deliveries of cases of half-liter bottled water and one-gallon bottled distilled water must be palletized and wrapped to allow for forklift service for the movement and distribution of the bottle cases. Contractor shall deliver all half-liter bottled water automatically on a monthly basis to the locations identified below.

Quantities and locations of half-liter cased bottle water must be delivered and labeled as follows:

- i. 2400 bottles per month for Light Rail Maintenance Group: Deliver to Building B – Way Power and Signal, at the Guadalupe Light Rail Division.
- ii. 960 bottles per month for Bus Stop Maintenance: Deliver to Building G, Cerone Division Warehouse.
- iii. 600 bottles per month for the Field Supervision Group: Deliver via hand service to Cerone Division Building H. Hand service is required here because delivery via forklift or other mechanical means is not feasible at this location.

13. SEMI-ANNUAL CLEANING OF WATER COOLERS/DISPENSERS

- a. Water coolers/dispensers must be cleaned every six (6) months on a regularly scheduled basis and according to the procedures stipulated in this section.
- b. Unplug unit(s) and remove empty bottle. For water dispensers (filtration units), turn off water supply after turning off the unit. If necessary, drain the reservoirs.
- c. Remove lid and baffle from the reservoir(s). The baffle will be either a blue or white plastic disc or funnel. For a filtration unit, remove lid and expose reservoir(s).
- d. Use the appropriate amount of manufacturer-approved sanitizer or 1 cup of vinegar mixed with 3 cups of water. Use a clean cloth, wipe the entire inner surface of the baffles and reservoir(s). Clean all internal surfaces that are in contact with the dispensed water.
- e. Drain the reservoir through the taps. Unscrew the taps and remove the gaskets, apply the appropriate amount of manufacturer-approved sanitizer or use regular household detergents to clean the gaskets and taps. If necessary, replace the gaskets and taps.
- f. Rinse out the reservoir by filling it at least twice with water and draining it out through the taps into a container. Dispose of the containers contents into a sanitary sewer connected device such as a sink or toilet. If no sanitary sewer device is available, the Contractor must transport the water to an approved disposal point. Under no circumstances may the used water with any cleaning solution or detergent be dumped on the ground or allowed to enter a storm drain. Clean water may be dumped in landscaping, no water is to enter a storm drain for any reason.



- g. Reinstall cleaned baffle, place a new bottle on cooler, and plug into electrical supply. For filtration unit, replace the lid, turn on the water tap and plug in the unit.
- h. Clean the non-spill assembly as described above or replace if necessary.
- i. Wipe down and clean the exterior of the unit(s).
- j. Check the unit for proper operation and diagnose any malfunctions of the unit(s).
- k. Repair any unit(s) as necessary at the time of cleaning or report any issues to the VTA Authorized Representative or Designated Contact if repair or replacement of unit(s) is needed.

14. EMERGENCY SERVICES

In some instances, interim emergency or special work order deliveries of water (in any form as described in this RFP) will be required. By way of example and not of limitation, an emergency/special work order could include a water main break which requires immediate water filter changes or inclement weather or natural disaster which requires additional Services.

Contractor must have a designated representative on call twelve (12) hours a day (usually from 6am to 6pm), five (5) days a week, to provide emergency on-call delivery or repair services needed by VTA. An on-call service request will be designated as an emergency by VTA when appropriate, including but not limited to instances where (i) units fail to operate, (ii) a hazardous condition exists, (iii) an unsafe condition exists, (iv) an unsafe environmental condition exists, or (v) execution of operational requirements are severely limited or prohibited due to safety conditions. VTA reserves the right to determine in its sole discretion what constitutes an emergency on-call service request. When an on-call service request is designated as an emergency by the VTA Authorized Representative or Designated Contact, Contractor must report to the relevant VTA worksite within two (2) hours of VTA notification to Contractor. Contractor must provide a contact phone number that will be continually monitored in order to respond as required. VTA reserves the right to contact an alternate vendor of its choosing in the event that Contractor for any reason is unable or refuses to provide such emergency service on any particular occasion.

15. LEASE EQUIPMENT AT TERMINATION OR EXPIRATION OF CONTRACT

It is the Contractor's responsibility to pick up the leased equipment from VTA upon the termination or expiration of the Contract, or if notified by the VTA Authorized Representative. VTA will not be held responsible for equipment left behind after the termination or expiration of the Contract and beyond the agreed upon timeline regarding retrieval of the leased equipment. All shipping and pick-up costs are the responsibility of the Contractor.



X. ADMINISTRATIVE SUBMITTALS

Proposer must submit all forms and 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 MWBE PRIME AND SUBCONTRACTORS

FORM 6. LISTING OF SBE PRIME AND SUBCONTRACTORS

FORM 7. DESIGNATION OF SUBCONTRACTORS AND SUPPLIERS

FORM 8. LOCAL FIRM CERTIFICATION

FORM 9. REFERENCES

FORM 10. ACKNOWLEDGMENT OF ADDENDA



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. _____
 DUNS No. _____
 Federal Taxpayer ID No. _____
 DIR No. _____

POINT(S) OF CONTACT

Primary

Name/Title _____
 Phone No. _____
 Cell Phone No. _____
 E-mail _____

Alternate

Name/Title _____
 Phone No. _____
 Cell Phone No. _____
 E-mail _____

AUTHORIZED SIGNATORIES:

Primary

Name/Title _____
 Signature _____
 E-mail _____

Alternate

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
Larry Carr	VTA Board Member	City of Morgan Hill
Sam Liccardo	VTA Board Member	County of Santa Clara
Lan Diep	VTA Board Member	City of San Jose
Magdalena Carrasco	VTA Board Member	City of San Jose
Charles "Chappie" Jones	VTA Board Member	City of San Jose
Raul Peralez	VTA Board Member	City of San Jose
Dave Cortese	VTA Board Member	County of Santa Clara
John McAlister	VTA Board Member	City of Mountain View
Rob Rennie	VTA Board Member	Town of Los Gatos
Rich Tran	VTA Board Member	City of Milpitas
Devora "Dev" Davis	VTA Alternate Board Member	City of San Jose
Howard Miller	VTA Alternate Board Member	City of Saratoga
Susan Ellenberg	VTA Alternate Board Member	County of Santa Clara
Glenn Hendricks	VTA Alternate Board Member	City of Sunnyvale
Adrian Fine	VTA Alternate Board Member	City of Palo Alto
Marie Blankley	VTA Alternate Board Member	City of Gilroy
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

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

See separate file.



FORM 5. LISTING OF MWBE PRIME AND SUBCONTRACTORS

Firm (Prime): _____ Phone: _____

MWBE: Yes No Age of Firm _____

Address: _____ Name & Title: _____

City, State, _____ Signature/ _____

Zip: _____ Date _____

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

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

CREDIT FOR MWBE 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 MWBE to non-MWBE firms, towards the MWBE goal.

A MWBE 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. _____

MWBE GOALS ARE DETERMINED ON BASE PROPOSAL AMOUNT:

Total Contract Amount \$ _____

MWBE Contract Amount \$ _____

MWBE Contract Amount MWBE Goal Achieved MWBE Contract Goal



FORM 6. LISTING OF SBE PRIME AND SUBCONTRACTORS

Firm (Prime): _____ Phone: _____
 DBE: Yes No Age of Firm _____
 Address: _____ Name & Title: _____
 City, State, Zip: _____ Signature/ Date _____

Contract dollar value must exclude work performed by non-SBE 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 SBE regular dealer. Credit for SBE manufacturers is given at 100% toward the SBE goal **only where the SBE 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 SBE to non- SBE firms, towards the SBE goal.

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

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

Description of Work

1. _____
 2. _____
 3. _____
 4. _____
 5. _____

SBE GOALS ARE DETERMINED ON BASE PROPOSAL AMOUNT:

Total Contract Amount \$ _____
 SBE Contract Amount \$ _____

$$\frac{\text{SBE Contract Amount}}{\text{Base Contract}} \times 100 = \frac{\text{SBE Goal Achieved}}{\text{SBE Contract Goal}} \times 100$$



**FORM 7. DESIGNATION OF SUBCONTRACTORS AND SUPPLIERS
FOR
DATA COLLECTION REQUIREMENTS**

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
-----------	---------

Total Proposed Amount: \$ _____

Amount to be subcontracted: \$ _____

Percent to be subcontracted: _____ %



FORM 8. LOCAL FIRM CERTIFICATION

1. The 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. The 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 9. REFERENCES

RFP 19157 – Water Delivery Services

Proposer Name:			
<u>CURRENT REFERENCE 1</u>			
Company Name:		Contact Person:	
Address:		Telephone Number(s):	
City, State, Zip:		Email Address(es):	
Date(s) of Services:			
Project Amount:			
Services Provided:			

<u>CURRENT REFERENCE 2</u>			
Company Name:		Contact Person:	
Address:		Telephone Number(s):	
City, State, Zip:		Email Address(es):	
Date(s) of Services:			
Project Amount:			
Services Provided:			



<u>CURRENT REFERENCE 3</u>			
Company Name:		Contact Person:	
Address:		Telephone Number(s):	
City, State, Zip:		Email Address(es):	
Date(s) of Services:			
Project Amount:			
Services Provided:			

<u>PAST REFERENCE 1</u>			
Company Name:		Contact Person:	
Address:		Telephone Number(s):	
City, State, Zip:		Email Address(es):	
Date(s) of Services:			
Project Amount:			
Services Provided:			



<u>PAST REFERENCE 2</u>			
Company Name:		Contact Person:	
Address:		Telephone Number(s):	
City, State, Zip:		Email Address(es):	
Date(s) of Services:			
Project Amount:			
Services Provided:			

<u>PAST REFERENCE 3</u>			
Company Name:		Contact Person:	
Address:		Telephone Number(s):	
City, State, Zip:		Email Address(es):	
Date(s) of Services:			
Project Amount:			
Services Provided:			



FORM 10. ACKNOWLEDGMENT OF ADDENDA

In compliance with your **Request for Proposal** for this project, the undersigned Bidder, being thoroughly familiar with the terms and conditions of the Bid Documents, hereby bids and agrees fully to perform the work within the time stated and in strict accordance with the Bid Documents.

Note: It is the Bidder’s responsibility to obtain all addenda to this solicitation.

The Bidder hereby acknowledges receipt of the following Addenda to the Bid Documents:

Addendum No. _____	Dated _____		Addendum No. _____	Dated _____
Addendum No. _____	Dated _____		Addendum No. _____	Dated _____
Addendum No. _____	Dated _____		Addendum No. _____	Dated _____
Addendum No. _____	Dated _____		Addendum No. _____	Dated _____



XI. EXHIBITS

EXHIBIT A – Sample Contract

EXHIBIT A-1 – Scope of Services

EXHIBIT A-2 – Compensation, Invoicing, and Payments

EXHIBIT A-3 – Price Proposal Form

EXHIBIT A-4 – Small Business Enterprise (SBE) Requirements

EXHIBIT G-1 – Insurance Requirements

EXHIBIT B – Safety Requirements

APPENDIX A – Restricted Access Work Permit Form

**APPENDIX B – Use of Personal Electronic Devices by Bus and Light Rail Employees
and Contractor Staff**



EXHIBIT A SAMPLE CONTRACT

BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
CONTNAME
FOR
WATER DELIVERY SERVICES

CONTRACT NO. P19157

THIS CONTRACT for water delivery 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 A-1 Scope of Services (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 for 5 years (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 A-2 Compensation, Invoicing and Payment and A-3 Price Proposal Form 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 Services other than to those subcontractors that may be identified **herein or in Exhibit X**. 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 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:

- a. **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.
- b. **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 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:
Chief Procurement Officer
3331 N. First Street, Bldg. A
San Jose, CA 95134-1927
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:
Kathy Cheng
Buyer III
3331 N. First Street, Bldg. A



San Jose, CA 95134-1927
Kathy.Cheng@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 G-1.

N. INDEMNITY AND DEFENSE OF CLAIMS:

1. Contractor must indemnify and hold harmless VTA, any public agencies within whose jurisdiction, on whose behalf, or on whose property the Services are being performed, any party VTA is contractually obligated to identify in this Contract as an indemnitee, and each of their respective Board of Directors, Board of Supervisors, Councils, individual board members, officers, agents, employees, and consultants (each, an “Indemnitee”; collectively, the “Indemnitees”) from any claims, liabilities, losses, injuries, damages, expenses, fines, penalties, liens, or fees and costs (including attorneys’ and experts’ fees and costs) (each a “Claim” and collectively “Claims”) arising out of, pertaining to, caused by, or in any way relating to the work performed under this Contract, including compliance or non-compliance with the terms of this Contract, by Contractor and/or its agents, employees, or subcontractors, whether such Claims are based upon a contract, personal injury, death, property damage, or any other legal or equitable theory whatsoever.
2. 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 above in subparagraph (1) immediately above and regardless of whether Contractor and/or any of its agents, employees, or subcontractors, was, in fact, liable. In the event a court of competent jurisdiction determines that any suit, action, claim, or demand brought against any Indemnitee was caused by the sole or active negligence or willful misconduct 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 sole or active negligence or willful misconduct of VTA or its agents, servants, or independent contractors who are acting on behalf of VTA.



- 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 Small Business Enterprise requirements set forth in Exhibit A-4.

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

Nuria I. Fernandez
General Manager/CEO

Name
Title

Date

Date

Approved as to Form

VTA Counsel



EXHIBIT A-1 SCOPE OF SERVICES

Scope of Services to be inserted after contract award, currently listed within RFP Solicitation, page 17 to 23.

EXHIBIT A-2 COMPENSATION, INVOICING AND PAYMENT

- A. COMPENSATION:** This is a firm-fixed price requirements Contract with a maximum value of **\$XX,XXX.00**, (“Total Compensation Amount”), for which amount Contractor agrees to complete the Services defined in this Contract. The Total Compensation Amount includes Contractor’s total direct costs, indirect costs, and profit. No additional compensation will be paid without a written amendment to this Contract.
- B. INVOICING:** Contractor shall invoice VTA on a monthly basis for partial payments corresponding to the percentage of work actually completed by Contractor.
- 1. PROGRESS PAYMENTS:** The percentage of the Services completed shall be documented in a monthly progress report prepared by Contractor. Contractor shall also furnish such other information, as may be requested by VTA, to substantiate the validity of an invoice. At its sole discretion, VTA may decline to make full payment for any portion of the Services until such time as Contractor has documented, to VTA’s satisfaction, that Contractor has fully completed all of the portion of the Services billed for in the invoice. VTA’s payment in full for any portion of the Services shall not constitute VTA’s final acceptance of any or all of Contractor’s work.
 - 2. INVOICE FORMAT:** VTA shall pay Contractor on the basis of invoices submitted every month for that portion of the Services performed during the preceding month. Invoices shall be in a form acceptable to VTA and each invoice must include:
 - Contract Number.
 - Description of that portion of the Services performed.
 - Percentage of Services completed.
 - Total costs.
 - 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
 - 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 fifteen (15) days of receipt of payment by VTA for such Services. Contractor agrees further to return retainage payments to



each subcontractor within fifteen (15) days after the subcontractor's work is satisfactorily completed.



EXHIBIT A-3 PRICE PROPOSAL FORM

Price Proposal Form to be inserted after contract award.

EXHIBIT A-4 SMALL BUSINESS ENTERPRISE (SBE) REQUIREMENTS

A. MWBE POLICY:

1. It is the policy of VTA to ensure that Minority and Women Owned Business Enterprises (MWBEs), as defined in the VTA MWBE Program, have an equitable opportunity to participate in the performance of contracts and subcontracts financed with local funds. VTA has an 18% MWBE aspirational goal.
2. Contractor will use all reasonable efforts to ensure that MWBE firms have an equitable opportunity to compete for subcontracting work under this Contract.

B. SMALL BUSINESS ENTERPRISES:

1. It is VTA policy to ensure that Small Business Enterprise (SBE) 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.
 2. In connection with its performance under this Contract, although there is no specified SBE goal, Contractor agrees to cooperate with VTA in attempting to meet VTA's overall 19% annual utilization of SBE firms. In this regard Contractor will use all reasonable efforts to ensure that SBE firms shall have an equitable opportunity to compete for subcontract work under this Contract.
 3. VTA will monitor compliance with Contract requirements for SBE 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 SBE utilization documentation.
 4. Contractor will be required to submit monthly SBE 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 SBE firms, and the percentage of the Services completed.
- C. At the conclusion of this Contract, Contractor shall submit a final SBE utilization report electronically to the VTA Office of Business Diversity Programs at: 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 SBE firms, and the percentage of the Services completed.

EXHIBIT G-1 INSURANCE REQUIREMENTS
For
GENERAL SERVICES CONTRACTS

CONTRACTOR'S ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT CONTRACTOR CONFER WITH THEIR INSURANCE CARRIERS OR BROKERS IN ADVANCE OF PROPOSAL SUBMISSION TO DETERMINE THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS REQUIRED BY THIS CONTRACT.

INSURANCE

Without limiting Contractor's indemnification and defense of claims obligations to VTA, 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 pricing. 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. Completed Operations coverage must be continuously maintained in force for at least two (2) years after completion of the work under this Contract.
- 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 Employer's Liability insurance

2. Minimum Limits of Insurance

Contractor must maintain limits no less than:

- a. General Liability (including umbrella/excess 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. This requirement

may be satisfied by a combination of General Liability with Excess or Umbrella insurance, but in no event may the General Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying policy, “Follow Form” coverage, and a “Drop Down” provision.

- b. Automobile Liability: \$1,000,000 limit per accident for bodily injury and property damage.
- c. Workers’ Compensation and Employer’s Liability: Statutory Workers’ Compensation limits and Employer’s Liability limits of \$1,000,000 per accident.

B. Self-Insured Retention

The certificate of insurance must disclose the actual amount of any deductible or self-insured retention, or lack thereof, for all coverages required herein. 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 or deductible in excess of \$50,000, Contractor must provide a current financial report including balance sheets and income statements for the past three years, so that VTA can assess Contractor’s ability to pay claims falling within the self-insured retention or deductible. Upon review of the financial report, if deemed necessary by VTA in its sole discretion, VTA may elect one of the following options: to accept the existing self-insured retention or deductible; require the insurer to reduce or eliminate the self-insured retention or deductible as respects VTA, its directors, officers, officials, employees and volunteers; or to require Contractor to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Applicable costs resulting therefrom will be borne solely by Contractor. Contractor may request execution of a nondisclosure agreement prior to submission of financial reports.

C. Claims Made Provisions (not applicable to General Liability or Auto 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 comply with the following:

1. The policy 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, 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 cover at least two (2) years.

3. No prior acts exclusion may be added to the policy during the contract period.
4. The policy must allow for reporting of circumstances or incidents that might give rise to future claims.

D. Other Provisions

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

1. General Liability and Automobile Liability

- a. VTA, its directors, officers, officials, employees, and volunteers must be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor, including VTA's general supervision of Contractor; products and completed operations of Contractor or subcontractors; premises owned, occupied, or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to VTA, its directors, 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. Any failure to comply with reporting provisions of the policies may not affect coverage provided to VTA, its directors, officers, officials, employees, or volunteers.
- c. 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.
- d. The General Liability General Aggregate limit must apply per project, not per policy
- e. The General Liability policy must be endorsed to remove the exclusion for railroad liabilities, with coverage at least as broad as that afforded by ISO CG 24 17.

2. All Coverages

- a. The insurer must agree to waive all rights of subrogation against VTA, its directors, officers, officials, employees, and volunteers for losses arising from work performed by Contractor and its subcontractors for VTA.
- b. Contractor's insurance coverage must be primary insurance as respects VTA, its directors, officers, officials, employees, and volunteers. Self-insurance or insurance that may be maintained by VTA, its directors, officers, officials, employees, or volunteers may apply only as excess to Contractor's insurance. Contractor's insurance must not seek contribution from VTA's insurance program.

3. Other Insurance Provisions

- a. The Certificate must disclose the actual amount of the Deductible or Self-Insured Retention.
- 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 rights to require Contractor to procure said coverage forms or endorsements using the updated versions upon the next renewal cycle.

E. 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.

F. Certificates of Insurance

Contractor must furnish VTA with a Certificate of Insurance. The certificates for each insurance policy must be signed by an authorized representative of that insurer. The certificates must be issued on a standard ACORD Form. Contractor must instruct its insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to Insurance.certificates@vta.org. All endorsements must be attached to the ACORD certificate in a single PDF document.

The certificates must (1) identify the insurers, the types of insurance, the insurance limits, the deductibles, and the policy term, (2) include copies of all the actual policy endorsements required above, and (3) in the "Certificate Holder" box include:

Santa Clara Valley Transportation Authority ("VTA")
3331 North First Street
San Jose, CA 95134-1906

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/Excess policy must be listed, Certificate Holder must be named as additional insured, and Waiver of Subrogation must be indicated as endorsed to all policies as stated in the Contract documents.

It is a condition precedent to award of this Contract that all insurance certificates and endorsements be received and approved by VTA before Contract execution. No work may be performed until insurance is in full compliance. VTA reserves the rights to require complete, certified copies of all required insurance policies, at any time.

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

G. Maintenance of Insurance

If Contractor fails to maintain insurance as required herein, VTA, at its option, may suspend payment for work performed and/or may order Contractor to suspend work at Contractor's expense until a new policy of insurance is in effect.

Ed. Rev. 10-1-19

EXHIBIT B SAFETY REQUIREMENTS

Contractor shall promptly and fully comply with, carry out, and shall, without separate charge to VTA, enforce compliance with the requirements stated herein, prescribed by applicable laws and regulations and those prescribed by an official or representative charged with the enforcement thereof. Contractor shall take such other measures as may be necessary to perform the work required by the Contract (referred to hereafter in this Exhibit only as “Work”) in a safe manner and that the safety and health of employees and the people of local communities is safeguarded. Compliance with the provisions of this section by subcontractors is the responsibility of Contractor.

Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall:

- (1) Identify a competent individual (i.e., a superintendent or foreman) who will be assigned to work at the site where Work will be performed (“Worksite”) and will be responsible for Worksite safety (the “designated safety representative”),
- (2) Submit a Contractor-wide work plan (or “safety program”) to VTA which addresses the Work to be performed and certifies that the designated safety representative has received competent person training in all aspects of the site-specific work plan, and
- (3) Comply with all state, federal, and local safety regulations. Contractor will provide a copy of its Industrial Injury Prevention Program to VTA.

The designated safety representative shall set up, carry forward, and aggressively and effectively maintain the aforementioned safety program covering all phases of the Work. Contractor shall take all precautions and follow all procedures for the safety of, and shall provide all protection to prevent injury to, all persons involved in any way in the Work and all other persons, including, without limitation, the employees, agents, guests, visitors, invitees, and licensees of VTA who may be involved. This requirement applies continuously and is not limited to normal working hours.

If Contractor encounters material reasonably believed to be asbestos on the Worksite, polychlorinated biphenyl (PCB), or other Hazardous Substance (as defined below) that has not been rendered harmless, Contractor shall immediately stop Work in that affected area and report the condition to VTA in writing. If in fact the material is asbestos or PCB or other Hazardous Substance and has not been rendered harmless, that portion of the Work in the affected area must not be resumed until VTA and Contractor agree in writing to resume such Work. That portion of the Work in the affected area will be resumed in the absence of asbestos or PCB or other Hazardous Substance, or when it has been rendered harmless, by written agreement of VTA and Contractor, or in accordance with a final determination by an environmental consultant employed or retained by VTA.

Contractor is not required to perform any portion of the Work relating to asbestos, PCB or other Hazardous Substances.

Contractor will not permit any Hazardous Substances to be brought onto or stored at the Worksite or used in connection with the Work, except for specified materials and commonly

used construction materials for which there is no reasonable substitute. All such materials must be handled in accordance with all manufacturer's guidelines, warnings and recommendations and in full compliance with all applicable laws. All notices required to be given with respect to such materials must be given by Contractor. Contractor will not intentionally release or dispose any Hazardous Substance at the Worksite or into the soil, drains, surface or ground water, or air; Contractor will not allow any subcontractor, or supplier or any other person for whose acts Contractor or any subcontractor, sub-subcontractor or supplier may be liable, to do so. "Hazardous Substance" includes all substances set forth in California Health and Safety Code, Chapter 6.6 (and all regulations enacted pursuant thereto) and, to the extent not set forth in the Health and Safety Code, any additional substance or material determined to be capable of posing a risk of injury to health, safety, property, or the environment by any federal, state, or local governmental authority.

Contractor and subcontractors of each tier shall provide VTA with Material Safety Data Sheets for all materials to be incorporated into or used in the performance of the Work, including commonly used construction materials that contain any Hazardous Substance or mixture, including without limitation, any chemical listed by the State of California as a chemical known to cause cancer or reproductive harm (as defined in California Health and Safety Code, Chapter 6.6, and all regulations pursuant thereto). The Safety Data Sheets must contain all necessary and legally required information concerning substances such as asphalts, solvents, adhesives, epoxy resins, roofing sealant and bonding agents, mixtures, or chemicals in a format approved by VTA or as required by law.

Contractor shall set forth in writing its safety precautions and programs in connection with the Work, which meets or exceeds any and all applicable laws, ordinances, rules, regulations, and orders of any public, quasi-public, or other authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to the Federal Occupational Safety and Health Act of 1970, as amended, the California Occupational Safety and Health Act of 1973, and the California Labor Code.

In the event of conflicting requirements, the more stringent requirement shall govern.

All Work, equipment, machinery, materials, tools and like items incorporated or used in the Work must be in compliance with and conform to all applicable laws, ordinances, rules, regulations, and orders of any public, quasi-public, or other authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970, as amended, and all rules and regulations now or hereafter in effect pursuant to said Act.

Contractor shall provide each worker on the Worksite with the proper safety equipment for the duties performed by that worker and will not permit any worker on the Worksite who fails or refuses to use the same. VTA has the right to order Contractor to send a worker off the Worksite for the day or to discharge a worker for his or her failure to comply with safety practices.

Protection of Work and Property; Responsibility for Loss. Contractor shall, throughout the performance of the Work, (a) maintain adequate and continuous protection of all Work and temporary facilities against loss or damage from whatever cause; (b) protect the property of VTA and third parties from loss or damage from whatever cause arising out of the performance of Work; and (c) comply with the requirements of VTA and its insurance

carriers, and with all applicable laws, codes, rules, and regulations with respect to the prevention of loss or damage to property as a result of fire or other hazards to:

(a) Employees on the Worksite and other persons who may be affected thereby;

(b) The Work, materials, and equipment to be incorporated therein, whether in storage on or off of the Worksite, under care, custody, or control of Contractor and/or its sub-contractors; and

(c) Other property at the Worksite or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of performance of the Work.

Solvents, oils, and any other substance that may be harmful to plant life must be disposed of in containers and removed from the Worksite. At completion of the Work, any contaminated soil must be removed and replaced with soil of equal quality prior to contamination by Contractor at no additional cost to VTA.

VTA Patrols. VTA may, but is not required to, make periodic patrols of the Worksite as a part of its normal security and safety program. In such event, however, Contractor will not be relieved of its aforementioned responsibilities and VTA will not assume same. VTA will not assume any responsibility otherwise imposed upon Contractor.

Contractor is responsible for the payment of all fines levied against VTA arising from or related to activities over which Contractor has responsibility under the Contract or for work that does not conform to the Contract.

In addition to any other notice requirements in the Contract, Contractor shall give notice in writing, at least forty-eight (48) hours before breaking ground, to all persons having interests on or near the Worksite, including public utility companies, owners of property having structures or improvements in proximity to the Worksite, superintendents, inspectors, or those otherwise in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise who may be affected by Contractor's operation, in order that they may remove any obstruction for which they are responsible and have a representative on the Worksite to see that their property is properly protected. Such notice does not relieve Contractor of responsibility for any damages, claims, or defense of all actions against VTA resulting from performance of such Work.

Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent worksites and utilities.

Use or storage of explosives by Contractor is prohibited.

Contractor shall rebuild, repair, restore, and make good all losses of, and injuries or damages to, the Work performed or any portion thereof (specifically including owner-supplied equipment or other items to be utilized in connection with, or incorporated in, the Work) before final acceptance of the Work. Such rebuilding, repair, or restoration will be at Contractor's sole cost and expense unless the loss, injury, or damage requiring such rebuilding, repair, or restoration is caused by a hazard against which VTA is required to insure, provided, however,

that if the loss, injury, or damage would not have occurred but for the negligent act or omission of Contractor, or its subcontractors of any tiers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, the rebuilding, repair, or restoration will be at Contractor's cost and expense to the extent of the deductible in said insurance. If any policy of insurance covering loss or damage is voided due to any action of Contractor or any of its subcontractors of any tier, such rebuilding, repair, or restoration will be at Contractor's sole cost and expense.

Dangerous Conditions / Payment of Fines. Contractor shall designate its project superintendent, or such other qualified member of Contractor's organization at the Worksite, as approved by VTA, to be responsible for the prevention of accidents. If VTA or any public agency with jurisdiction notifies Contractor of any claimed dangerous condition at the Worksite which is within Contractor's care, custody, or control, Contractor shall take immediate action to rectify the condition at no additional cost to VTA. Contractor shall be responsible for the payment of all fines levied against VTA for deficiencies relating to Contractor's supervision or conduct of the Work.

Contractor will not load or permit any part of the Work or Worksite to be loaded so as to endanger the safety of persons or property.

Contractor will not permit open fires on the Worksite.

Contractor shall return all improvements on or about the Worksite and adjacent property which are not shown to be altered, removed, or otherwise changed to the conditions they were in prior to Contractor's starting performance under the Contract.

Emergencies. In any emergency affecting the safety of persons or property, or in the event of a claimed violation of any federal or state safety or health law or regulation, arising out of or in any way connected with the Work or the performance thereof, Contractor shall ensure that at least one of Contractor's employees with authority is on duty during working hours, and Contractor will act immediately to prevent threatened damage, injury, or loss or to remedy said violation, whichever is applicable. If Contractor fails to carry out the obligations in this section, VTA may immediately take whatever action it deems necessary, including but not limited to, terminating or suspending the Work pursuant to the terms contained herein. Contractor shall also establish and maintain adequate First Aid facilities at locations close to work areas and mark such locations with signs of adequate size and composition. Contractor shall also ensure that at least one of Contractor's employees qualified by a recognized authority to perform First Aid is on duty while Work is being performed.

VTA may offset against any sums then or thereafter due to Contractor any and all costs or expenses of whatever nature (including attorneys' fees) paid or incurred by VTA in taking such actions.

Contractor Safety & Light Rail Transit Operations. This section includes requirements to control and reduce potential hazards of light rail traction power and moving trains in any environment where contractors and outside parties have access to right-of-way and/or facilities of VTA's Light Rail Transit ("LRT") system. These requirements and procedures are designed to add an extra measure of safety for the public, passengers, and employees of VTA, and VTA's contractors. These procedures do not supersede existing California Public Utilities

Code (“CPUC”), Cal Occupational Safety and Health Administration (“OSHA”), Workers Compensation, or any other federal, state, or local safety laws or regulations.

These procedures apply to any person(s) working on or in any light rail restricted access area including electrical substations, overhead contact system (“OCS”), signal or communications facilities, Operations Control Center (“OCC”), tracks, stations, and any area where moving trains or light rail traction power are present or may be affected.

Contractor is responsible for ensuring that their employees, their subcontractors, and any lower tier contracted services working under their purview are fully informed and responsive to these safety requirements. Contractor or their employees found to be in violation of these safety procedures may be removed from the Worksite. Failure of Contractor to conform to these requirements will result in a work stoppage issued by VTA until Contractor is in compliance with these requirements. VTA reserves the right to assess penalties for repeated safety violations up to and including termination of the Contract.

For Work that is performed at the Guadalupe LRT facility, Contractor must comply with the following VTA Railway Worker Protection training guidelines:

Contractor and all workers performing Work under this Contract must (1) attend and be certified with VTA Railway Worker Protection (“RWP”) training classes, (2) display the sticker on hardhats as instructed, and (3) carry the issued RWP identification card to be presented to VTA at its request. All training classes will be reimbursed to Contractor and Contractor shall incorporate worker class time into the scope of the Contract. Contractor must supply any translators as needed to properly train its workers. Contractor shall provide safety precautions to separate the work area(s) from pedestrian or vehicular traffic and to prevent damage to the building, its occupants, and the surrounding areas. Contractor shall observe applicable OSHA, CPUC, and California State OSHA requirements.

Contractor is responsible for obtaining all RWP stickers and classes. All RWP Training and right-of-way (“ROW”) access permits expire on 12/31 of each year the permits are issued. Contractor must start the renewal processes in October of each year of the Contract. Performance of the Contract is not allowed near any rail ROW, including inside of the rail yard, if training and permits are not acquired by January 1 of each year the Contract is in force. Not having the appropriate training and documents in place at the time of annual turnover could be deemed failure to perform and result in disciplinary action up to and including termination for default pursuant to the terms set forth in the Contract.

Contractor may charge for the time required to meet the regulatory requirements. Hours in the Contract are included for these purposes. Contractor must be allowed up to 5 hours’ time for up to six (6) employees being RWP-trained. Contractors may charge up to two (2) hours of time for each track allocation meeting for three (3) employees. For most contractors, this will happen once a year during the annual permitting process. If performance under the Contract requires permitting outside of the annual permits, VTA and Contractor will agree in a written amendment to the Contract on the charges for Contractor time.

All of Contractor’s employees must be background checked per VTA requirements. Costs for the background checks will be reimbursed to the Contractor. To attain current pricing of the background checks, please go to the contracted vendor website. VTA has contracted with

IPROVEIT (<https://iproveit.com/>) for background checks. The background checks provider is subject to change.

Definition of Terms:

OCC: Operation Control Center

CPUC: California Public Utilities Commission

FRA: Federal Railroad Administration

I.D. Badge: VTA-issued badge identifying successful completion of Contractor Safety Seminar.

Lockout and Tagout Procedure: A VTA safety process & procedure to provide protection when working near the traction power electrification system or when working in a safety sensitive area.

OCS: Overhead Contact System: The electrical power system supplying 800 vdc to trains.

Restricted Area (or Restricted Access Work Area): Any point or area within 10 feet of the nearest rail of any track.

Restricted Access Permit (or Permit): Application process, paper form, and permission granted by VTA to be on, in, or near the LRT ROW or rail transit facilities of VTA.

Right-of-Way (ROW): VTA property or facilities including track, OCS, and buildings used for LRV train operations, that contain traction power or signal and communications facilities and equipment.

Safety Seminar (or Safety Training or Class): Required orientation applicable to all Contractor employees working on or within 10 feet of the rail of any track or OCS facility.

Site Specific Work Plan (“SSWP”, also, “Work Plan”): Task and activity plan and detailed schedule prepared and submitted by Contractor for approval by VTA which includes work activities, equipment, and safety procedures.

Substation (or Traction Power Substation): Any facility including power feed and power distribution cabling for delivery of commercial electrical power to 800 vdc and delivery of that power to the LRT overhead contact system.

Train: LRV(s) operated under traction power or by tow-motor power.

Track Allocation Meeting: Joint meeting of VTA and its contractor(s) to determine track access, obtain power-down permission, and schedule coordination of work between contractors. Scheduled weekly or as deemed necessary by the VTA.

Restricted Access Permit. Contractor must obtain a Restricted Access Permit from VTA any time Contractor requires access to:

- (a) enter on, cross over, or cross under the ROW, tracks, or OCS of VTA,
- (b) to enter into facilities including yard, maintenance buildings, stations, substations, OCC, or
- (c) signal and communications equipment or facilities.

Contractor must also obtain a Restricted Access Permit from VTA if Work will be performed within ten (10) feet of the nearest rail of any track.

Unless specifically requested and approved, a Restricted Access Permit does not authorize any work operations or equipment on the tracks or within 10 feet of the OCS. It does not authorize any act which may interfere with the safe and timely operation of VTA’s public rail transportation services.

Attached to this Contract is a copy of VTA's Restricted Access Permit form (Appendix A) including Restricted Access Work Rules on the reverse of the form. Contractor must submit this Restricted Access Permit form, in original, for each day, week, or for each independent work operation to be performed by Contractor, as determined by VTA. Contractor shall submit a completed form and any additional illustration or schedule details to support the application at least seven (7) days prior to the start of the applicable Work. An approved copy of the Restricted Access Permit must be maintained at each Worksite and must be read and understood by all personnel at the Worksite.

Site Specific Work Plan. In addition to the requirements of the Restricted Access Permit process, if at any time the Work may impact train operations or has the possibility of impacting the integrity or physical configuration of the LRV track, the traction power system and/or the LRT signal and communications system, or if VTA determines that it is necessary for the safety of personnel and equipment, Contractor must develop and submit for VTA approval a Site Specific Work Plan ("SSWP").

A SSWP must describe each of the activities or tasks necessary to perform the relevant portion of the Work and must include a detailed schedule of the Work items that have a duration of one (1) hour or more, indicating the hourly progress of each activity. The SSWP must include staffing, materials, and equipment that will be used to complete the Work. The schedule must include a time for which all activities planned under the SSWP will be completed.

The SSWP must include a detailed description of the safety measures to be taken for the protection of personnel and equipment. Such items as protective gear, flag and sign placement, flaggers, specialized safety equipment, ventilation equipment, in-house safety programs, and additional safety supervision will be identified.

Where the Work adds, removes, or changes any element of the traction power system, the track structure, or the signal or communications system(s), the SSWP must clearly identify the changed or fully restored condition of the OCS, track, or signal and communications system and must provide a detailed alternative plan to restore traction power, track, and/or signal and communications system if the planned Work cannot be completed successfully.

The SSWP must be submitted by Contractor not less than seven (7) days prior to the date and time of the proposed start of Work or seven (7) days prior to the scheduled Track Allocation Meeting, whichever is earlier. The relevant Work must not be undertaken until the SSWP has been reviewed by VTA, approved, or approved with changes noted and returned to Contractor. VTA may request additional explanation, request changes, or require Contractor to revise and resubmit the SSWP. If the SWPP is not acceptable to VTA, Contractor shall revise the SWPP and resubmit the SWPP and obtain approval before proceeding with the Work.

Failure of Contractor to complete its scheduled activities and restore the track way and traction power system within the time period allowed above may adversely impact VTA's LRT operations. In the event that LRT service is delayed by Contractor's action or failure to act, the Contractor will be liable for the actual expenses incurred by VTA, including but not limited to busing passengers, overtime wages for crew and flagging persons, and cost of additional dispatching. VTA reserves the right to deduct the amount of such delay expenses from any payment to Contractor under the Contract.

Safety Seminar Record & Report. Contractor shall maintain and submit, no less frequently than on a monthly basis, a current list of all employees safety-trained by VTA and Contractor, including I.D. Badge number and expiration date and specific categories of training. Contractor shall forward Safety Seminar records on a semi-annual basis to VTA's Designated Safety Coordinator, and to the representative of the Owner-Controlled Insurance Program, if applicable.

General Contractor Safety Seminar. Working on and around rail transit operations and traction power facilities includes a unique set of potential hazards. VTA has developed a Safety Seminar to prepare all relevant workers for these hazards. The information provided in the Safety Seminar is meant to supplement all existing CPUC, Cal OSHA, Workers' Compensation, federal, state, and local safety regulations. The goal of the Safety Seminar is to educate each Contractor employee on the unique hazards that may be encountered on any VTA rail project and how best to respond to those hazards.

Each and every employee, foreman, superintendent, office personnel and manager, any and all subcontractors, and any third tier services personnel who will enter on or work on VTA's ROW within 10 feet of the near rail of any track or within ten (10) feet of the traction power system, any substation, or any communications and signal facilities or equipment is required to attend a one (1) hour Safety Seminar conducted by VTA.

Contractor Safety Seminar class will be provided by VTA each Friday at a location and time to be established by VTA. VTA will attempt to provide the Safety Seminar at a time and location convenient to Contractor.

If at any time Contractor intends to bring new employees onto the Worksite, each of those employees must first attend one of the regularly scheduled Contractor Safety Seminar classes. Contractor is responsible for scheduling their employees for this mandatory training with the VTA Authorized Representative.

Re-certification of Contractor employees is required on an annual basis. Contractor employees who have successfully attended a Contractor Safety Seminar class will be provided with an I.D. Badge which will be prominently displayed and visible at all times when working on VTA's ROW or Worksite. Contractor shall monitor adherence to this requirement by their employees, subcontractors, and third tier service personnel. Contractor employees not displaying the proper I.D. Badge may be subject to being removed from the Worksite. The I.D. Badge will bear the holder's name, Contractor's name, a serial number, and the date of the Safety Seminar.

Safety Audits. Individual responsibility is the basis for and a necessary key to any safety program. VTA may conduct safety audits or interviews as deemed reasonably necessary by VTA. The purpose of the audits or interviews is to ensure that each Contractor employee granted permission to work on the ROW is familiar with VTA's safety rules and understands the work area and time limits and can identify Contractor and the VTA representative in charge of safety at the Worksite. The audit or interview may also include verification that an approved copy of the Restricted Access Permit is being maintained at the Worksite and that it has been read and understood by all personnel working at the Worksite.

Restricted Access Work Rules. The Restricted Access Permit provides for the physical presence on VTA's construction or operating ROW of personnel and/or equipment. Unless specifically authorized in the Restricted Access Permit, the Restricted Access Permit does NOT authorize Work within 45 inches of the nearest rail of any track, does NOT authorize operations of any equipment on the LRT tracks, and does NOT authorize any access or equipment within 10 feet of any OCS, signal cabinet, or within any traction power substation. Restricted Access Work Rules are provided as part of the Restricted Access Permit form (See Exhibit A5).

Track Allocation Procedures. Prior to occupying the trackway, Contractor shall submit a Restricted Access Permit Application to the VTA Track Allocation Coordinator not later than 24 hours prior to the next scheduled Track Allocation Meeting.

Contractor shall provide a qualified representative to attend the Track Allocation Meeting. If a representative fails to attend, the Restricted Access Permit Application is subject to being disapproved.

VTA will reimburse the Contractor for each employee that has attended the Track Allocation Meeting at the hourly rate submitted agreed to in the Contract.

Track allocation procedures must be implemented as part of the Restricted Access Work Rules at the discretion of VTA in the interest of the safety of all personnel and equipment in and around the Worksite.

The Track Allocation meeting is used to identify the Worksite(s), type of activities to be performed, and presence and protection against high voltage traction power and moving trains. Track allocation procedures work in concert with other safety procedures to ensure all Contractor and all VTA operations and safety personnel are fully informed concerning construction activities and LRT safety.

Track Allocation Meetings: The requirements identified herein are mandatory for VTA and for all contractors working on the Worksite beginning from the earliest occurrence of work. of either of the following two events:

- i. Electrical power is installed in any substation or any portion of the traction power system is capable of being energized, and/or
- ii. VTA LRV or on-track equipment is operated on any portion of the track by VTA personnel.

Track Allocation meetings must be held weekly and require the attendance of a representative of Contractor and their subcontractors managing their own track access permits. VTA Resident Inspectors, a representative of VTA's Construction Manager, and VTA's Authorized Representative or Designated Contact Person and representatives of the Track Allocation team and Operations Testing personnel will attend as required by VTA.

The weekly meeting will be conducted by the VTA Track Allocation Coordinator who will establish the weekly time and location for scheduled meetings and procedures for communicating between all parties involved. The meeting will begin with a roll call confirming

that all parties have properly submitted requests and are in attendance at the meeting. Items to be discussed will include, but not be limited to: identification of track(s) and trackway segments effected, level of personnel protection required, previous conflicts or problems, status of traction power, planned testing by VTA and/or train movements, planned construction activities, and potential conflicts and their resolution.

Following the weekly meeting, the VTA Track Allocation Coordinator shall prepare a written Track Allocation Schedule for the following week. The Track Allocation Schedule must include all planned testing, the traction power status for the week, and any safety requirements. The Track Allocation Schedule, the accompanying Restricted Access Permits, approved or rejected, will be distributed to all parties prior to the end of the following day.

Contractor's Responsibilities:

(a) Contractor shall confirm that all of their scheduled work is included on the Restricted Access Permit application including the proper days, times, tracks, access point(s), personnel requirements, and equipment to be used in the Work.

(b) Where any conflict may exist with other contractors at or near the Worksite, Contractor shall strive to arrive at a mutually agreeable resolution to allow the maximum productive track access for all parties.

(c) Contractor is responsible for assuring that all of its employees, as well as all of its subcontractors and its lower tier service personnel, are aware of any scheduled safety-critical items and that they actively respond to the safety requirements of the Restricted Access Permit and Track Allocation Schedule, if granted.

(d) Where more than one contractor is scheduled to work in the same or overlapping work limits, the contractor having primary access will be responsible for all elements of coordination and access as between contractors, subcontractors, and third tier services. Where multiple independent contractors are granted authority to work within the same or overlapping work limits, VTA's Resident Inspector or OCC supervisor or Track Allocation Coordinator shall designate and enforce rights of priority and access by various contractors.

(e) VTA is not responsible for conflicts or limitations in access to restricted work areas or facilities or for schedule impacts that result following approval of coordinated schedules effecting the same work locations, facilities, or use of limited VTA resources.

Restricted Access Permit Fees.

VTA will require the following fees: (To be reimbursed by the contract.)

- i. Restricted Access Permit - \$3,050.00 per location, per year **(VTA will reimburse this fee);**
- ii. General Contractor Safety Seminar (also known as, Roadway Worker Protection Training) - \$85.00 per class for each participant **(VTA will reimburse this fee);**

Background Security Checks for VTA Permittees. The permit applicant will be required to have their employees undergo a background security check through a process determined by VTA. VTA will reimburse the Contractor for the background security check fee. VTA reserves

the right to decide all aspects of the background security check process, including but not limited to all costs. Currently the cost of the background security check is estimated to be \$100.00 per person (VTA will reimburse this fee).

VTA will reimburse the Contractor for Restricted Access Permit Fees and training fees by billing the contract. Contractor shall pay all Restricted Access Permit fees directly to the Track Allocation Coordinator (VTA will reimburse this fee).

Use of Electronic Devices. In compliance with CPUC requirements, the use of electronic devices is prohibited at all times when within 6 feet of the trackway. This includes but is not limited to scanners, cellular telephones, personal audio devices, or watches or headsets associated with those devices and any Personal Digital Assistant (“PDA”) with the following exceptions:

- Two-way radio equipment.
 - Photography equipment (but not cellular telephones) that are required for the Work to be performed or for inspection purposes and have been approved by VTA.
- Cellular phones with the ability to be used as two-way communication devices or as photography equipment are also prohibited.

Contractor’s Safety Officer is responsible for implementing worker’s safety requirements and should be part of their daily safety tailgate meeting. Any Contractor employee violating the worker’s safety requirements will be immediately removed from the Worksite and permanently banned from performing under the Contract. CPUC also may impose or levy fines and penalties against Contractor for violation of these requirements.

Contractor must further comply with all the requirements in VTA’s “Policy on the Use of Personal Electronic Devices by Bus and Light Rail Employees and Contractor Staff (ATU)” attached hereto as Appendix B and incorporated herein by this reference.

Safety Vests. Contractor must further comply with VTA’s Safety Vests Procedure, attached hereto as Appendix C and incorporated herein by this reference.

APPENDIX A

RESTRICTED ACCESS WORK PERMIT FORM

ACCESS PERMIT APPLICATION

CONSTRUCTION ACCESS PERMIT (CAP)

RESTRICTED ACCESS PERMIT

Permit Applicant:		Address		VTA Contract / Project Number:
City:		State	Zip:	SION Number:
Contact Person:		Title:		Phone Number:
Fax Number:	E-Mail Address:		24 Hour Emergency Phone Number:	
Emergency Contact Person:				
WORK BEING PERFORMED FOR:				
Company Name:		Address:		
City:		State	Zip:	
Contact Person:		Phone Number:	E-Mail Address:	
WORK BEING PERFORMED By:				
Company Name:		Address:		
City:		State	Zip:	
Contact Person:		Phone Number:	E-Mail Address:	
PROJECT LOCATION				
Location:				
Start Date:	Completion Date:	Estimated Regular Work-Days:	Overtime, Weekend & Holiday Days	
Number of Persons to be Safety Trained:			X (\$85.00 Per Person)	
<p>PERMIT EVALUATION PROCESS USUALLY AVERAGES 7 - 14 DAYS FROM DATE RECEIVED</p> <p>Submit Completed Application Package To: Santa Clara Valley Transportation Authority Restricted Access Permit Office 101 West Younger Ave. Build. A 2nd Floor, San Jose, CA 95110 Phone: (408) 546-7608; Fax: (408) 993-2174</p>				
By signing this application form, the permit applicant agrees to all of the terms and conditions contained herein and to any provisions set forth in the Restricted Access Permit.				
Authorized Signature:		Print Name:	Date:	Phone Number:



RESTRICTED ACCESS PERMIT

VTA Restricted Access Permit Office 101 West Younger Avenue San Jose California 95110

Restricted Access Permit Office: (408) 546-7608
 Restricted Access Permit Office Fax (408) 993-2174

VTA Operations Control Center (OCC) (408) 546-7688
 VTA Construction Permits Fax (408) 321-7569

General Contractor ("Contractor") Name:			Main Office Phone Number	VTA PERMIT NUMBER
Address:			After hours Phone Number	SION
City:	State	Zip	On Site Wireless Number	VTA Project / Contract Number

Subcontractor:		Requester's Name		Safety Critical Item Check List Completed:	
Number of Work Sites	Number Of Employees	Security Background:	Restricted Access	Way Power and Signal	
Type of Work to be Performed:					
Equipment to be Used:					

EXACT LOCATION OF WORK					
Direction: (Check Appropriate Boxes) <input type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West					
At:		Between:		And:	
Start Date:	Start Time:	End Date:	End Time:		

PROTECTION REQUIRED					
Power Off / Lock & Tag	# Tags required	Reduced Speed Zone	VTA Staff on Site		
# of Locks required	Train Operations	Flagmen Required	Hardhats Required		
Special Requirements: (See Back of Permit for NORMAL Rules)					

CONTRACTOR AGREEMENT		
<p>I have read and Understand the rules and requirements detailed above and on the reverse side of this form and will abide by them. This permit may be revoked at any time for any violation of listed rules and requirements or as deemed necessary for the safety of personnel and equipment. It is further understood I will comply with all material contained in the "Roadway Worker Protection" training book and the "Roadway Worker On-Track Safety Manual" received during roadway worker training.</p>		
Signature of Contractor's Authorized Representative:	Title:	Date:

VTA AUTHORIZATION			
Power Department	Track Department	Signal Department	Superintendent WP&S
Superintendent Vehicle Maintenance	Signal Department	Facility Maintenance Supervisor	Vehicle Maintenance Supervisor

RESTRICTED ACCESS OFFICE			
Approved <input type="checkbox"/>		Denied <input type="checkbox"/>	
VTA Track Allocation Representative:	Date:	CPO Representative:	Date:

A DOUBLE-SIDED COPY OF THIS PERMIT MUST BE AVAILABLE AT THE WORK SITE AT ALL TIMES

RESTRICTED ACCESS WORK RULES

1. **PERMIT REQUIREMENTS-** Any access to enter or cross the track as well as all worked performed within ten (10) feet of the nearest rail or Overhead Contact System (OCS) shall require a permit. Permits are available through the Light Rail Restricted Access Permit Office. Unless the Track Allocation Chairperson makes an exception, all permit and training fees must be paid prior to issuance of a permit or attendance in a safety training class. In other cases such as urgent work or emergencies, by signing this document, Contractor agrees to pay all associated permit and training fees.
2. **CLEARANCE FROM TRAINS-** Under California Public Utilities Commission (CPUC) General Order 143C, all worked performed within six (6) feet of the nearest rail shall require a Lookout/Watchperson to watch for approaching trains. This Lookout/Watchperson shall instruct workers to take equipment and move to the predetermined place of safety at least six (6) feet from the track fifteen (15) seconds prior to the approach of a train. When workers are clear, ONLY the EIC (as defined in paragraph 5 below) or SEIC shall give the train a "PROCEED" hand signal. If workers or equipment fail to clear, the train must be given a "STOP" hand signal. When clear the train will be given a "PROCEED" Signal.
3. **CLEARANCE FROM ENERGIZED OVERHEAD POWER LINES-** The OCS is energized with 600 to 900 volts of direct current at all times, in accordance with CAL- OSHA Title 8, all work (including metal ladders, metal handle extensions, or equipment) shall remain ten (10) feet from any overhead wire unless a ground strap has been installed and is visible to the workers and VTA's Lock Out / Tag Out Procedures have been approved and completed.
4. **PERMIT AVAILABILITY-** A double sided copy of this permit must be available at the Worksite. Permits must be shown to any VTA, CPUC or FRA representative as well as any other authorized person when requested.
5. **SAFETY TRAINING-** Prior to commencement of work all workers must attend and complete VTA's "Basic Roadway Worker Protection" training class. This class trains persons working on VTA's right-of-way to work safely in a railroad environment. Every work crew must have an "Employee In Charge" referred to as the EIC The EIC must successfully complete the VTA "Advanced Roadway Worker Protection" training class and must be at the Worksite at all times. The EIC Must have the ability to read, write and speak English in order to communicate with VTA's Operation Control Center (OCC) to document and relay instructions. Once training fees have been paid, you may schedule training classes by calling the Light Rail Technical Training Department at (408) 952-6800. Training fees are \$85.00 per person. Training may be provided off site to large groups when approved in advance. An estimate for training costs will be provided, a control number will be issued and must be provided when making training reservations.
6. **SAFETY EQUIPMENT-** Proper safety equipment must be worn at all times as specified in the VTA Roadway Worker Protection training manual.
7. **CONES AND FLAGS-** Work zone cones and flags shall be posted when working within six (6) feet of the nearest rail. The work zones shall be established as described in the "Roadway Worker Protection" training manual. VTA requires workers to establish a safe work area for workers and to provide advance warning to train operators allowing them to slow to a safe speed or stop prior to reaching workers. VTA may require a work zone outside the safety envelope when tools or equipment are used that have the potential to foul the trackway. Cones and flags left longer than thirty (30) minutes without the obvious presence of workers (unless approved by OCC) shall be removed by Contractor and become the property of VTA. Cost and procurement of cones and flags shall be the responsibility of Contractor. Cones and flags may be purchased at local safety suppliers. Twenty-two (22) inch reflective cones illuminated from within shall be used during times of limited visibility. Cones and flags must be no closer than eighteen (18) inches from the rail and placed to allow a clear unobstructed view by train operators.
8. **NOTIFICATION TO OCC-**The E.I.C. shall call OCC at (408) 546-7688 prior to establishing work zones and again at the end of the work shift when the work zone is to be removed.
9. **OVERHEAD POWER REMOVAL-** Power removal, when necessary shall be done in accordance with VTA's Lock Out / Tag Out procedures under the direction of VTA's Way Power and Signals Department and VTA's Operation Control Center. All request must be coordinated through the Track Allocation Meeting.
10. **SAFETY ADHERENCE / PERMIT EXPIRATION / DURATION-** Contractors shall be strictly confined to the time and location restrictions of their permit. When performing work on or about the right-of-way, contractors must adhere to all rules and procedures contained in the "Light Rail Restricted Access Procedures Manual". Work sites will be monitored; any deviation from or violation of these rules may be cause for immediate eviction of Contractor from the Worksite at the expense of Contractor.
11. **COST / CLAIMS-** Any cost to VTA resulting from this permit, the level of protection required (such as power removal, Lookout/Watchmen, EIC, Bus Bridge, etc.) or any unscheduled disruption to train or bus service caused by Contractor's actions or inaction will be the responsibility of Contractor. In consideration of issuance of this permit and , in addition to any other indemnity obligations it may have to VTA, Contractor shall indemnify and hold harmless the Valley transportation Authority (VTA), its employees and agents from any demands, claims or judgments arising as a result of any act or omission of Contractor, or Contractor's employees or agents.

SAFETY CRITICAL ITEMS CHECK LIST

Contractor / VTA Employee:	Contract Number:	Project Number:	Permit Number:
<input type="checkbox"/> Contractor will check the boxes of those items they will and/or may come in contact within the process of performing their <input type="checkbox"/> job. In the additional space provided indicate the selected item number and provide a brief explanation of those items. If any items other than "NONE OF THE ABOVE" have been selected, signatures are required on the bottom of the form prior to commencement of work.			
<input type="checkbox"/> 1. Electrical Panels / Cabinets <input type="checkbox"/> 2. Cables (any) <input type="checkbox"/> 3. Tracks (or rail) <input type="checkbox"/> 4. Electrical Systems <input type="checkbox"/> 5. Traction Electrification System (TES) <input type="checkbox"/> 6. Electrical Sub Systems <input type="checkbox"/> 7. Signals (including TWC Loops) <input type="checkbox"/> 8. Overhead Catenary System (OCS) <input type="checkbox"/> 9. Sub Stations <input type="checkbox"/> 10. Negative Return Cables <input type="checkbox"/> 11. Track Switches <input type="checkbox"/> 12. Impedance Bonds <input type="checkbox"/> 13. Electrified Gates or Doors <input type="checkbox"/> 14. Confined Spaces (must provide proof of training) <input type="checkbox"/> 15. Manholes or Duct Bank Work <input type="checkbox"/> 16. Digging (any) USA Tag Number: <input type="checkbox"/> 17. Other: <input type="checkbox"/> 18. Other: <input type="checkbox"/> 19. None of the Above			

APPENDIX B

USE OF PERSONAL ELECTRONIC DEVICES BY BUS AND LIGHT RAIL EMPLOYEES AND CONTRACTOR STAFF

POLICY USE OF PERSONAL ELECTRONIC DEVICES BY BUS AND LIGHT RAIL EMPLOYEES AND CONTRACTOR STAFF (ATU)	Document Number:	OPS-PL-0001
	Version Number:	03
	Date:	12/20/2016

1.0 Purpose:

To establish the standards and restrictions for use of Personal Electronic Devices (PEDs).

2.0 Scope:

This policy applies to all VTA employees, contractors or their staff (hereafter collectively referred to as "Personnel"), who:

- Operate a VTA bus or Light Rail Vehicle (LRV);
- Operate hi-rail or any other on-track equipment;
- Act as Rail Controllers, flaggers, or the Employee In Charge (EIC) or otherwise control the movement of rail vehicles;
- Perform any task while Fouling the Tracks; and/or
- Perform work within the Safety Envelope.

Note: Electronic devices prescribed by a licensed medical practitioner to permit an employee to meet minimum levels as required by VTA or by a contractor performing work on VTA property, are exempt. Roadway Worker Protection Devices provided by VTA are also exempt.

3.0 Responsibilities:

All Personnel are responsible for the safe delivery of transportation services. All Personnel who operate vehicles in revenue service or operate hi-rail vehicles or other on-track equipment; or who control the movement of rail vehicles or perform work on the right of way will receive a copy of this Policy, and be responsible for strict adherence to this Policy and State and Federal regulations.

4.0 Policy:

It is VTA policy that all VTA-owned revenue service vehicles, or any hi-rail vehicles and on-track equipment operated on the VTA rail system, will be operated in a safe and responsible manner. Personnel who operate a VTA bus or LRV or control the movement of rail vehicles, or perform work on the right of way or Foul the Tracks in the performance of their duties are responsible for the safety of the passengers and the public at large. Personnel are prohibited from using cellular telephones or any other PEDs (as defined in section 5) while operating VTA buses, LRVs, hi-rail or other on track equipment.

4.1 Restrictions and Storage:

Original Date:	Supersede Date:	Revision Date:	Page 1 of 5
06/12/2009	03/05/2012	12/20/2016	

POLICY USE OF PERSONAL ELECTRONIC DEVICES BY BUS AND LIGHT RAIL EMPLOYEES AND CONTRACTOR STAFF (ATU)	Document Number:	OPS-PL-0001
	Version Number:	03
	Date:	12/20/2016

4.1.1 For Personnel operating a VTA bus or LRV, the restrictions include, but are not limited to: making or receiving telephone calls, text messaging, checking e-mail messages, checking the time, using the clock feature of a cell phone, wearing a Fitbit or other fitness monitoring device, wearing a smart watch (e.g., Apple Watch, Samsung Gear, etc.) or similar watch, reading, playing games or listening to music or other audio. Personnel are prohibited from giving the PED to another person, including another employee, on the bus or LRV.

In an emergency, Personnel must proceed to a safe area and stop the bus, LRV, hi-rail vehicle, or on-track equipment, and vacate the operating area. Afterwards, Personnel may use a PED for the purposes of addressing the emergency.

All PEDs shall be Turned Off and Stowed Away while operating a bus or LRV, or while sitting in the Operator's Area, as defined in Section 5. The bag that the PED is stowed away in must conceal the device so that it is not visible without opening the bag.

PEDs may be used by bus and light rail Operators while on break or at a layover when the vehicle is safely stopped and the Operator is out of the Operator's Area. The PED must remain Turned Off and Stowed Away until the Operator has cleared the Operator's Area and must be Turned Off and Stowed Away prior to returning to the Operator Area.

4.1.2 For Personnel operating hi-rail or on-track equipment, the restrictions include, but are not limited to, making or receiving telephone calls, text messaging, checking e-mail messages, checking the time, using any feature of a cell phone, wearing a Fitbit or other fitness monitoring device, wearing a smart watch or similar watch, reading, playing games or listening to music or other audio.

PEDs shall be Turned Off and Stowed Away while operating a hi-rail vehicle or on-track equipment. Personnel operating a hi-rail vehicle or on-track equipment, who wish to use their PEDs while on break, must move their hi-rail or on track equipment off of the right of way to a location that is not Fouling the Tracks. Prior to retrieving and turning on their PED for use, Personnel must stop, shut off the engine, and clear the Operator's Area. The PED must be Turned Off and Stowed Away prior to returning to the Operator's Area or restarting the engine.

Use of cell phone communication is allowed to safely direct the movement of pushing a dead-car train only when no other means of communication is available and prior approval has been obtained from the Operations Control Center. Personnel who are directing, flagging, or otherwise controlling the movement of rail transit vehicles, or performing any task while Fouling the Tracks may keep the PED in their possession and powered on but must proceed to a safe area outside

Original Date:	Supersede Date:	Revision Date:	Page 2 of 5
06/12/2009	03/05/2012	12/20/2016	

POLICY USE OF PERSONAL ELECTRONIC DEVICES BY BUS AND LIGHT RAIL EMPLOYEES AND CONTRACTOR STAFF (ATU)	Document Number:	OPS-PL-0001
	Version Number:	03
	Date:	12/20/2016

the Safety Envelope (minimum 6 feet from the nearest light rail) to use their PED. Rail Controllers in the Operations Control Center must unplug and step away from their console before using their PED.

4.2 Discipline:

Failure to adhere to this Policy may constitute a serious safety violation. Violations of this policy will be considered an instance (adverse entry) under the unsatisfactory record portion of Part A, Section 18.2 of the ATU Collective Bargaining Agreement (CBA) and will be subject to a two-year record review.

VTA employees who violate this policy will be subject to disciplinary action as listed below subject to the underlying circumstances and the individual employee. Talking on a PED, texting, playing video games or other violations that distract the Operator and pose the greatest risk will result in the highest levels of discipline.

Repeat violations of any portion of this Policy is considered a serious matter. The applicable sequence of the offenses (first, second, and third) is based on violations of any portion of this Policy. For example, if an employee violates Section 4.2.5 and six months later violates Section 4.2.2, the second violation will be considered a "Second Offense" and will be issued the corresponding discipline of termination. All "days" referenced in the box below are continuous calendar days of unpaid suspension.

	VIOLATION	1st Offense	2nd Offense	3rd Offense
4.2.1	Any violation of this policy where the employee is involved in an accident (preventable or non-preventable).	Termination		
4.2.2	Use of PED while operating a bus, LRV, hi-rail vehicle or on-track equipment.	20 – 30 days	Termination	
4.2.3	Use of PED in the Operator's Area, but not while operating a bus or LRV.	10 – 20 days	20 – 30 days	Termination
4.2.4	Use of PED while directing, flagging, acting as the EIC, or otherwise controlling the movement of rail transit vehicles, or performing any task while Fouling the Tracks.	10 – 20 days	20 – 30 days	Termination
4.2.5	Failure to Turn Off and properly Stow Away PED while operating a bus or LRV, or while in the Operator's Area.	Up to 10 days	10 – 30 days	Termination

Original Date:	Supersede Date:	Revision Date:	Page 3 of 5
06/12/2009	03/05/2012	12/20/2016	

POLICY USE OF PERSONAL ELECTRONIC DEVICES BY BUS AND LIGHT RAIL EMPLOYEES AND CONTRACTOR STAFF (ATU)	Document Number:	OPS-PL-0001
	Version Number:	03
	Date:	12/20/2016

4.2.6 Any contractor staff violating this Policy will be removed from the job and will not be allowed to return to the project. The contractor may be made responsible for any fines levied on VTA for the violation. Repeat violations from the same contractor's staff may result in the contract being cancelled.

5.0 Definitions:

- 5.2 **Fouling the Track:** The placement of an individual in such proximity to a track that the individual could be struck by a moving train or other on-track equipment, or is within six feet of the nearest rail.
- 5.3 **Operator:** bus and Light Rail Vehicle Operators, hi-rail and on-track equipment operators, service workers, mechanics, and any other authorized VTA employee or contractor and their staff.
- 5.4 **Operator's Area:** On VTA buses, this area is defined as all area forward of the yellow line and expressly includes the Operator's seat. On Light Rail Vehicles, this is the area inside the Operator's cab and expressly includes the Operator's seat. On hi-rail or on-track equipment, this is the area where the Operator is positioned during operation of the vehicle or equipment.
- 5.5 **Personal Electronic Device or PED:** means any wireless or portable electronic device. This includes, but is not limited to, wireless phones, personal digital assistants, smart phones, two way pagers, portable internet devices, laptop computers, DVD players, iPods, MP3 players, smart watches, Fitbits or other personal fitness monitors, games, Bluetooth devices, or any headphones or ear buds of any type. The following devices are excluded from this definition:
 - 5.5.6 VTA-owned licensed radio communications equipment such as cab-mounted or portable two-way radios with channels dedicated solely for VTA operations.
 - 5.5.7 Electronic or electrical devices prescribed by a licensed medical practitioner to permit an employee to meet minimum levels as required by the VTA or contractor.
 - 5.5.8 Roadway worker protection devices.
- 5.6 **Rail Controllers:** Individuals tasked with flagging or otherwise controlling the movement of rail transit vehicles. Tasks include "dispatching" as described in California Public Utilities Commission (CPUC) General Order 172 (Rules and Regulations Governing the Use of Personal Electronic Devices by Employees of Rail Transit Agencies and Rail Fixed Guideway Systems).

Original Date:	Supersede Date:	Revision Date:	Page 4 of 5
06/12/2009	03/05/2012	12/20/2016	



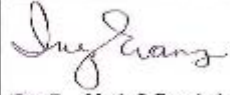
POLICY USE OF PERSONAL ELECTRONIC DEVICES BY BUS AND LIGHT RAIL EMPLOYEES AND CONTRACTOR STAFF (ATU)	Document Number:	OPS-PL-0001
	Version Number:	03
	Date:	12/20/2016

- 5.7 **Safety Envelope:** The area within six feet of the closest rail on light rail tracks or within ten feet of the overhead catenary.
- 5.8 **Stowed Away:** Not on one's person; must be completely concealed, so that it is not visible, in a backpack or bag and out of reach.
- 5.9 **Turned Off:** The power is off.

6.0 Summary of Changes:

Policy title changed. Policy updated to accurately reflect Safety Envelope. Greater clarity on discipline levels for different infractions were provided. Contractor language was added to provide policy on violations by contractors and their staff. Policy now allows for the use of cell phones when dead pulling a train when no other means of communications is available, with prior Operations Control Center approval.

7.0 Approval Information:

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 George Sandoval Operations Manager-LR Mtc	 Inez Evans Chief Operating Officer	 For Nuria I. Fernandez General Manager/CFO

Concurrence by Amalgamated Transit Union, Local 265:


 Diana Hermone
 President & Business Agent, ATU


 Nick Smith
 Asst. Business Agent - Maintenance

Date Approved: 12-20-2016

Original Date:	Supersede Date:	Revision Date:	Page 5 of 5
06/12/2009	03/05/2012	12/20/2016	

APPENDIX C

SAFETY VEST PROCEDURE

PROCEDURE SAFETY VEST	Document Number:	600.009
	Version Number:	02
	Date:	10/29/2019

1. Purpose:

To outline when high visibility, retroreflective safety vests are required to be worn by VTA employees, contractors, and visitors on VTA property and in the field. This procedure also summarizes the required safety vest standards, procurement process, record-keeping practices for their distribution, and relevant training.

This procedure complies with the California Division of Industrial Safety (Cal/OSHA) Title 8 Section 3380, 20 Code of Federal Regulations (CFR) Part 1910.132, and American National Standard Institute/International Safety Equipment Association (ANSI/ISEA) 107. The requirement for wearing safety vests is based, in part, on a workplace hazard assessment conducted as part of the written certification process outlined in the VTA Injury and Illness Prevention Program's Personal Protective Equipment Procedure. This procedure also complies with the VTA Roadway Worker Protection Manual and the VTA Light Rail Operator's Rulebook.

2. Scope:

This procedure applies to all VTA employees, contractors and visitors working at operational divisions or in the field that require additional retroreflective wear to reduce the risk of hazards and injury due to lack of visibility as provided in Section 4.1.

3. Responsibilities:

3.1. Safety and Compliance Department

- 3.1.1. Provide safety vest guidelines to all employees that are exposed to low visibility hazards outlined in Section 4.1. of this procedure.
- 3.1.2. Procure Performance Class 3 safety vests for employees with potential exposure to low visibility hazards in the workplace as part of their job description.
- 3.1.3. Maintain loaner Performance Class 3 safety vests for staff and visitors for temporary use in situations where a low visibility hazard is present.

3.2. Superintendents and Supervisors

- 3.2.1. Provide awareness of low visibility hazards associated with the tasks of their employees.
- 3.2.2. Ensure that the safety vest sizes needed for their staff are available and coordinate with the Safety and Compliance Department to procure adequate supply of safety vests for their respective department.
- 3.2.3. Ensure that staff are wearing proper safety vests under necessary circumstances.
- 3.2.4. Take appropriate action when safety vests are not being used in accordance with this procedure. Appropriate action includes providing additional training and/or imposing progressive discipline to ensure future compliance.

3.3. Employees

- 3.3.1. Use the issued safety vest as instructed to reduce the hazards associated with low visibility.
- 3.3.2. Maintain safety vests in a safe and sanitary condition and replace when lost, damaged, excessively worn, and/or no longer reflective.

Original Date: 01/10/2019	Revision Date: 10/29/2019	Page 1 of 5
-------------------------------------	-------------------------------------	-------------

PROCEDURE SAFETY VEST	Document Number:	600.009
	Version Number:	02
	Date:	10/29/2019

- 3.3.3. Inspect the safety vest before use and notify their supervisor if the safety vest is found to be damaged. Defective safety vests must not be worn.
- 3.3.4. Report any violations of this policy to their supervisor in accordance with the Injury Illness Prevention Program and Enforcing Safe Work Practices and Disciplinary Procedures.

4. Procedure:

- 4.1. VTA employees, contractors and visitors are required to wear a safety vest while working in the following conditions:
 - 4.1.1. In low visibility conditions that include weather conditions and time of day.
 - 4.1.2. Near congested traffic areas, and other conditions where there is a potential hazard of being hit by a moving vehicle.
 - 4.1.3. Within the Light Rail Right-Of-Way (ROW), as defined in Section 5.2. or Caltrain and BART ROW.
 - 4.1.4. Within the Track Zone, as defined in Section 5.9., with the exception of the Shop Apron and the Shop Tracks at Guadalupe Division, as defined in Sections 5.7. and 5.8. respectively.
 - 4.1.5. In or near construction sites.

NOTE: Coach Operators must not wear their safety vest while in revenue service during dark hours as this could result in glare or distractions due to the retroreflective material.

4.2. VTA Safety Vest Standards

- 4.2.1. Garments must meet the Performance Class 3 requirements. The safety vest manufacturers label must also state that the garment meets the aforementioned standard.
- 4.2.2. Safety vests must be fluorescent yellow-green. However, if employees are working along the Caltrain or BART ROW, different safety vest colors are authorized for use based on their higher operating speed limit.
- 4.2.3. Employees must wear safety vests on the outside of their gear/clothing, unless Class 3 reflective foul weather gear is worn.
- 4.2.4. All safety vests that require arc protection need to be Class 3 and labeled accordingly.
- 4.2.5. Safety vests must have the company logo or name on the front and the back of the garment.
- 4.2.6. Alterations and modifications are prohibited with the exception of labelling with name and badge number.
- 4.2.7. VTA-issued safety vests must have a reflective chevron or an "X" on the back. This feature is not a requirement for vests worn by contractors.
- 4.2.8. If department employees are equipped with Type E rated pants, safety vests meeting the Performance Class 2 rating may be purchased by department heads from their associated cost center, once approved by Safety and Compliance Department. Performance Class 2 safety vests paired with Class E rated pants, in combination, create a Class 3 rated ensemble.

Original Date: 01/10/2019	Revision Date: 10/29/2019	Page 2 of 5
-------------------------------------	-------------------------------------	-------------

DocuSign Envelope ID: 663563B2-FB9F-41E0-B5AE-FC7845099B1A

PROCEDURE SAFETY VEST	Document Number:	600.009
	Version Number:	02
	Date:	10/29/2019

4.3. VTA Safety Vest Procurement

- 4.3.1. VTA’s Safety and Compliance Department will only procure Performance Class 3 safety vests for employees exposed to the hazards outlined in Section 4.1.
- 4.3.2. VTA’s Safety and Compliance Department reserves the right to charge the appropriate cost center of the party requesting permanent safety vests in the event safety vests are lost, damaged (beyond the reasonable expectation of wear and tear for specific job classifications), ordered in excess, and/or not required for the job hazards of the requesting party or the intended user.
- 4.3.3. If employees will be working along the Caltrain or BART ROW, the procurement of orange or green retroreflective vests will occur through the employee’s cost center.

5. Definitions:

- 5.1. American National Standard Institute/International Safety Equipment Association 107 (ANSI/ISEA 107): Industry standard for high visibility apparel for workers exposed to the occupational hazards associated with low visibility.
- 5.2. Light Rail ROW: A strip of land that is granted, through an easement or other mechanism, for transportation purposes which includes the RTA’s rails, track, crossties, ballast, bridges, underpasses, tunnels, wayside signals, near-track communication facilities, and stations, excluding platforms.
- 5.3. Personal Protective Equipment (PPE): The safety equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses.
- 5.4. Performance Class 2 or 3 Reflective Safety Vest (“Performance Class 2” or “Performance Class 3”): A rating that designates the visibility of a garment based on the amount of background and retroreflective material in ANSI/ISEA 107.
- 5.5. Retroreflective (Material): Material that reflects and returns a relatively high proportion of light in a direction close to the direction from which it came.
- 5.6. Roadway Worker Protection Program: Training and safety program required to be completed by all workers prior to being allowed on the ROW.
- 5.7. Shop Apron: Consist of all embedded tracks leading to the shop building within the Guadalupe Yard.
- 5.8. Shop Track: Trackage inside all shop buildings and to the fouling point of the embedded trackage is to be considered shop track.
- 5.9. Track Zone: An area within six feet of the outside rail on both sides of the track.
- 5.10. Type E: A rating for pants that is based on the amount of background and retroreflective material in ANSI/ISEA 107.

Original Date: 01/10/2019	Revision Date: 10/29/2019	Page 3 of 5
-------------------------------------	-------------------------------------	-------------

DocuSign Envelope ID: 663563B2-FB9F-41E0-B5AE-FC7845099B1A

PROCEDURE SAFETY VEST	Document Number:	600.009
	Version Number:	02
	Date:	10/29/2019

6. Records:

6.1. Safety Vest Logs

- 6.1.1. When the Safety and Compliance Department issues safety vests, a log indicating the date, badge number and size of safety vest issued will be maintained.
- 6.1.2. When supervisors request safety vests from the Safety and Compliance Department, a signature of receipt will be required once the safety vests are delivered or picked up.
- 6.1.3. Once safety vests are in the possession of the supervisor, the Safety and Compliance Department recommends internal tracking when safety vests are issued to specific employees.
- 6.1.4. Loaner safety vests issued to staff and visitors for temporary use will be tracked with a separate Loaner Safety Vest Log.
- 6.1.5. The Safety and Compliance Department Safety Vest logs will be maintained in accordance to the Division's record retention schedule.

7. Appendices:

NA.

8. Training Requirements:

- 8.1. Training for the Safety Vest Procedure will occur alongside PPE tailgates and through the use of an Operations Notice annually.
- 8.2. PPE Tailgates are prepared by the Safety and Compliance Department and are delivered by department supervisors in accordance with Safety Training procedure.
- 8.3. The department issuing safety vests to staff, contractors and visitors must ensure review of this procedure each time a safety vest is issued. The signing of the Roadway Worker Protection Program log will also signify that training has been completed.

9. Summary of Changes:

10/29/2019: This procedure was amended in order to clarify when safety vests are required to be worn, to revise safety vest standards to accommodate for Caltrain and BART ROW and to establish reasonable expectations for safety vests procured by VTA contractors.

Original Date: 01/10/2019	Revision Date: 10/29/2019	Page 4 of 5
-------------------------------------	-------------------------------------	-------------

DocuSign Envelope ID: 663563B2-FB9F-41E0-B5AE-FC7845099B1A

PROCEDURE SAFETY VEST	Document Number:	600.009
	Version Number:	02
	Date:	10/29/2019

10. Approval Information:

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
<p>DocuSigned by: <i>Karly Hutchinson</i> DocuSign Envelope ID: [redacted]</p> <p>Karly Hutchinson Environmental Health and Safety Specialist</p>	<p>DocuSigned by: <i>Angelique Gaeta</i> DocuSign Envelope ID: [redacted]</p> <p>Angelique Gaeta Chief of System Safety and Security</p>	<p>DocuSigned by: <i>Nuria I. Fernandez</i> DocuSign Envelope ID: [redacted]</p> <p>Nuria I. Fernández General Manager/CEO</p>

Date Approved: 10/30/2019

Original Date: 01/10/2019	Revision Date: 10/29/2019	Page 5 of 5
-------------------------------------	-------------------------------------	-------------