

Request for Proposals
RFP S19261

Central Bikeway Feasibility Study and Alternatives Analysis

February 26, 2020
Norman David, Contracts Administrator

TABLE OF CONTENTS

INTRODUCTION----- 3
I. INSTRUCTIONS ----- 5
II. PROPOSER’S MINIMUM QUALIFICATIONS ----- 8
III. EVALUATION AND SELECTION-----10
IV. PROPOSAL FORMAT AND CONTENT -----11
V. BUSINESS DIVERSITY PROGRAM POLICY -----13
VI. INSURANCE REQUIREMENTS:-----15
VII. PROTESTS -----16
VIII. SCOPE OF SERVICES:-----17
IX. ADMINISTRATIVE SUBMITTALS -----22
X. EXHIBITS -----31



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 S19261: VTA seeks Proposals from qualified firms to provide the following services (“Services”) for the project (“Project”) below:

The Project is to identify a preferred alignment and design for a continuous, connected, low-stress bicycle superhighway between Santa Clara, CA and East San Jose, CA. In doing so, VTA seeks to meet the following supporting objectives:

- 1 Meaningfully involve communities and especially members of disadvantaged communities in developing preferred alignment and design for the corridor.
- 2 Build on, support, and advance other agencies’ transportation and land use plans in the corridor, while addressing conflicts between plans.
- 3 Incorporate innovative, creative solutions to design a bikeway that is not just functional, but a joy to ride on.
- 4 Identify short and long-term solutions, funding strategies, and an implementation plan so the project can continue to advance after the study has been completed.

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 consultant 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 consultant or subcontractor obtains or has access to nonpublic information related to a future RFP through work performed under this RFP, that consultant or subcontractor may be barred from submitting proposals as a prime consultant or subcontractor on that future RFP.



NOTICE TO PROPOSERS OF REQUIREMENT TO AVOID CONFLICTS OF INTERESTS:

Consultants 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, consultants 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. Consultants 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, consultants 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.

Consultants 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. Consultants and subcontractors performing work resulting from this RFP must continue to monitor for and avoid conflicts of interest at all times.

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



I. INSTRUCTIONS TO PROPOSERS

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

Table 1

ACTIVITY	DATE/TIME
Issue RFP	February 26, 2020
Pre-Proposal Conference	March 3, 2020 at 11:00 a.m.
Deadline to Submit Questions	March 5, 2020 at 4:00 p.m.
Deadline to Submit Proposal	March 23, 2020 at 4:00 p.m.
Interviews	April 22-24, 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 S19261 for Central Bikeway Feasibility Study and Alternatives Analysis.**” No telephone calls will be accepted. Except as otherwise provided herein, no contact will be entertained by the Procurement, Contracts, and Materials Management staff outside of the formal Q&A period, and/or by anyone other than the Designated Point of Contact regarding this RFP.

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

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

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

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

Santa Clara Valley Transportation Authority
3331 North First Street, Building B, Room 106
San Jose, California 95134

D. EXAMINATION OF PROPOSAL DOCUMENTS: By submitting a Proposal, the Proposer represents that it has thoroughly examined and become familiar with the work



required under this RFP, and that it is capable of performing quality work to achieve VTA's objectives.

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

Questions or comments regarding this RFP must be submitted in writing and must be received by VTA no later than the date and time stated in Table 1. Email questions must be submitted to the Designated Point of Contact listed above and shall include "RFP S19261 QUESTIONS" in the subject line.

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

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

The Proposer shall submit eight (8) 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 S19261 Central Bikeway Feasibility Study and Alternatives Analysis"

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

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



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

VTA reserves the right to:

- Reject any or all Proposals.
- Issue subsequent Requests for Proposal.
- Postpone opening for its own convenience.
- Remedy technical errors in the Request for Proposal process.
- Approve or disapprove the use of particular subcontractors.
- Solicit best and final offers from all or some of the Proposers.
- Award a professional services contract to one or more Proposers.
- Waive informalities and irregularities in Proposals.
- Conduct interviews at its discretion.
- Accept other than the lowest offer.
- Negotiate with any, all or none of the Proposers.

I. CONTRACT TYPE: It is anticipated that VTA will award a professional services contract (“Contract”). If awarded, the Contract will be Time and Material with a term of two (2) years. This RFP does not commit VTA to enter into such Contract nor does it obligate VTA to pay for costs incurred in preparation or submission of Proposals or in anticipation of entry into a Contract.

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

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

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

L. ECONOMIC INTEREST FORM 700: The Proposer’s key person as well as other positions within his or her firm, determined by VTA, to be participating in the making of governmental decisions will each be required to file a Form 700 the financial disclosure form mandated by the Fair Political Practices Commissions (FPPC). The Form 700 will be



required to be filed upon execution of the Contract in which the VTA retains the services of the Proposer, annually thereafter, and upon separation of services pursuant to FPPC rules and regulations.

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

II. PROPOSER'S MINIMUM QUALIFICATIONS

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

1. The Proposer shall have multi-disciplinary expertise, including the following:
 - a. multimodal transportation planning for pedestrian, bicycle, and automobile modes;
 - b. safety analysis, including bicycle quality of service analysis;
 - c. streetscape design;
 - d. on-street bicycle facility design;
 - e. trail design;
 - f. preparing graphic representations and drawings;
 - g. public outreach including conducting public meetings, developing public presentations, building consensus, implementing culturally-sensitive multilingual strategies; and
 - h. analyzing construction feasibility and cost.
2. The Proposer shall (i) have extensive experience with delivering bicycle planning and feasibility studies that address competing modal priorities and result in high-quality bicycle improvements supported by multiple stakeholders; (ii) have engineering expertise sufficient to analyze construction feasibility of bicycle infrastructure; and (iii) have expertise sufficient to develop 10%-level conceptual designs and conceptual cost estimates for bicycle infrastructure.
3. The Proposer shall have the ability to engage in multilingual, culturally-sensitive, public outreach in the communities within and adjacent to the Central Bikeway Study Area.

B. PREFERRED QUALIFICATIONS:

1. The Proposer should possess familiarity with the latest guidelines, best practices and innovations in bicycle planning and design, such as the National Association of City Transportation Officials (NACTO) Guidelines, American Association of State Highway Transportation Officials' Guide for the Development of Bicycle Facilities, Caltrans Highway Capacity Manual (6th edition), Caltrans Design Information Bulletin 89-01, and other relevant guidelines.



2. The Proposer should have familiarity with planning and designing bicycle superhighways in suburban and urban environments, such as those found in London and Copenhagen.
3. The Proposer should have experience developing bicycle improvement plans on multi-jurisdictional corridors, and in contexts similar to Santa Clara County.
4. The Proposer should have experience working with one or more of the following agencies: Caltrans, Caltrain, BART, Union Pacific Railroad, San Jose Airport, Pacific Gas and Electric, or Santa Clara County Water District.
5. The Proposer should have experience in identifying funding sources to advance complete streets improvements into design and implementation, including experience in applying for grant programs such as Active Transportation Program (ATP), Highway Safety Improvement Program (HSIP), One Bay Area Grant (OBAG), or other applicable programs (both transportation and non-transportation-focused).



III. EVALUATION AND SELECTION

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

Qualification of the Firm	20 Points
Staffing and Project Organization	20 Points
<u>Work Plan / Project Understanding:</u>	
Technical	20 Points
Community Engagement	20 Points
Local Firm Preference	10 Points
Cost Proposal	15 Points
<hr/>	
Total possible points	105 Points

1. **QUALIFICATION OF THE FIRM:** Qualifications to be considered include, but are not limited to: technical experience in performing work of a closely similar nature; experience working with congestion management agencies or other public agencies; record of completing work on schedule; strength and stability of the firm; demonstrated partnership with community based organizations; technical experience and strength and stability of proposed subcontractors; and assessments by client references.
2. **STAFFING AND PROJECT ORGANIZATION:** Qualifications of project staff will be considered, particularly key personnel, and, especially, the project manager. Other factors to be considered include, but are not limited to key personnel’s level of involvement in performing related work, logic of project organization, adequacy of labor commitment, and concurrence in the restrictions on changes in key personnel.
3. **WORK PLAN / PROJECT UNDERSTANDING:** Proposer’s demonstrated understanding of the project requirements, potential problem areas, project approach, work plan, and quality assurance program will be evaluated. This criterion consists of two subcategories: 1) understanding of the technical requirements, challenges, approach to technical work and 2) understanding of the requirements, challenges and approach to meaningfully engaging the community.
4. **LOCAL FIRM PREFERENCE:** 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.



5. COST PROPOSAL: The reasonableness of the total price and competitiveness of this amount with other Proposals received; adequacy of data in support of figures quoted; reasonableness of individual task budgets; basis on which prices are quoted.

B. EVALUATION PROCEDURE: The review board will evaluate Proposals based on the pre-established criteria to determine the successful Proposer or establish a shortlist of firms to interview. VTA reserves the right to conduct interviews at its discretion.

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

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

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

Award may be made on the basis of initial Proposals submitted without any negotiations or discussions.

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, 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 the review board has completed its work, negotiations will be conducted for the extent of services to be rendered.

IV. PROPOSAL FORMAT AND CONTENT



- A. FORMAT:** Proposals shall be typed, as concise as possible and shall not include any unnecessary promotional material. The nature and form of response are at the discretion of the Proposer, but shall include the information listed below.
- B. CONTENT:** The Proposer shall include the information described below:
- 1. PROFILE OF FIRM:** This section shall include a brief description of the firm's size as well as the local organizational structure; it shall also include a discussion of the firm's financial stability, capacity and resources. Additionally, this section shall include a listing of any lawsuit or litigation and the result of that action resulting from (a) any public project undertaken by the Proposer or by its subcontractors where litigation is still pending or has occurred within the last five (5) years or (b) any type of project where claims or settlements were paid by the Proposer or its insurers within the last five (5) years.
 - 2. QUALIFICATIONS OF THE FIRM:** This section shall include a brief description of the Proposer's and sub-consultants qualifications and previous experience on similar or related projects. The Proposer must provide a minimum of three (3) examples of work/projects that are of a similar nature to the Project described within this RFP. For each example, the Proposer shall include a summary of the work performed and the percentage of work the firm was responsible for, the period over which the work was complete, the name, title, and phone number of at least one (1) reference for each project. Please list any awards or recognition for completed projects.
 - 3. WORK PLAN/PROJECT UNDERSTANDING:** By presentation of a well-conceived work plan, this section of the Proposal shall establish the Proposer's understanding of VTA's objectives and work requirements and Proposer's ability to satisfy those objectives and requirements. The work plan shall describe the work assigned to the prime and each subconsultant. The work plan shall also include a timetable for completing all work specified in the Scope of Work.
 - 4. PROJECT STAFFING:** This section shall discuss how the Proposer would propose to staff this Project. Proposer Project team members shall be identified by name, location, discipline, specific responsibilities on the Project and the estimated person-hours of participation and degree of commitment to the Project. 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. Once the Proposal is submitted, there can be no change of key personnel without the prior approval of VTA.
 - 5. ADMINISTRATIVE SUBMITTALS:** The Proposer must complete all the forms attached hereto and submit in the Proposal.



V. BUSINESS DIVERSITY PROGRAM POLICY: Consultant 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.sdbde.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 PROGRAM REQUIREMENTS:

- a. Goal Assignment:** In connection with performance of this RFP, Proposer shall fully comply with VTA policy and procedures pertaining to utilization of SBE firms. A 3.17% SBE contract specific participation goal has been established by the Office of Business Diversity Programs (“OBDP”) as stated in this RFP. Any certified Disadvantaged Business Enterprise (“DBE”) firm is eligible to participate towards the SBE participation goal. SBE firms must be certified or accepted as certified by VTA’s 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>

- b. 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 OBDP at the time



of the Proposal due date to be counted toward the contract SBE goal. Proposers must comply with VTA's SBE Program Policy and Requirements on utilization of SBE.

- a. A Proposer who fails to achieve the SBE participation goal and who fails to demonstrate sufficient good faith efforts to meet such goal shall be deemed “non-responsive” and therefore ineligible for award of the Contract, see Good Faith Effort Guidelines, Section C.
 - b. Form 5, MWBE Listing of Prime and Subcontractors, Form 6, SBE Listing of Prime and Subcontractors, Form 7, Designation of Subcontractors and Suppliers, and other documentation in compliance with SBE Program Policy and Requirements must be submitted at time of Proposal submittal.
 - c. It is the Proposer’s sole responsibility for verifying sub-consultant certification as a SBE or DBE to VTA.
2. **CONSULTANT REPORTING:** Proposer will be required to submit electronic quarterly DBE utilization reports to the VTA’s OBDP through our web-based online system (B2Gnow), accessed from any computer via the internet at the following website: <https://VTA.sdbbe.com>. The monthly reports will document payments to the prime and the prime will report payments made to their sub-contractors. At the end of this Contract, Consultant will be required to submit a Final DBE Utilization Report.

Each Consultant and sub-contractor will receive an email providing information with Log-On identification, password and instructions on how to use the system. Proposer agrees to submit any and all required electronic reports to the OBDP.

3. **FINAL DBE SUBMITTAL:** At the conclusion of this Contract, Consultant will be required to electronically submit a final DBE Utilization Report by indicating a final audit where requested in the B2Gnow system.

4. **GOOD FAITH EFFORTS GUIDELINES**

- a. Attendance at Pre-Bid/Pre-Proposal Meeting: Attendance at pre-proposal conference, if held by VTA.
- b. Identification of scope of work for subcontracts in order to meet the project goal: Selecting portions of the work that can be subcontracted to SBEs/DBEs in order to increase the likelihood that the overall SBE/DBE goal will be achieved. This includes where appropriate, breaking out contract work items into economically feasible units to facilitate SBE/DBE utilization.
- c. Advertisement of subcontracting opportunities: Advertisement in trade association publications and disadvantaged/minority and woman owned business focused



media. Advertisements must identify specific subcontracting opportunities being solicited, project name and location, proposer contact person including name, address, phone, fax, and email, and Proposal solicitation submittal due date. Advertisements should appear a minimum of ten (10) days prior to Proposal due date.

- d. **Written Requests for Bids/Proposals:** Provision of written notices to the maximum number of SBE and DBE firms to solicit interest for each subcontracting area identified sufficient to meet the established goal. Notices should be issued at least ten (10) days prior to Proposal due date.
- e. **Solicitation Follow-Up:** Subsequent efforts to solicit SBE and DBE within all available subcontracting areas. The follow-up solicitation should occur within a reasonable time of the initial solicitation, in order to allow the Proposer to solicit additional SBE and DBE and identify additional subcontracting items to draw greater interest and sub-proposals.
- f. **Negotiation in Good Faith:** Negotiating in good faith with interested SBE and DBE to facilitate SBE and DBE utilization. Utilize a sound basis for selection and/or rejection of SBE and DBE Proposals.
- g. **Performance of Other Bidders/Proposers in meeting the SBE Goal:** In determining where the Proposer has made adequate efforts to meet the SBE and DBE goal, VTA will take into account the performance of other proposers in meeting the established contract-specific goal requirements.
- h. **Provision of assistance to DBEs to obtain bonding, lines of credit and/or insurance:** Provision of assistance to interested SBE and DBE firms in obtaining bonding, lines of credit, and/or insurance as required by the Proposer.
- i. **Utilization of community outreach services:** Utilization of outreach services within the DBE and SBE community, including consultant groups, local, State and federal SBE and DBE offices and other organizations that provide assistance in the recruitment and placement of SBE and DBE firms.

C. FRAUDS AND FRONTS: Contactors are cautioned against knowingly and willfully using “fronts” to meet the SBE goal of the Contract. The use of “fronts” or “pass through” subcontracts to non-disadvantaged firms constitutes a criminal violation.

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



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

VII. PROTESTS

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

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

Santa Clara Valley Transportation Authority
Attn: Mary Talentinow, Interim Manager
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.



VIII. SCOPE OF SERVICES:

1 Introduction and Overview

1.1 Setting

In Santa Clara County, bicycling is a viable year-round transportation solution. Over the last decade, we have seen a steady increase in bicycling and strong public support for better bikeways. During this time, VTA and local agencies have funded and built over 800 miles of on-street bikeways and nearly 200 miles of bicycle paths in the county.

The Central Bikeway corridor was first identified in VTA's Countywide Bicycle Plan (2018) as one of a dozen candidate bicycle superhighways - connected, continuous bikeways with minimal delay at major roadways and barriers. The superhighway network builds on the county's exemplary north-south riparian bicycle paths. The Central Bikeway will connect three of these: the San Tomas Aquino/Saratoga Creek Trail, the Guadalupe River Trail, and the under development Coyote Creek Trail.

The Central Bikeway Feasibility Study and Alternatives Analysis is the first phase of implementing the bicycle superhighway network. The study area runs parallel to the El Camino Real/Central Expressway/Caltrain from the City of Santa Clara to the Berryessa BART station in East San Jose. (**Attachment 1**) The Central Bikeway will connect the three heavily used bicycle commuter paths, as well as Lawrence, College Park, and Santa Clara Caltrain Stations, VTA Light Rail, and Berryessa BART. It will permit residents in Santa Clara and East San Jose to bicycle to jobs in North San Jose and beyond. It will provide a recreational asset for communities that have limited park opportunities. It will connect isolated bicycle improvements, creating one long high-quality corridor, making current and future investments even more valuable. It will provide a low-stress east-west connection in an area where east-west travel is currently severed by rail lines, waterways, the San Jose Mineta International Airport, Highway 101, I-880, State Route 87, and San Tomas Expressway.

1.2 Community Support

VTA is pursuing the Central Bikeway Study in response to community input received during our recent update of the Countywide Bicycle Plan. Over 700 people provided input during the planning process. VTA conducted community workshops and held non-traditional public outreach events, such as a "Roving Bicycle Exhibit" where information about the plan was posted at libraries and government centers. In addition to these in-person events, VTA hosted an interactive web map and communicated with the public via social media. This outreach helped VTA define the vision, goals, and purpose of the Countywide Bicycle Plan, as well as understand the bikeway locations, infrastructure designs, and bicycle amenities desired by the community.

Many people expressed a need for better east-west connections, particularly in the center part of the county, better access to the county's excellent bike paths, low-stress bikeways where people can ride separated from motor vehicles, better wayfinding signage, and easier connections across barriers like freeways.



1.3 Study Area Demographics

Approximately 208,000 people (71,350 households) live within the study area (2012-2016 American Community Survey 5-year estimate). The area is racially and ethnically diverse, with 46 percent of residents identifying as Asian, 36 percent as White/Caucasian, 5 percent as multi-racial, 3 percent as Black or African American, and 12 percent as some other race. Twenty-four percent of residents identify as Hispanic or Latino.

Eleven percent of the population is below the Federal poverty level.

1.4 Study Area Travel Modes

Of the 100,682 workers who live in the study area, 78 percent drive alone to work, 11 percent carpool, 6 percent take public transit, 3 percent walk, and 1.4 percent bicycle. Compared to the rest of the county, the study area has higher carpooling, public transit and walking rates. Bicycling rates are lower than the County average (1.9 percent). Bicycling rates in the county are not uniform, however, indicating that there is potential for much higher bicycle commuting. The City of Santa Clara has a bicycling commute rate comparable to county average (1.8 percent) and the nearby city of Mountain View has a much higher rate of 6.1 percent. (2012-2016 American Community Survey 5-year estimate).

1.5 Study Area Land Use and Transit Changes

The area is rapidly undergoing changes in land use and transit. Over a dozen pending large developments are in or adjacent to the study area, providing 10,255 housing units, 357,000 square feet of retail and 8.5 million square feet of office/commercial/research and development/ hotel space. Transit service will dramatically change when the Berryessa BART station opens in 2020, bringing 30,000 daily boardings to that station by 2030. VTA is supporting new BART service with a redesigned bus network, which will bring faster, more frequent service to the study area, particularly to East San Jose. Bus ridership is expected to increase by 8 to 10 percent. The Central Bikeway should support these land use and transit changes, and provide residents and workers moving into the area with a viable alternative to driving.

1.6 Related Planning Efforts

There are several other ongoing planning efforts that affect the study area. Taken together, these plans will create a connected, 26-mile bicycle superhighway from Redwood City through Menlo Park, Palo Alto, Mountain View, Sunnyvale, Santa Clara and San Jose, running parallel to the El Camino/Central Expressway/Caltrain corridor and on into East San Jose connecting to Berryessa BART. These efforts include:

- **Peninsula Bikeway** – Redwood City, Menlo Park, Palo Alto, and Mountain View are collaborating on a feasibility study for a low-stress connected bikeway parallel to or on El Camino Real. The cities have installed bike route signage on neighborhood streets, and are seeking funding to study a more direct, infrastructure-based solution. VTA's Central Bikeway Study continues the connection through Santa Clara and San Jose.
- **Sunnyvale Bicycle Master Plan Update** – Sunnyvale is the keystone to connecting the Central Bikeway to the Peninsula Bikeway. The City of Sunnyvale began updating its



Bicycle Master Plan in 2019. As part of the update, the city will identify preferred connections between neighboring jurisdictions, including Mountain View and Santa Clara.

- **Trimble/De La Cruz/101 Interchange Redesign** – VTA is leading a redesign of this interchange, located just north of the San Jose Airport and at the border of Santa Clara and San Jose, and adjacent to a Santa Clara County expressway. The initial concept adds a grade separated Class I bicycle path through the interchange.
- **San Jose Better Bikeways Program** – The City of San Jose is using its repaving program to install buffered bike lanes and cycle tracks on several miles of roadways within the greater downtown area. The improvements include potential alignments for the Central Bikeway: Hedding Road and Maybury Road. San Jose’s improvements are quick-build: “paint and plastic.”

In addition, San Jose is leading land use and transportation planning efforts around the Berryessa BART Station, including the Berryessa BART Multimodal Transportation Improvement Plan and the Berryessa Urban Village process.

2 Scope

The Central Bikeway Feasibility Study and Alternatives Analysis will identify a preferred alternative for a continuous, low-stress bicycle superhighway that follows the El Camino (State Route 82)/Central Expressway/Caltrain corridor and connects residents and workers to the Berryessa BART station in East San Jose. The final deliverable is a plan that includes a summary of community and agency goals, 10% design drawings for each segment of the corridor, and an implementation strategy. See **Attachment 1** for the study area boundaries.

2.1 Objectives

The primary objective of the Project is to identify a preferred alignment and design for a continuous, connected, low-stress bicycle superhighway between Santa Clara and East San Jose. In doing so, VTA seeks to meet the following supporting objectives:

- 5 Meaningfully involve communities and especially members of disadvantaged communities in developing preferred alignment and design for the corridor.
- 6 Build on, support, and advance other agencies’ transportation and land use plans in the corridor, while addressing conflicts between plans.
- 7 Incorporate innovative, creative solutions to design a bikeway that is not just functional, but a joy to ride on.
- 8 Identify short and long-term solutions, funding strategies, and an implementation plan so the Project can continue to advance after the study has been completed.

2.2 Responsible Parties

VTA is the client, with the City of Santa Clara, San Jose, Santa Clara County, and Caltrans included as stakeholders.



2.3 Period of Performance

The study is funded by a Caltrans Sustainable Communities Planning Grant. Under grant requirements, the project must be completed by February 28, 2022 with no opportunities for time extensions. For purposes of the proposal, the period of performance is June 1, 2020 through December 31, 2021.

2.4 Detailed Tasks and Deliverables

See **Attachment 2** for the detailed list of tasks and deliverables. The proposal should maintain the same numbering as that provided in Attachment 2.

2.5 Community Based Organizations

VTA seeks to involve Community Based Organizations (“CBO”) and other highly localized stakeholder groups in the outreach plan in order to develop an outreach strategy that will best involve the community and involve disadvantaged communities, including people with limited English proficiency, low income households, racial and ethnic minorities, people with varied immigration status, and people with limited time or resources to go to standard public meetings. Consultant must identify in their Proposal potential CBOs that may be engaged as sub-consultants/sub-contractors; sufficiency of the proposed CBOs will be determined by VTA. Consultant should allocate a portion of the budget to compensate CBOs to facilitate community participation on the Central Bikeway Study.

2.6 Schedules/Milestones

Consultant’s work must be completed by December 31, 2021, in order to provide enough time for VTA to bring the final product to our Board of Directors for adoption before the grant expires on February 28, 2022.

3 Progress/Compliance

3.1 Progress Reports

VTA requires Consultant to provide progress reports with invoices, describing work conducted by Consultant and sub-contractors/vendors since the last progress report. Progress reports shall include hours and percent complete by sub-task, as set forth in **Attachment 2**.

3.2 Invoices

Invoices shall include the following information:

- 1) Names of the personnel performing work;
- 2) Dates and times of Project work;
- 3) Locations of Project work; and
- 4) Itemized costs as set forth in Attachment II, including identification of each employee or subcontractor staff that provided services during the period of the invoice, the number of hours and hourly rates for each employee or subcontractor staff member, authorized travel expenses with receipts, receipts for authorized materials or supplies, and subcontractor invoices.



4 Transmittal/Delivery/Accessibility

4.1 Original File Type

The Consultant shall provide a soft copy of each deliverable in Adobe PDF and original file type (e.g. Excel, Word, PowerPoint, Adobe Illustrator, CAD, GIS) of all final deliverables.

4.2 Accessible Documents

All documents intended for public distribution must meet Web Content Accessibility Guidelines (WCAG) 2.0 requirements. See <https://www.w3.org/TR/WCAG20/>



IX. 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 1. GENERAL INFORMATION

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

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

*Commercial and Government Entity (www.sam.gov)

POINT(S) OF CONTACT

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

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

AUTHORIZED SIGNATORIES:

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

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

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

FOR A&E SERVICES, SUBMIT IN A SEPARATELY SEALED ENVELOPE

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

Firm Name: _____

Name _____ Title _____

Signature _____ Date _____



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: _____

SBE: Yes No Age of Firm _____

Address: _____ Name & Title: _____

City, State, _____ Signature/ _____

Zip: _____ Date _____

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

CREDIT FOR SBE 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 SBE 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.

An 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 \$ _____

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



**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
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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 _____



X. EXHIBITS

EXHIBIT A SAMPLE CONTRACT

EXHIBIT A1 SCOPE OF SERVICES

EXHIBIT A2 COMPENSATION, INVOICING and PAYMENT

EXHIBIT A3 RATE SCHEDULE

EXHIBIT A4 APPROVED SUBCONTRACTORS

EXHIBIT A5 INSURANCE REQUIREMENTS

EXHIBIT A6 SMALL BUSINESS ENTERPRISE (SBE) REQUIREMENTS

EXHIBIT A7 RESTRICTED GRANT AGREEMENT



EXHIBIT A SAMPLE CONTRACT
BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
CONTNAME
FOR
CENTRAL BIKEWAY FEASIBILITY STUDY AND ALTERNATIVES ANALYSIS

CONTRACT NO. S19261

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

- A. SERVICES TO BE PERFORMED:** Consultant shall furnish all technical and professional labor, and materials to perform the services described in Exhibit A1 (herein referred to as “Services”).
- B. TERM OF THIS CONTRACT:** The term of this Contract shall commence on the Effective Date (as defined in the signature block below) and continue through February 28, 2022 (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:** Consultant shall be paid in accordance with Exhibits A2 and A3 for the Services.

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

E. PERFORMANCE OF THE SERVICES:

1. Consultant represents that it is sufficiently experienced, properly qualified, registered, licensed, equipped, organized and financed to perform the Services.
2. Consultant 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 Consultant, at Consultant’s expense, to re-perform any Services that fail to meet the above standards.

F. ASSIGNMENT AND SUBCONTRACTS:

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



Services other than to those subcontractors that may be identified herein or in Exhibit A4. Any assignment, transfer, change or subcontract in violation of this Contract shall be void.

2. Consultant 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 Consultant's cost to perform the Service or in the time required for its performance, Consultant 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. Consultant 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 Consultant'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. Consultant 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 2 CFR Part 200, as modified by 2 CFR Part 1201.
4. The provisions of this AUDIT AND RECORDS section shall be included in any subcontracts hereunder.

I. PROHIBITED INTERESTS:

1. **SOLICITATION:** Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, 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 Consultant, 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 CONSULTANT:** The Consultant covenants that, presently, Consultant, 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 Consultant 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 Consultant, terminate this Contract, or suspend performance hereunder, in whole or in part at any time for VTA's convenience. Consultant 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. Consultant shall have no right to recover lost profits on the balance of the Services.
2. VTA, by written notice given to Consultant, may declare default in Consultant's performance of any term of this Contract, specifying with particularity the basis for such default. Consultant 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 Consultant 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 Consultant.
3. In the event of such termination for cause, VTA shall be relieved of any obligation of further payment to Consultant, 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 consultant. The additional cost to VTA for completing the Services shall be deducted from any sum due to the Consultant and the balance, if any, shall be paid to the Consultant 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 Consultant 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:** Please see Exhibit A7, Restricted Grant Agreement 74A1131.
2. **CIVIL RIGHTS:**
 - a. **NONDISCRIMINATION:** During performance of this Contract, Consultant, 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, Consultant 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. Consultant 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 Consultant 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 Consultant 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. Consultant 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, Consultant must not disclose to third parties any information, data, or materials that the Consultant 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 Consultant in the performance of this Contract ("**Confidential Information**"). In addition, Consultant must not disclose or use any Confidential Information for any purpose other than the performance of the Services. Notwithstanding the foregoing, Consultant 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 Consultant prior to obtaining such information from VTA or performing Services under this Contract; (3) the information is, at the time of disclosure by Consultant, 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, Consultant may disclose Confidential Information if required to do so by court order. However, upon receipt of an order requiring such disclosure, Consultant 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 Consultant in the event of breach or its acceptance of or payment for any Services hereunder shall not release Consultant 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 Consultant 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 CONSULTANT:** In performance of the Services, Consultant will be acting as an independent consultant and not the agent or employee of VTA.
9. **ENTIRE CONTRACT:** This Contract constitutes the entire contract between VTA and Consultant 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 Consultant.
11. **COMPLIANCE WITH APPLICABLE LAW:** In the performance of the Services, Consultant 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:

Mary Talentinow, Interim Manager
Procurement, Contracts and Materials Management
3331 N. First Street, Bldg. A
San Jose, CA 95134-1927
mary.talentinow@vta.org

Consultant:

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

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

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

VTA:

Norman David, Contracts Administrator
3331 N. First Street, Bldg. A
San Jose, CA 95134-1927
norman.david@vta.org

Consultant:

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: Consultant shall adhere to the insurance requirements set forth in Exhibit A5.

N. INDEMNITY AND DEFENSE OF CLAIMS:

1. Consultant 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 Consultant 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. Consultant 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 Consultant’s indemnity obligation set forth above in subparagraph (1) immediately above and regardless of whether Consultant 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 consultants who are acting on behalf of VTA, VTA shall promptly reimburse Consultant for costs of defending the Indemnitees in such action incurred by Consultant, but only in proportion to the sole or active negligence or willful misconduct of VTA or its agents, servants, or independent consultants 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: Consultant shall adhere to the Small Business Enterprise requirements set forth in Exhibit A6.



P. SPECIAL PROVISIONS:

- 1. RESTRICTED GRANT AGREEMENT:** Consultant’s work is expected to be reimbursed via Sustainable Communities Restricted Grant Agreement No. 74A1131 (“RGA”) administered by Caltrans. Consultant must comply with all RGA requirements identified in Exhibit A7 and take all other actions necessary to comply with the terms of the RGA. In the event that there is a conflict between the terms herein and the terms of the RGA, the terms of the RGA prevail.

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

*Santa Clara Valley
Transportation Authority*

Contname

Name
Title

Name
Title

Date

Date

Approved as to Form

VTA Counsel



EXHIBIT A1 SCOPE OF SERVICES

[TO BE INSERTED AT TIME OF CONTRACT AWARD]



EXHIBIT A2 COMPENSATION, INVOICING and PAYMENT
TIME and MATERIALS

For the satisfactory performance and completion of the Services under this Contract, VTA will compensate Consultant as set forth herein.

A. COMPENSATION: This is a time and materials Contract with a maximum value of \$XX,XXX.00., for which amount Consultant agrees to complete the Services defined in this Contract. Consultant is not authorized to provide Services hereunder exceeding the above-stated amount.

1. LABOR COSTS: The Services shall be invoiced in accordance with the following rate schedules.

a. **Exempt Personnel:** VTA shall pay for work by exempt personnel (as determined under the Fair Labor Standards Act, 29 U.S.C. § 201-219) at the labor rates listed below (or as identified in Exhibit []), which include direct labor, indirect labor, overhead and profit. VTA payment for work by exempt personnel shall not include any premium pay.

Name	Classification	Hourly Rate

b. **Non-Exempt Personnel:** VTA shall pay for overtime work by non-exempt personnel (Time and a Half, Double Time) in accordance with California law. VTA must approve all premium time in advance in writing.

Name	Classification	Hourly Rate

c. Consultant may request increases in labor rates. Increases in labor rates may occur only once in a twelve (12) month period per individual. Consultant must make all requests in writing and deliver them to VTA at least thirty (30) days prior to the date the requested new rates are to become effective. VTA will review the request and, at its



sole discretion, approve or deny the request in writing. VTA will issue adjustments, if any, prior to the effective date of the new labor rates.

- d. The labor rate paid by Consultant to each employee may not increase more than the annual average of the Consumer Price Index for the San Francisco Bay Area, using the **CPI-U, All Urban Consumers** index type for the twelve (12) month period preceding a new rate. The CPI is as a guideline only, and VTA is not obligated to match or increase this rate.
 - e. At its discretion, VTA will consider individual exceptions to the above limitations, on a case-by-case basis, not to exceed one (1) adjustment per employee per year, where Consultant can demonstrate that additional compensation is necessary to retain a specific employee VTA considers, in its sole discretion, to be essential.
2. **SUBCONTRACTOR COSTS:** VTA shall reimburse subcontractor costs at actual cost without mark-up. Subcontractor costs shall be supported by invoices, as are prime costs. See paragraph II, Invoicing.
3. **OTHER DIRECT COSTS (ODCs):** ODCs shall be authorized and reimbursed as follows. All ODCs shall be reimbursed at actual cost without mark-up and include the following types of expenses.
- a. Travel expenses related to the performance of Services shall be reimbursed for actual and reasonable costs incurred for mileage, transportation, lodging, meals, and other miscellaneous expenses. Air travel, auto rental, and lodging should be “economy” based and traveler should obtain the lowest price possible. Lodging rates for the Palo Alto, Sunnyvale, and San Jose area are defined by the GSA website www.gsa.gov. The meals and incidental expenses shall not exceed the per diem rates, as stated on GSA website www.gsa.gov/mie. At no time shall alcohol, travel upgrades, fines, memberships, loss of personal property or cash, “no shows,” or personal itinerary changes be subject to reimbursement by VTA.

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

- b. Parking, tolls, deliveries, copying, plan reproduction, and blue print services expenses directly associated with the work will be reimbursed at cost. Except as otherwise provided herein, telephone, computer costs, CAD machine charges, in-house copying and facsimile charges shall be included in overhead and shall not be reimbursed.
- c. All ODCs shall require appropriate documentation for reimbursement. VTA must approve in writing any ODC item estimated to exceed \$500.00 prior to incurring the expense.



B. INVOICING:

1. **INVOICE FORMAT:** VTA shall pay Consultant on the basis of invoices submitted every month for the Services performed during the preceding month. Invoices shall be in a form acceptable to VTA and each invoice must include:
 - Contract Number.
 - Name, classification and labor rate of employee.
 - Description of work performed.
 - Hours worked by employee accompanying with signed timesheets.
 - Other Direct Costs.
 - Subcontractor costs with itemization in same format above.
 - Total costs.
 - Percent of schedule and budget Expended.
2. **WAIVER:** Consultant shall be deemed to have waived the right to payment for Services not invoiced within six (6) months of the date the services were performed. For purpose of this provision the date of the invoice shall be the date of receipt by VTA.
3. **INVOICE SUBMITTAL:** Consultant 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, and the uncontested balance shall be processed for payment. VTA may, at any time, conduct an audit of any and all records kept by Consultant related to the Services performed under this Contract. Any overpayment uncovered in such an audit may be charged against the Consultant future invoices and any retention funds.

- C. **PROMPT PAYMENT:** VTA will pay Consultant within thirty (30) days after receipt by VTA of a proper, fully documented, invoice. Consultant 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. Consultant agrees further to return retainage payments to each subcontractor within fifteen (15) days after the subcontractor's work is satisfactorily completed.



EXHIBIT A3 RATE SCHEDULE
Effective Date MM/DD/20YY

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

Key Personnel:

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

Unnamed Personnel:

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



EXHIBIT A4 APPROVED SUBCONTRACTORS

[TO BE INSERTED AT TIME OF CONTRACT AWARD]



EXHIBIT A5 INSURANCE REQUIREMENTS

INSURANCE: Without limiting the Consultant's indemnification of VTA, the Consultant 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 Consultant, its agents, representatives, or employees, or subcontractors. The cost of such insurance must be included in the Contract. The Consultant must furnish complete copies of all insurance policies, within three (3) business days of any such request by VTA.

A. LIABILITY AND WORKERS' COMPENSATION INSURANCE:

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

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

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

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



-
- b. Automobile Liability \$1,000,000 limit per accident for bodily injury and property damage.
 - c. Workers' Compensation and Employers Liability: Statutory Workers' Compensation limits and Employers Liability limits of \$1,000,000 per accident.
 - d. Professional Liability: \$2,000,000 each occurrence/aggregate minimum limit per claim.
3. **Self-Insured Retention:** Any self-insured retention or deductible in excess of \$50,000 (\$100,000 if Consultant is a publicly-traded company) must be declared to and approved by VTA. If Consultant is a governmental authority such as a state, municipality or special district, self-insurance is permitted. To apply for approval for a level of retention in excess of the stipulated amounts stated herein, the Consultant must provide a current financial statement documenting the ability to pay claims falling within the self-insured retention. At the option of VTA, either: the insurer must reduce or eliminate such self-insured retention as respects VTA, its officers, officials, employees and volunteers; or the Consultant must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

B. CLAIMS MADE PROVISIONS (NOT APPLICABLE TO GENERAL LIABILITY OR AUTOMOBILE LIABILITY): Claims-made coverage is never acceptable for General Liability or Auto Liability. Claims-made may be considered for Professional, Environmental/Pollution, or Cyber Liability. If coverage is written on a claims-made basis, the Certificate of Insurance must clearly state so. In addition to all other coverage requirements, such policy must provide that:

1. The policy must be in effect as of the date of this Contract and the retroactive date must be no later than the date of this Contract.
2. If any policy is not renewed or the retroactive date of such policy is to be changed, the Consultant must obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision must be of at least two (2) years.
3. No prior acts exclusion to which coverage is subject that predates the date of this Contract.
4. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

C. OTHER PROVISIONS: The policies are to contain, or be endorsed to contain, the following provisions:



1. General Liability and Automobile Liability:

- a.** VTA, its officers, officials, employees and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant, including VTA's general supervision of the Consultant; products and completed operations of the Consultant and its subcontractors; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage must contain no special limitations on the scope of protection afforded to VTA, its officers, officials, employees, or volunteers. Additional Insured endorsements must provide coverage at least as broad as afforded by the combination of ISO CG 20 10 10 01 and CG 20 37 10 01.
- b.** The Consultant's insurance coverage must be primary insurance as respects VTA, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by VTA, its officers, officials, employees, or volunteers must be excess of the Consultant's insurance and may not contribute with it.
- c.** Any failure to comply with reporting provisions of the policies may not affect coverage provided to VTA, its officers, officials, employees, or volunteers.
- d.** The Consultant's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e.** The General Liability General Aggregate limit must apply per project, not per policy.
- f.** The General Liability policy must be endorsed to remove the exclusion for railroad liabilities, with coverage at least as broad as afforded by ISO CG 24 17.

2. All Coverages:

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



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

E. CERTIFICATES OF INSURANCE: Consultant must furnish VTA with a Certificate of Insurance. The certificates for each insurance policy are to be signed by an authorized representative of that insurer. The certificates will be issued on a standard ACORD Form. The Consultant must instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to Insurance.certificates@vta.org.

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

Santa Clara Valley Transportation Authority
Procurement, Contracts and Materials Management
3331 North First Street
San Jose, CA 95134
Contract No. S19261

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

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

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

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



EXHIBIT A6 SMALL BUSINESS ENTERPRISE (SBE) REQUIREMENTS

A. SMALL BUSINESS ENTERPRISES:

- A. 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.
 - B. In connection with its performance under this Contract, Consultant agrees to achieve the committed 3.17% SBE goal for this project.
 - C. 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.sbdbe.com>. Consultant will be notified via e-mail with instructions on how to utilize the system.
 - D. Consultant will be required to submit monthly SBE utilization reports electronically to the VTA Office of Business Diversity Programs. These reports will be submitted electronically by the Consultant and will document when payments are made to subcontractors and SBE firms.
- C. At the conclusion of this Contract, Consultant shall submit a final SBE utilization report electronically to the VTA Office of Business Diversity Programs at: OBDP@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 A7 RESTRICTED GRANT AGREEMENT REQUIREMENTS

Note: VTA will be referred to as “AGENCY” in Exhibit A7.

1. Payment and Invoicing

Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Human Resources for similar employees (i.e. non-represented employees) unless written verification is supplied that government hotel rates were not then commercially available to Consultant, its subrecipients, contractors, and/or subcontractors, at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process at the following link: <https://travelpocketguide.dot.ca.gov/>. Also see website for summary of travel reimbursement rules.

2. Cost Principles

a. Consultant agrees to comply with Title 2, Code of Federal Regulations (CFR), Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

b. Consultant agrees, and will assure that its contractors and subcontractors will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) and (b) all parties shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Every subrecipient receiving Project funds as a sub-recipient, contractor, or subcontractor under this RGA shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards to the extent applicable.

c. Prior to Consultant seeking reimbursement of indirect costs, Consultant must have identified the estimated indirect cost rate in Attachment II, prepare and submit annually to AGENCY who will provide to CALTRANS for review and approval an indirect cost rate proposal and a central service cost allocation plan (if any) in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Chapter 5 of the Local Assistance Procedures Manual which may be accessed at: <https://dot.ca.gov/-/media/dotmedia/programs/local-assistance/documents/lapm/ch05.pdf>.

d. Consultant agrees and shall require that all of its agreements with sub-contractors, sub-consultants, and sub-recipients contain provisions requiring adherence to this section in its entirety.



3. Nondiscrimination Clause (2 CCR 11105 Clause b)

- a. During the performance of this RGA, the Consultant, its contractors, its subrecipients, and its subcontractors shall not deny the Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Consultant shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- b. Consultant shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Sections 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., Tit. 2, Sections 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code Sections 11135-11139.5), and the regulations or standards adopted by CALTRANS to implement such article.
- c. Consultant shall permit access by representatives of the Department of Fair Employment and Housing and CALTRANS upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or CALTRANS shall require to ascertain compliance with this clause.
- d. Consultant and its contractors, its sub-recipients, and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- e. Consultant shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements with all of same that each of them in turn include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under the RGA.

4. Retention of Records/Audits

- a. Consultant, its contractors, subcontractors and sub-recipients, agree to comply with Title 2, Code of Federal Regulations (CFR), Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- b. Consultant, its contractors, subcontractors and sub-recipients shall establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line. The accounting system of Consultant, its contractors, all subcontractors, and sub-recipients shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and



provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of Consultant, its contractors, subcontractors and sub-recipients connected with Project performance under this RGA shall be maintained for a minimum of three (3) years from the date of final payment to AGENCY by CALTRANS (date can be provided to Consultant upon request) and shall be held open to inspection, copying, and audit by representatives of CALTRANS, the California State Auditor, and auditors representing the federal government. Copies thereof will be furnished by Consultant, its contractors, its subcontractors and sub-recipients upon receipt of any request made by CALTRANS or its agents. In conducting an audit of the costs and match credits claimed under this RGA, CALTRANS will rely to the maximum extent possible on any prior audit of Consultant pursuant to the provisions of State and AGENCY law. In the absence of such an audit, any acceptable audit work performed by Consultant's external and internal auditors may be relied upon and used by CALTRANS when planning and conducting additional audits.

c. For the purpose of determining compliance with applicable State and AGENCY law in connection with the performance of Consultant's contracts with third parties pursuant to GC Section 8546.7, Consultant, Consultant's sub-recipients, contractors, subcontractors, and CALTRANS shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire Project period and for three (3) years from the date of final payment to AGENCY under this RGA. CALTRANS, the California State Auditor, or any duly authorized representative of CALTRANS or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to a Project for audits, examinations, excerpts, and transactions, and Consultant shall furnish copies thereof if requested.

d. Consultant, its sub-recipients, contractors, and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by CALTRANS, for the purpose of any investigation to ascertain compliance with this RGA.

e. Additionally, all grants may be subject to a pre-award audit prior to execution of the RGA to ensure Consultant has an adequate financial management system in place to accumulate and segregate reasonable, allowable and allocable costs.

f. Any contract with a contractor, subcontractor, or sub-recipient entered into as a result of this RGA shall contain all the provisions of this article.

5. Third Party Contracts

Any contract entered into by Consultant as a result of this RGA shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subrecipients,



contractors, and subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the subrecipients, contractors, and subcontractors. Travel expenses and per diem rates for subcontractors shall be reimbursed pursuant to **Section 1–Payment and Invoicing above**.

6. Ownership of Proprietary Property

a. Definitions

i) Work: The work to be directly or indirectly produced by Consultant under this RGA.

ii) Work Product: All deliverables created or produced from Work under this RGA including but not limited to, all Work and Deliverables conceived or made, or made hereafter conceived or made, either solely or jointly with others during the term of this RGA and during a period of six (6) months after the termination thereof, which relates to the Work commissioned or performed under this RGA. “Work Product” includes all deliverables, inventions, innovations, improvements, or other works of authorship Consultant, its subrecipients, a third-party contractor or subcontractor may conceive of or develop in the course of this RGA, whether or not they are eligible for patent, copyright, trademark, trade secret, or other legal protection.

iii) Inventions: Any idea, methodologies, design, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by Consultant or jointly with the Consultant’s contractor, subcontractor and/or subrecipient and/or the Consultant’s contractor, subcontractor and/or subrecipient’s employees with one or more employees of CALTRANS, during the term of this RGA and in performance of any Work under this RGA, provided that either the conception or reduction to practice thereof occurs

b) Ownership of Work Product and Rights

i) Copyright Ownership of Work Product: Except in regard to Pre-existing Works, all Work Product derived by the Work performed by the Consultant, its employees, or by any of the Consultant’s contractor’s, subcontractor’s, and/or subrecipient’s employees under this RGA, shall be owned by CALTRANS and AGENCY and shall be considered to be works made for hire by the Consultant and Consultant’s contractor, subcontractor, and/or subrecipient for CALTRANS and AGENCY. CALTRANS and AGENCY shall own all United States and international copyrights in the Work Product.

As such, all Work Product shall contain, in a conspicuous place, a copyright designation consisting of a “c” in a circle followed by the four-digit year in which the Work Product was produced, followed by the words “California Department of Transportation and Santa Clara Valley Transportation Authority. All Rights Reserved.” For example, a Work Product created in the year 2012 would contain the copyright designation © 2012 California Department of Transportation and Santa Clara Valley Transportation Authority. All Rights Reserved.



ii) Vesting of Copyright Ownership: Consultant, its employees, and all of Consultant's contractor's, subcontractor's, and subrecipient's employees, agrees to perpetually assign, and upon creation of each Work Product automatically assigns, to CALTRANS and AGENCY, its successors, and assigns, ownership of all United States and international copyrights in each and every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Consultant Consultant's subcontractor, and/or subrecipient from CALTRANS. From time to time, CALTRANS and the AGENCY shall require its contractors, subcontractors, and/or subrecipients and their respective employees to confirm such assignments by execution and delivery of such assignments, confirmations, or assignment, or other written instruments as CALTRANS and the AGENCY may request. CALTRANS and the AGENCY, its successors, and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for Work Product. Consultant shall require contractors, including subcontractors, to waive all moral rights relating to identification of authorship restriction or limitation on use, or subsequent modifications of the Work.

c. Inventions

i) Vesting of Patent Ownership: Consultant agrees to require subrecipients, contractors, subcontractors, and their respective employees to assign to CALTRANS and AGENCY, its successors, and assigns, all Inventions, together with the right to seek protection by obtaining patent ownership rights and the right to claim all rights or priority there under, and the same shall become and remain CALTRANS' property regardless of whether such protection is sought. The Consultant, its employees, and Consultant's contractor, subcontractor, and subrecipient shall promptly make a complete written disclosure to CALTRANS of each Invention not otherwise clearly disclosed to CALTRANS in the pertinent Work Product, specifically pointing out features or concepts that the Consultant, its employees, and/or Consultant's contractor, subcontractor, to be new or different. The Consultant, its employees, and Consultant's contractor, subcontractor, and subrecipient shall, upon CALTRANS and AGENCY's request and at CALTRANS and AGENCY's expense, cause patent applications to be filed thereon, through solicitors designated by CALTRANS and AGENCY, and shall sign all such applications over to CALTRANS and AGENCY, its successors, and assigns. The Consultant, its employees, and Consultant's contractor, subcontractor, and subrecipient shall give CALTRANS and AGENCY and its solicitors all reasonable assistance in connection with the preparation and prosecution of any such patent applications and shall cause to be executed all such assignments or other instruments or documents as CALTRANS and AGENCY may consider necessary or appropriate to carry out the intent on this RGA.

ii) Agency: In the event that CALTRANS and AGENCY are unable for any reason whatsoever to secure the Consultant's, its employees', and/or Consultant's contractor's, subcontractor's, and/or subrecipient's signature to any lawful or necessary document required or desirable to apply for or prosecute any United States application (including renewals or divisions thereof), Consultant, its employees, and Consultant's contractor,



subcontractor, and subrecipient hereby irrevocably designates and appoints CALTRANS and AGENCY and its duly authorized officers and agents, as its agent and attorney-in-fact, to act for and on behalf of Consultant, its employees and Consultant's contractor's, subcontractor's, and subrecipient behalf and stead, to execute and file such applications and to do all other lawfully permitted acts to further the prosecution and issuance of any copyrights, trademarks or patents thereon with the same legal force and effect as if executed by Consultant, its employees and Consultant's contractor, subcontractor and subrecipient. CALTRANS and AGENCY shall have no obligations to file any copyright, trademark or patent applications.

d. Additional Provisions

i) Avoidance of infringement: In performing services under this RGA, Consultant and its employees agree to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Consultant or its employees becomes aware of any such possible infringement in the course of performing any Work under this RGA, Consultant or its employees shall immediately notify AGENCY in writing in writing so that the AGENCY may notify CALTRANS..

ii) Pre-existing Works and License: Consultant agrees to require contractors, subcontractors, and subrecipients to acknowledge that all Work Product shall be the sole and exclusive property of CALTRANS and AGENCY, except that any Pre-existing Works created by Consultant and third parties outside of the RGA but utilized in connection with the RGA (the "Pre-existing Works") shall continue to be owned by Consultant or such parties. Consultant agrees to notify AGENCY in writing of any Pre-existing Works used in connection with any Work Product produced under this RGA and hereby grants to CALTRANS and AGENCY a non-exclusive, irrevocable, worldwide, perpetual, royalty-free license to utilize the Pre-existing Works in connection with the Work Product.

iii) Contractors, Subcontractors, and Subrecipients: Through contract with its subrecipients, contractors, and subcontractors, Consultant shall affirmatively bind by contract all of its contractors, subcontractors, subrecipients, and service vendors (hereinafter "Consultant's Contractor/Subcontractor/Subrecipient") providing services under this RGA to conform to the provisions of this Exhibit. In performing services under this RGA, Consultant's Contractor/Subcontractor/Subrecipient shall agree to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Consultants's Contractor/Subcontractor/Subrecipient becomes aware of any such possible infringement in the course of performing any Work under this RGA, Consultant's Contractor/Subcontractor/Subrecipient shall immediately notify the AGENCY in writing, and AGENCY shall then immediately notify the Department in writing.

e. Ownership of Data

i) Upon completion of all Work under this RGA, all intellectual property rights, ownership, and title to all reports, documents, plans, specifications, and estimates, produced as part of



this RGA will automatically be vested in CALTRANS and AGENCY and no further agreement will be necessary to transfer ownership to CALTRANS and AGENCY. The Consultant, its contractors, subcontractors, and subrecipients, shall furnish AGENCY and CALTRANS all necessary copies of data needed to complete the review and approval process.

ii) It is understood and agreed that all calculations, drawings, and specifications, whether in hard copy of machine-readable form, are intended for one-time use in the Project for which this RGA has been entered into.

iii) Consultant, its contractors, subcontractors, and subrecipients, are not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by CALTRANS of the machine-readable information and data provided by Consultant, its contractors, subcontractors, and subrecipients, under this RGA; further, Consultant, its contractors, subcontractors, and subrecipients, are not liable for claims, liabilities or losses arising out of, or connected with, any use by CALTRANS of the Project documentation on other projects, for additions to this Project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by Consultant, its contractors, subcontractors, and subrecipients.

iv) Any sub-agreement in excess of \$25,000.00, entered, into as a result of this RGA, shall contain all of the provisions of this clause.

7. ADA Compliance

All entities that provide electronic or information technology or related services that will be posted online by the California Department of Transportation must be in compliance with Government Code Sections 7405 and 11135 and the Web Content Accessibility Guidelines (WCAG) 2.0 or subsequent version, published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success. All entities will respond to and resolve any complaints/deficiencies regarding accessibility brought to their attention.

8. Mandatory Organic Waste Recycling

It is understood and agreed that pursuant to Public Resources Code Sections 42649.8 et seq., if Consultant or its contractors, sub-contractors, or sub-recipients generates four (4) cubic yards or more of organic waste or commercial solid waste per week, the Consultant shall arrange for organic waste recycling services or commercial waste recycling services that separate/source organic waste recycling. Consultant shall provide proof of compliance, i.e. organic waste recycling services or commercial waste recycling services that separate/source organic waste recycling, upon request from AGENCY or CALTRANS.



XI. ATTACHMENTS

**ALL ATTACHMENTS ARE AVAILABLE AND DOWNLOADABLE
FROM VTA WEBSITE**

Attachment 1 – Central Bikeway Study Area - August 2019

Attachment 2 – Tasks and Deliverables