

Request for Proposals  
RFP S19246

# SR 85 Noise Reduction Project Phase 2 - Pavement Overlay and Soundwall Modifications

Highway Engineering Services

September 29, 2020  
Erron Alvey, Contracts Administrator



**TABLE OF CONTENTS**

INTRODUCTION:----- 3  
I. INSTRUCTIONS----- 4  
II. PROPOSER’S MINIMUM QUALIFICATIONS ----- 7  
III. EVALUATION AND SELECTION----- 8  
IV. PROPOSAL FORMAT AND CONTENT-----11  
V. BUSINESS DIVERSITY PROGRAM POLICY-----13  
VI. INSURANCE AND INDEMNIFICATION REQUIREMENTS:-----15  
VII. PROTESTS-----16  
VIII. SCOPE OF SERVICES:-----17  
IX. ADMINISTRATIVE SUBMITTALS -----60  
X. EXHIBITS-----72  
XI. APPENDICES ----- 105



**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](http://www.VTA.org).

**ABOUT RFP S19246:** VTA seeks proposals (each, a “Proposal”) from qualified firms to provide the necessary activities and services (“Services”) to complete the Project Initiation Document (“PID”), Project Approval/Environmental Document (“PA/ED”), and final design – Plans, Specifications, and Estimates (“PS&E”) phases of the State Route (“SR”) 85 Noise Reduction Project Phase 2 – Pavement Overlay and Soundwall Modifications in Santa Clara County (“County”) (See **Appendix B** for Location Map).

The Services resulting from this Request for Proposals (“RFP”) may also potentially include future Design Services During Construction (“DSDC”) phase for the Project. Proposers must include a statement of interest in performing the potential future phases of Services and qualifications for such work in their Proposal.

**NOTICE TO PROPOSERS OF LIMITATION OF FUTURE CONTRACTING:**

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

**NOTICE TO PROPOSERS OF REQUIREMENT TO AVOID CONFLICTS OF INTERESTS:**

Contractors and subcontractors performing work resulting from this RFP are required to avoid conflicts of interest resulting from services provided to VTA through other engagements. In particular, contractors and subcontractors providing services under any engagements that



developed or influenced the requirements, scope of services, or criteria for this RFP are ineligible to participate in the work resulting from this RFP. Contractors and subcontractors providing services under such engagements that involve the supervision, oversight, review, critique, or acceptance of work products under this RFP are also ineligible to participate in the work resulting from this RFP.

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

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

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

**I. INSTRUCTIONS TO PROPOSERS**

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

**Table 1**

<b>ACTIVITY</b>	<b>DATE/TIME</b>
Issue RFP	September 29, 2020
Pre-Proposal Conference	October 7, 2020 at 10:00 a.m.
Deadline to Submit Questions	October 13, 2020 at 4:00 p.m.
Deadline to Submit Proposal	November 9, 2020 at 4:00 p.m.
Interviews	November 18 &19, 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 S19246 for SR 85 Noise Reduction Project Phase 2 – Pavement Overlay and Soundwall Modifications.” 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:

Erron Alvey, Contract Administrator  
Santa Clara Valley Transportation Authority  
3331 North First Street, Building B  
San Jose, California 95134  
Email: Erron.Alvey@vta.org

- C. PRE-PROPOSAL CONFERENCE:** All prospective Proposers are strongly encouraged to participate in the on-line pre-proposal conference scheduled at the date and time stated on Table 1. The pre-proposal conference will be conducted via virtual conference only. **Prospective Proposer's must register to participate in the pre-proposal conference by emailing the Designated Point of Contact listed above at least 24-hours in advance of conference.** Prospective proposers are required to provide name of participant, firm name, e-mail and telephone phone number to be used during the conference.
- 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 RFP 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 S19246 QUESTIONS" in the subject line.



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

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

The Proposer shall submit six (6) printed copies and one (1) copy of the Proposal in an electronic format in the form of a CD, DVD, or flash drive, accompanied by a separate and sealed envelope, containing one printed copy of (i) the Exceptions to the Contract (Form 3), (ii) A&E Services Cost Proposal Form (Form 4), (iii) Listing of MWBE Prime and Subcontractors (Form 5), (iv) Listing of SBE Prime and Subcontractors (Form 6), (v) Designation of Subcontractors and Suppliers for Data Collection Requirements (Form 7), and (vi) Resource Plan (Dollars) (Form 11) (collectively, the “Cost Proposal Packet”).

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

“RFP S19246 SR 85 NOISE REDUCTION PROJECT PHASE 2 – PAVEMENT  
OVERLAY AND SOUNDWALL MODIFICATIONS”

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

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

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

VTA reserves the right to:

- Reject any or all Proposals.
- Issue subsequent Requests for Proposal.
- Postpone opening for its own convenience.
- Remedy technical errors in the Request for Proposal process.
- Approve or disapprove the use of particular subcontractors.



- Solicit best and final offers from all or some of the Proposers.
- Award a professional services contract to one or more Proposers.
- Waive informalities and irregularities in Proposals.
- Conduct interviews at its discretion.

**I. CONTRACT TYPE:** It is anticipated that VTA will award a professional services contract (“Contract”). If awarded, the Contract will be cost plus fixed fee with a term of 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 must be a Civil Engineering firm with a minimum of 5 years of highway design experience.
2. The proposed Project Manager (“PM”) (see Section IV(B)(5) below) must be a licensed engineer registered in the State of California with a minimum of five (5) years of experience in managing or being a key team member on highway projects located on the State Highway System (SHS).

**B. PREFERRED QUALIFICATIONS:** The Proposer shall be familiar with Caltrans’, VTA’s, Santa Clara County’s and City of Mountain View’s, City of Sunnyvale’s, City of Los Altos’, City of Cupertino’s, City of Campbell’s, City of Saratoga, Town of Los Gatos, and City of San Jose’s (individually referred to as “City”; collectively referred to as “Cities”) requirements, policies, procedures, manuals, and standards including compliance with applicable Federal Highway Administration (“FHWA”) requirements. The Proposer shall demonstrate previous work done on state highway interchange projects in Caltrans District 4.

### **III. EVALUATION AND SELECTION**

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

<b>Qualifications of the Firm</b>	<b>10 Points</b>
<b>Staffing and Project Organization</b>	<b>25 Points</b>
<b>Work Plan</b>	<b>30 Points</b>
<b>Project Understanding / Delivery Efficiencies</b>	<b>25 Points</b>
<b>Local Firm Preference</b>	<b>10 Points</b>

1. **QUALIFICATIONS OF THE FIRM:** Evaluation of this qualification will be based on the Proposer’s and subcontractors’ qualifications and previous experience on similar and/or related projects. The evaluation will be based on the strength of the information for three key similar or related projects that the Proposer has completed in the past five years or currently has underway. The factors to be considered for each of these three projects are: (i) details on the project and its relevance as qualification for the Project contemplated by this RFP, (ii) the total cost of the prior project, (iii) the percentage of work for which the Proposer was responsible for the prior project, (iv) a comparison of the planned duration of work by the Proposer compared to the actual duration of work performed by the Proposer on the prior project, and (v) the originally planned work budget for Proposer compared to the actual amount expended for the prior project. As part of the evaluation criteria, VTA will also consider Proposer’s experience working with highway properties or other public agencies, the strength and stability of the firm, and assessments by three client references.





- 2. STAFFING AND PROJECT ORGANIZATION:** Evaluation of this criterion will be based on the relevant experience of (i) Proposer’s PM (see Section IV(B)(5) below), (ii) the Deputy Project Manager (“DPM”), if one is proposed (see Section IV(B)(5) below), and (iii) other key staff, including staff from subcontractors. Relevant experience to be considered includes experience in the past seven years: (i) working with Caltrans District 4 on projects that are similar and/or related to the Project that is the subject of this RFP, (ii) conducting similar or related project development for highway projects, and (iii) managing the development of complex highway improvement projects involving multiple agencies and stakeholders. Experience prior to the last seven years can be provided, but the focus of the evaluation for this criterion will be experience in the past seven years. The proposed PM/DPM should be able to demonstrate the ability to lead a multi-faceted team, manage a schedule, and budget in a dynamic environment. VTA’s investigation of staff references may extend beyond those provided in the Proposal.
- 3. WORK PLAN:** Evaluation of this criterion will be based on the presentation of a well-conceived work plan showing that the Proposer has a full grasp of the key technical issues to lead to project success through the Proposer’s allocation and use of staff resources to meet VTA’s objectives and work requirements for the Project. The Proposal will be evaluated on how it succinctly describes the proposed approach for addressing the required work in an effective yet realistic manner, outlining the activities that would be undertaken in completing the various tasks and specifying who would perform the tasks, including highlighting and explaining the importance of certain tasks as critical tasks. The Proposal will be evaluated on the overall proposed duration for completing the work including added information on how the duration could change as needed. Finally, evaluation of this criterion will also include an assessment of percentages and hours allocated to the major subtasks by staff (including key staff from subcontractors) to reflect the Proposers’ overall understanding of the Project requirements and proposed flow of work.
- 4. PROJECT UNDERSTANDING/DELIVERY EFFICIENCIES:** Evaluation of this criterion will be based on (i) the presentation of the Project issues and critical items that need to be addressed during the development of the Project and (ii) discussion on key steps to ensure optimizing of delivery effort. The Proposal will be evaluated based on: 1) solutions, strategies, or recommendations for the identified Project issues and critical items, 2) a detailed discussion on the proposed stakeholder involvement, and 3) identification of potential pitfalls to the successful delivery of this Project, including identifying three of the most impactful potential pitfalls, and steps that will be taken to avoid such pitfalls. Evaluation of this criterion will be based on how the Proposal shows the relationship between the Project issues/critical items and the proposed work plan (staffing, tasks, and schedule) identified in the “Work Plan” criteria. The use of graphical aids, figures, and tables that clearly demonstrate the Proposer’s Project understanding and proposed delivery efficiencies will factor into the scoring for this criterion. Any new ideas or concepts that could help deliver a better Project should be discussed in this section in the Proposal.



**5. LOCAL FIRM PREFERENCE:** A local firm is a firm that currently has its main office or a branch office with meaningful production capability located within Santa Clara County, or a firm that, upon award of the Contract by VTA, will establish such a local office. Five (5) points shall be awarded if at least fifty percent (50%) of the dollar value of services to be rendered will be performed by a local firm. An additional point shall be awarded for each additional ten percent (10%) of the dollar value of services to be performed by a local firm, to a maximum point award of ten (10) points.

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

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

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

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

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

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



**IV. PROPOSAL FORMAT AND CONTENT**

**A. FORMAT:** Proposals shall be no longer than 12 pages (8.5” by 11” single sided) or 6 sheets (8.5” by 11” double sided). Proposals shall be typed with a minimum font size of 12-point font. Sheets that are 11” by 17” are allowed for organizational charts, Gantt chart schedule or diagrams and each 11” by 17” page counts as 2 pages. Proposal should be as concise as possible and shall not include any unnecessary promotional material. The following Table 2 describes sections that apply to the 12-page limit. The nature and form of response are at the discretion of the Proposer, but shall include the information listed below.

**Table 2**

Proposal Section	Included in Page Limit
Proposal Cover Sheet	No
Letter of Transmittal	No
Title Page	No
Table of Contents	No
Profile of Firm	Yes
Qualifications of Firm	Yes
Work Plan	Yes
Project Understanding/Delivery Efficiencies	Yes
Project Staffing	Yes
Resumes	No - Resumes to be provided in an appendix to the proposal and may not exceed 2 pages (single sided) or 1 sheet (double sided) for each staff person
Administrative Submittals – Forms 1, 2, 3, 8, 9, 10	No
Administrative Submittals – Forms 4, 5, 6, 7, 11	No
Cost Proposal Packet (Separate Sealed Envelope)	No

**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 subcontractors qualifications and previous experience on similar or related projects. Description of pertinent project experience shall include a summary of



the work performed, the total project cost, the percentage of work the firm was responsible for, the period over which the work was completed. Give a brief statement of the firm's adherence to the schedule and budget for each project. Proposer must provide the name, title, and phone number of three (3) clients to be contacted for references, although VTA reserves the right to check other references beyond the three provided.

Information on the PM/DPM and other key staff's availability to take on this Project must be provided as part of the Proposal using **Form 8 – Key Staff Availability**.

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

- 3. WORK PLAN:** By presentation of a well-conceived work plan, this section of the Proposal shall establish the Proposer understands 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 subcontractor. Proposers will include separate detailed schedules for completing the major subtasks specified in the Scope of Services and an overall proposed duration for completing PID and PA/ED for the Project in the Proposals. Proposers will prepare schedules included in the Proposals in Gantt chart format (e.g. Microsoft Project or Primavera). A preliminary project milestone schedule can be seen in **Appendix C**.

Proposer must state the Business Diversity Program goal commitment as a percentage of total contract value.

It is recommended that the Evaluation Criteria section of this RFP be reviewed very carefully for further details on the required information related to the work plan.

- 4. PROJECT UNDERSTANDING/DELIVERY EFFICIENCIES:** This section must include the Proposer's understanding of the Project's critical issues and solutions, strategies, or recommendations to address those critical issues for a successful Project delivery. This section must also identify the Proposer's understanding of stakeholder involvement on the issues, key pitfalls to Project delivery, and related cost implications. The Proposer may also suggest technical or procedural innovations that have been used successfully on other projects and which may facilitate the completion of this Project.

It is recommended that the Evaluation Criteria section of this RFP be reviewed very carefully for further details on the information requested to demonstrate project understanding and proposed delivery efficiencies.

- 5. PROJECT STAFFING:** This section must discuss how the Proposer would propose to staff this Project. The Proposer's Project team members must be identified by name, location, specific responsibilities on the Project, and the estimated person-hours of



participation. The Proposer must also identify the team member(s) who will serve as the PM and DPM (if Proposer chooses to assign a DPM); the roles and responsibilities of these team members are described in the Scope of Services. An organizational chart for the Project team and resumes for key personnel must be included (resumes should be included in a separate appendix, not within project staffing section). Key personnel will be an important factor considered by the review board. The assignment of multiple tasks to Project team members to ensure compactness of the proposed Project team may be an important factor for the review board, especially if such an organizational structure is shown to provide project delivery efficiencies and project management efficiencies. Once the Proposal is submitted, there can be no change of key personnel without the prior approval of VTA.

6. **ADMINISTRATIVE SUBMITTALS:** The Proposer must complete all the forms attached hereto and submit in the Proposal. Forms No. 4 through No. 7, and Form 11 must be printed and submitted in a separate and sealed envelope titled “Cost Proposal Packet” as part of the Proposal.

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

- A. **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](http://www.vta.org) or call the Office of Business Diversity Programs at (408) 321-5962 for assistance in identifying eligible MWBE firms. Listings of eligible firms are also available at the following:

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

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

**1. SBE 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 **5.75%** 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:

- [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

- 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.
- c.** 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.
- d.** 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.
- e.** It is the Proposer’s sole responsibility for verifying sub-consultant certification as an SBE VTA.

## **2. GOOD FAITH EFFORTS GUIDELINES**

- a.** Attendance at 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 AND INDEMNIFICATION REQUIREMENTS:** Contractor 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 A8.**

## **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: John Wesley White, Chief Procurement Officer  
Procurement, Contracts & Materials Management  
3331 North First Street, Building B  
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:**

### **A. Background Information**

VTA, in cooperation with California Department of Transportation (“Caltrans”), plans to develop and implement express lanes (“EL”) on the SR 85 corridor in Santa Clara County. An environmental document was released in late 2013 to convert the existing high occupancy vehicle (“HOV”) lanes on SR 85 between US 101 in San Jose and US 101 in Mountain View to EL, also known as Hot Lane; and add a second EL in both directions of SR 85 between SR 87 and I-280. During the environmental circulation period for the Project, residents expressed their concerns toward the perceived noise from the SR 85 corridor and added noise from the proposed express lanes, in particular, the new double EL between SR 87 and I-280 within the cities of San Jose, Campbell, Los Gatos, Saratoga, and Cupertino. However, the noise study completed as part of the SR 85 Environmental Document concluded that no new or replacement noise walls were warranted. To further address noise concerns on SR 85, a request for a proposal for an additional study from a noise consultant was issued on April 16, 2015 as part of Phase 1 of the Noise Reduction Program on SR 85. The resulting study is attached as **Appendix A**. The study was completed in September 2016 and identified a range of noise reduction treatments and test locations for Phase 2 of the Noise Reduction Program on SR 85. Subsequently, a request for a proposal from a contractor team is being requested by VTA to develop the pilot phase (“Phase 2”) of the Project.

In addition to the SR 85 Noise Reduction Study Phase I (2016) (Appendix A), VTA also prepared the following documents, which are attached hereto as Appendices for review:

- SR 85 Express Lanes Project Initial Study with Negative Declaration/Environmental Assessment with Finding of No Significant Impact (2015) (**Appendix A1**)
- SR 85 Express Lanes Project Noise Study Report (2012) (**Appendix A2**)
- SR 85 Express Lanes Project Noise Abatement Decision Report (2012) (**Appendix A3**)
- Capital Preventive Maintenance Project Report for SR 85 from Almaden Expressway to Stevens Creek Boulevard (2005) (**Appendix A4**)
- Final Environmental Impact Statement for the SR 85 Transportation Corridor Project (1987) (**Appendix A5**)
- SR 85 Project Report for the SR 85 West Valley Transportation Corridor (1985) (**Appendix A6**)

### **B. Proposed Project**

This Phase 2 Project will construct noise reduction measures that include pavement overlays or other pavement surface treatment at five locations along SR 85. The Project will also modify existing soundwalls at a subset of two or three locations for additional noise attenuation. The purpose of the SR 85 Noise Reduction Program – Phase 2 is to test



the noise reduction measures at the five locations identified in the SR 85 Noise Reduction Study Phase 1 (2016) (Appendix A).

The Project involves the pilot testing of the recommended noise reduction measures identified in Phase 1 at the five test locations and evaluation of their efficacy for a possible corridor wide implementation as part of a future Phase 3 of the program.

The recommended noise reduction measures may change based on additional input from Caltrans and other stakeholders. The Project will also re-examine the feasibility to implement acoustically absorptive barrier treatment and/or barrier cap to the top of the existing noise barriers. The noise reduction pilot testing locations on SR 85 are shown in **Appendix B**, attached hereto. Where a pavement/surfacing replacement is called out, the distance listed is for each direction. For example, 1,600 feet of resurfacing includes 1,600 feet northbound and 1,600 feet southbound for a total of 3,200 feet at one location. The Project will consist of the following improvements at five locations along SR 85:

- a. Location #1 – SR 85 near Lubich Drive in Mountain View. 1,600 feet of pavement/surfacing replacement with surface course of Rubberized Hot Mix Asphalt (RHMA) or similar surface treatment that reduces noise generated by vehicle tires and vehicle noise in general. Install 1,600 feet of soundwall cap (west side only) with cantilevered cap sections extending beyond the wall layout line (front and back) for additional noise attenuation.
- b. Location #2 – SR 85 near S. Bernardo Avenue in Sunnyvale. 2,800 feet of pavement/surfacing replacement with surface course of Rubberized Hot Mix Asphalt (RHMA) or similar surface treatment that reduces noise generated by vehicle tires and vehicle noise in general. The pavement resurfacing of SR 85 will extend approximately 1,400 feet to the north and south of the adjacent S. Bernardo Avenue/The Dalles intersection.
- c. Location #3 – SR 85 between McClellan Road Overcrossing and S. Stelling Road Overcrossing in Cupertino. 2,600 feet pavement/surfacing replacement with surface course of Rubberized Hot Mix Asphalt (RHMA) or similar surface treatment that reduces noise generated by vehicle tires and vehicle noise in general.
- d. Location #4 - SR 85 near the Cox Avenue Overcrossing. 3,500 feet of pavement/surfacing replacement with surface course of Rubberized Hot Mix Asphalt (RHMA) or similar surface treatment that reduces noise generated by vehicle tires and vehicle noise in general. Install 1,200 feet of soundwall cap (west side only) with cantilevered cap sections extending beyond the wall layout line (front and back) for additional noise attenuation. No soundwall cap is proposed for the east side of the SR 85.
- e. Location #5 – SR 85 west of the Callahan Avenue Undercrossing. 1,200 feet of pavement/surfacing replacement with a surface course of Rubberized Hot Mix Asphalt (RHMA) or similar surface treatment that reduces noise generated by vehicle



tires and vehicle noise in general. The pavement re-surfacing treatment at this location may differ from the other 4 locations given that existing surfacing is already a Hot Mix Asphalt type of surfacing. Install 1,000 feet of soundwall cap (south side only) with cantilevered cap sections extending beyond the wall layout line (front and back) for additional noise attenuation. No soundwall cap is proposed for the north side of the SR 85.

### **C. Work to be Performed**

Contractor must provide the activities and services necessary to complete the PID, PA/ED, and PS&E phases for the Project. The project work plan includes the following applicable standards:

The documents and reports required under this Contract must be prepared in accordance with Caltrans' regulations, policies, procedures, manuals, and standards.

- a. Roadway design must be in accordance with the latest editions, if applicable, of the Caltrans Highway Design Manual and the California Manual on Uniform Traffic Control Devices.
- b. Plans must be prepared in conformance with the current editions of the Caltrans Plans Preparation Manual and the Caltrans CADD User's Manual.
- c. All field and laboratory testing for geotechnical investigations must be performed and the materials report must be prepared in conformance with current editions of the Caltrans Guidelines for Geotechnical Design Reports.
- d. Design of improvements which impact existing or proposed underground utilities must conform to Caltrans's Policy on High and Low Risk Underground Facilities within Highway Rights of Way.
- e. All right-of-way maps must conform to the current Caltrans Right-of-way Manual. Design of the Project must be performed in accordance with Caltrans standards and practices. Any exceptions to applicable design standards must be approved by Caltrans via the process outlined in the Caltrans Highway Design Manual and applicable memorandums and design bulletins published by Caltrans.
- f. Submittals must be made in the number and type specified in the current edition of the Caltrans publication entitled, Guide for the Submittal of Plans, Specifications and Estimates, and, where applicable, Externally Financed Projects Branch Information and Procedures Guide of the Division of Structures, unless noted otherwise in the Contract.
- g. All designs for the constructed improvements within the applicable City right-of-way must conform to the applicable City's standards, guidelines, policies and procedures, and applicable City's ordinances.



- 
- h. All constructed improvements must conform to VTA’s Complete Streets best practices (which are incorporated herein by this reference as if fully set forth herein and may be made available to Contractor upon written request to VTA) in order to improve bicycle, pedestrian, and transit elements of the system. Design of bicycle improvements must comply with most recent version of VTA Bicycle Technical Guidelines.

#### **D. Key Tasks**

The key tasks of the scope of services are as follows:

TASK 1. Project Management

TASK 2. PID

TASK 3. PA/ED

TASK 4. Final Design - (35% PS&E)

TASK 5. Final Design - (65% PS&E)

TASK 6. Final Design - Engineering Reports

TASK 7. Final Design - (95% PS&E) with Cost Estimate

TASK 8. Final Design - 100% PS&E and Final PS&E

TASK 9. Construction Bidding Services

#### **1. TASK #1: Project Management**

Contractor, under the PID, PA/ED and PS&E phases of this Contract, will provide project management for each task for the duration of the Contract term (See **Appendix C** – Preliminary Project Milestone Schedule). Contractor’s project management activities will consist of administration, coordination, supervision, project controls, attending meetings, and quality assurance and control as follows:

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

Contractor will perform the following administrative duties for the Project:

- Prepare and submit monthly progress reports that will identify work performed on each task in the preceding month. Percent completed compared to percent billed for each task must be shown.
- Prepare a monthly summary of total charges made to each task. This summary must present the Contract budget for each task, reallocated budget amounts, prior billing amount, current billing, total billed to date, and a total percent billed to



date. An Engineering Progress and Performance Report (“EPPR”) or equivalent earned value analysis documentation must be attached as backup, which must include Contractor’s charges to each sub-task with an estimated percent completed of work.

- Provide a summary table indicating the amount of firm participation each month based upon current billing and total billed to date.
- Prepare proposal(s) for additional design services related to the Project, as requested by VTA

Contractor will not perform any work beyond what is described herein without prior written authorization from VTA.

Contractor will coordinate with agencies, as required by VTA, for Project development. Contractor will coordinate planning and preliminary design effort with stakeholders as required, including, but not limited to, the following:

- VTA and its consultants
- Caltrans - all offices, departments, divisions and groups as directed by Caltrans Project Development, including Caltrans Division of Structure
- Santa Clara County Department of Roads & Airports
- Santa Clara Valley Water District
- The Cities
- Affected utility companies including railroad companies
- Public utilities commissions
- Private property owners

Contractor will coordinate its Services with that of other projects that are under development and/or construction by VTA, Caltrans, Cities, as required for Project development. Contractor will coordinate planning and preliminary design effort with team members of other projects, including, but not limited to the following projects:

- VTA’s SR 85 Express Lanes Project.
- VTA’s SR 85 Transit Guideway Study.
- Cities’ projects



## 1.2 Project Management and Control

Contractor will perform the following project management and control activities:

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

## 1.3 Meeting Preparation and Attendance

Contractor will, under VTA guidance:

- Prepare for and attend monthly Project Development Team ("PDT") meetings. Contractor will arrange meetings, provide discussion material, and prepare agenda and minutes.



- If requested by VTA, conduct bi-weekly Project coordination conference calls with VTA to ensure timely communication with VTA on critical issues.
- Attend as-needed coordination meetings with VTA, Caltrans, Cities, and other agencies to resolve technical issues.
- Prepare and submit all meeting agendas to VTA one (1) week prior to the relevant meeting date. Prepare and distribute draft meeting minutes for VTA review within ten (10) working days after each meeting and allow two (2) weeks for receipt of any comments. Prepare and distribute final meeting minutes to the PDT incorporating relevant comments received on draft meeting minutes from Caltrans, County, and Cities.
- Prepare for and attend study session, stakeholder meetings, and City Council presentations for each City, if requested by VTA.

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

Contractor will (i) establish and maintain a QMP and procedures that meet VTA’s Quality Assurance (“VTA’s QA”) Program requirements, and (ii) conduct independent quality review of reports, plans, specifications, calculations, estimates, and other required deliverables. Contractor will:

- Within twenty (20) calendar days following the Effective Date of this Contract, submit a QMP for the Project for VTA’s approval, and within such QMP Contractor must propose how to implement the requirements of the Contract.
- Assure promulgation of and strict adherence to the approved QMP and procedures in the performance of Services.
- Contractor must require that its subcontractors comply with Contractor’s approved QMP. Any waiver of this requirement must be approved in writing by VTA. If VTA grants a waiver of this requirement, the subcontractor must propose its own QMP, the subcontractor’s proposed QMP must be approved by Contractor, and Contractor must also certify that the subcontractor(s)'s QMP meet VTA’s QA Program requirements.
- Convene and document quality reviews. Make findings and corrective actions available for VTA’s review.

Contractor’s approach to quality control must meet or exceed industry standards and practices and those of VTA’s QA Program requirements (which are incorporated herein by this reference as if fully set forth herein and may be made available to Contractor upon written request to VTA). Contractor must establish and maintain a QMP as part of the work plan. Contractor’s QMP must establish a process to ensure:



- 1) Quality control procedures strictly adhere to the approved Contractor's QMP, and such procedures are properly documented throughout the entire course of the Contract.
- 2) Independent checking (check, back-check, and verification) of calculations, plans, and specifications.
- 3) Distribution of all Project correspondence and memoranda to appropriate personnel.
- 4) Those personnel responsible for assuring quality must be independent of those having direct responsibility for the work being performed.
- 5) Contractor must assign Discipline/Task Managers to approve and certify that required intra-disciplinary review (refers to internal (independent check) process within each discipline) and quality control activities have been satisfactorily performed prior to submittal to Contractor's PM.
- 6) Contractor's PM approves and certifies that required inter-disciplinary review (refers to external review process between disciplines that are conducted to ensure proper interface/continuity and to prevent conflicts among various disciplines) and the above requirements have been satisfactorily performed prior to submittal to VTA or other approving agencies (e.g., Caltrans and Cities).
- 7) Contractor must assign a Quality Assurance/Quality Control (QA/QC) Manager to conduct and document random audits of Contractor's and subcontractors' work to check and certify compliance with the approved QMP. The Contractor's PM cannot fill the role of QA/QC Manager.

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

Contractor must verify that all design is accomplished in accordance with appropriate design criteria and required processes.

Contractor must conduct and document periodic audits of the Project team (Contractor and subcontractors) and participate in VTA Quality Assurance Audits prior to submitting (i) the Draft and Final Project Study Report – Project Development Support ("PSR-PDS"), including all technical studies, (ii) the Draft and Final Project Report ("PR"), including all technical studies, (iii) 35%, 65%, 95%, 100% and Final PS&E Packages to confirm conformance with Contract requirements.





---

Task 1 Deliverables

- A. Detailed CPM design schedule
- B. Meeting agendas and draft/final meeting minutes
- C. Action Item Log
- D. Data Request Log
- E. Submittal Registry
- F. Invoices and progress reports including EPPR
- G. SBE Monthly and Final Utilization Reports
- H. Quality Management Plan
- I. Project Management Plan
- J. Risk Management Plan and Risk Registry

**2. TASK #2: Project Initiation Document (PID)**

Contractor will prepare PID documents in accordance with the latest Caltrans Project Development Procedures Manual (“PDPM”). Contractor will prepare a streamlined PSR-PDS to (i) document the need for the Project, (ii) summarize key points from the Preliminary Environmental Analysis Report (“PEAR”), and (iii) summarize the scope, cost, and overall impacts to enable an informed decision by the Project stakeholders to proceed toward Project approval. The PID will contain the build alternatives as specified in the SR 85 Noise Reduction Study Phase 1 (2016) (**Appendix A**).

The approved PSR-PDS must allow the Project to move into the PA/ED phase.

Contractor will obtain and review available data and information necessary for planning and designing the Project. This information may be obtained from VTA, Caltrans, Cities, local agencies, utilities, and other agencies and organizations. Data to be reviewed includes, but is not limited to, the following:

- Previous report(s) or documents related to the proposed Project area
- As-built plans
- Utility information (Utility owner maps will be provided by VTA)
- Aerial photos and any available mapping, including digitized topography
- Survey control data
- Noise Reduction Report (Phase 1)

Contractor will complete all of the necessary preliminary investigations, engineering and research to prepare the following reports and planning documents for the PID Phase:



- a. Preliminary Environmental Analysis Report (PEAR)
- b. District Preliminary Geotechnical Report
- c. Storm Water Data Report (PID level)
- d. Site Visits, Data Collection, obtain As-builts and Review
- e. Preliminary Plans
- f. Preliminary right-of-way and utility requirements
- g. Cost Estimate (PID Level)
- h. Draft and Final PSR/PDS including Supporting Documentation

Contractor will apply and obtain its own Caltrans encroachment permit rider to conduct site investigations of existing conditions, perform flight photography, collect traffic data, and perform field surveys.

#### Task 2 Deliverables

- A. PEAR
- B. District Preliminary Geotechnical Report
- C. Storm Water Data Report (PID Level)
- D. Caltrans and City As-Built Drawings
- E. Preliminary Plans
- F. Cost Estimate (PID Level)
- G. Draft and Final PSR-PDS including supporting documentation

### **3. TASK #3: PA/ED**

#### 3.1 Mapping and Control Surveys

Project mapping limits must cover all five locations with approximately 1200 feet of additional mapping before and after project limits at each location.

- Gather and review existing survey data to determine adequacy of existing controls within the Project limit.
- Perform field surveys for photo controls for mapping. It is anticipated that horizontal datum and vertical datum will be the most current as approved by Caltrans. Submit this photo control layout to Caltrans as part of the A-B-C mapping submittal and secure approval prior to actual commencement of field work.
- In addition to photo controls, establish survey control lines for design topography, design, and construction purposes.



- Perform Global Position System (“GPS”) survey to establish horizontal and vertical controls. Submit GPS report to Caltrans as part of A-B-C mapping process and secure approval from Caltrans for Submittal B - GPS report.
- Provide flight photograph and prepare mapping at a scale of 1”=50’ with a 1-foot contour interval, digital terrain model (DTM), planimetry, spot elevations, and break lines in Caltrans format. The mapping, digitally compiled in Microstation formats, will conform to Caltrans’ A-B-C mapping process.

### 3.2 Right-of-Way Requirements

Contractor will coordinate right of way requirements for the Project and prepare the Right of Way Data Sheet per the above assumption. A certified right of way professional will prepare the draft and final Right of Way Data Sheet for VTA review.

### 3.3 Utility Coordination/Utility Policy Certification

Contractor will submit a request for utility locations to various utility companies within the Project boundary limits. After receiving the utility locations, Contractor will perform the following tasks:

- Plot utility information on the Project topographic base mapping.
- Resend plotted utility information to all utility agencies for confirmation.
- Perform field surveys of utility surface features and drainage items, if necessary, to confirm accuracy of utility mapping.

Potholing of utilities will not be performed until the Plans, Specifications, and Estimates (“PS&E”) phase.

VTA will be the point of contact with private utility companies for the preparation, submittal, and approval of agreements and for obtaining information for the preparation of the Utility Policy Certification (“UPC”).

Contractor will identify potential utility conflicts and preliminary major utility relocation requirements. Contractor will assess preliminary utility relocation costs for the UPC and PR. VTA will coordinate utility owner concurrence with preliminary relocation concepts and cost estimates.

Contractor will prepare a preliminary utility matrix to be included in the UPC, which must include utility owner name, type of facility, and the location and size of the facility.



### 3.4 Preliminary Plans and Advanced Planning Study (Soundwall Modifications)

Contractor will review the five locations shown on the SR 85 Noise Reduction Study Phase 1 (2016) (Appendix A) for further study for the Project. Contractor will expand on these locations and define the improvements in sufficient detail to obtain agency consensus on the pavement limits for each location that will be discussed in the PR prepared for the Project and recommended for final design in the subsequent PS&E phase.

Contractor will also review the absorptive noise treatment and/or barrier cap on top of the existing sound walls within the Project limits. This task must include an Advance Planning Study for proposed soundwall modifications at three locations. If approved by VTA, the preliminary plans can be a combination of noise reduction measures identified in Phase 1.

### 3.5 Traffic Management Plan Data Sheet

Contractor will prepare a Caltrans Transportation Management Plan Data Sheet for inclusion with the PR.

### 3.6 Storm Water Data Report (PA/ED Level)

Contractor will prepare a PA/ED level Storm Water Data Report (“SWDR”) in compliance with Caltrans standards and procedures that focuses on the storm water quality elements to construct the Project and implement appropriate temporary and permanent Best Management Practices (“BMPs”). The PA/ED level SWDR must summarize Project impacts to water quality, general mitigation measures, and recommended BMPs. The study must only address impacts from roadway improvements. Contractor will utilize Caltrans standard checklists and complete the Project’s checklists for VTA and Caltrans review and approval. Contractor will address the need for erosion control measures and recommend BMPs for the Project.

Within the Project boundary limits, the existing right of way may not be sufficient to provide room for potential permanent treatment BMPs. Contractor will consider various types of BMP measures utilizing Caltrans’ Storm Water Manual and checklists. Contractor will recommend appropriate BMP measures, such as biotreatment cells, grassy swales, detention basins, or infiltration basins to minimize or mitigate water quality impacts. Contractor will assess the right of way needs to address the required BMP applications.

### 3.7 Draft and Final Preliminary Geotechnical Design Report (PGDR)

Geotechnical design alternatives must be developed to inform selection of the preferred alternatives to be considered during final design. Updates to the District Preliminary



Geotechnical Report (DPGR) will include updates to the preliminary evaluations of geologic hazards, existing site conditions, seismicity, and geotechnical design options described in the DPGR. The PGDR will be completed during the PA/ED Phase of the project and must be consistent with Caltrans Geotechnical Design Report Guidelines dated January 2020.

### 3.8 Preliminary Construction Cost Estimate and Schedule

Contractor will prepare and update the preliminary construction cost estimate for the Project. The estimate must be prepared using the Caltrans format and must be attached to the PR. Contractor will also prepare a Cost Certification and attach it to the PR.

Contractor will prepare a preliminary construction schedule for future planning purposes.

### 3.9 Draft and Final Design Standard Decision Document

Contractor will prepare a Design Standard Decision Document (“DSDD”) to identify and justify the use of non-standard design features in the project design. Approved Design Standard Decision Documents must be prepared for all bold face and underlined Standards based on the Caltrans Highway Design Manual (Seventh Edition).

### 3.10 Draft and Final PR including Supporting Documentation

Contractor will prepare a PR that documents the need for the Project, summarizes key points from the draft environmental studies, and summarizes scope, cost, schedule, and overall impacts to enable an informed decision to be made to proceed toward Project approval in accordance with the guidelines and format described in Appendix K of the Caltrans PDPM.

Contractor will prepare a first administrative Draft PR and submit to VTA and Caltrans for review and comment. Contractor will respond to written comments from VTA and Caltrans on the first administrative Draft PR, reconcile comments with reviewers, and submit a second administrative Draft PR for final review. Contractor will respond to minor editorial comments on the second administrative Draft PR and prepare the Final PR for review and approval. Contractor will submit the Final PR in both hard copy and electronic format with attachments.

The approved PR for the Project will provide agreement on the preliminary engineering concept, scope, schedule, and estimated cost of the Project for future programming.

### 3.11 Engineering Services to Support Environmental Document Preparation

It is expected that the Project will be environmentally cleared with a Categorical Exemption (“CE”) under California Environmental Quality Act (“CEQA”). The



environmental document will be prepared by VTA with Caltrans as Lead Agency, in accordance with the current guidance and annotated outline templates posted by Caltrans on the Standard Environmental Reference (“SER”) website.

Contractor will provide engineering support to VTA environmental staff who will prepare the following environmental documents required for the Project:

A. CEQA Environmental Document

VTA will be responsible for the finalizing of all aspects of the CEQA environmental document. The environmental document for the Project is expected to be a Categorical Exemption, which will be prepared in accordance with CEQA, the State CEQA Guidelines, and Caltrans Standard Environmental Reference. The CE will be prepared in conformance with Caltrans CEQA Guidelines.

B. Environmental Special Studies

VTA will be responsible for preparing and finalizing any required environmental technical studies in coordination with Caltrans. Contractor will provide support to VTA to facilitate the analysis contained in the technical studies, such as providing plan sheets, exhibits, descriptions of work, anticipated durations, and other Project-related information as requested by VTA. Contractor will coordinate with VTA to review and comment on portions of technical reports as requested by VTA, and address questions from VTA related to the Project description.

The list of studies required will be coordinated with Caltrans and confirmed in writing between Caltrans and VTA.

Contractor’s cost proposal must budget to support VTA for a maximum of three (3) environmental special studies that may include but not limited to, the following:

- Hazardous materials – Initial Site Assessment
- Noise – Noise Study Report/Noise Abatement Decision Report
- Visual – Visual Impact Assessment

Public meetings will be an integral part of the public involvement effort. The meetings and associated activities will include: Public Outreach/Community meetings (to be conducted as determined by VTA). For each of these public meetings, Contractor will assist with the development of meeting materials and attend the meetings.



---

Task 3 Deliverables

- A. Aerial Photogrammetric Mapping (electronic files)
- B. Draft and Final Preliminary Geotechnical Report
- C. Draft and Final Design Standard Decision Documents
- D. Draft and Final Project Report (hardcopy and electronic native files)
- E. Traffic Management Plan Data Sheet
- F. Preliminary utility layout and matrix
- G. Right of way requirement maps and Caltrans Right of Way Data Sheet
- H. Preliminary plans and Advanced Planning Study (Soundwall Modifications)
- I. Storm Water Data Report (PA/ED level)
- J. Preliminary construction cost estimate and schedule
- K. Materials for Public Meetings to support VTA Environmental Document

Documents by Others:

- Final environmental document and associated technical studies by VTA

**4. TASK #4: Final Design - (35% PS&E)**

The purpose of Task 4, Final Design - (35% PS&E), is to identify preliminary right-of-way, aerial easements, preliminary construction quantities, cost estimates, and permit requirements for the Project, including highway and structures.

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

4.1 Highway Plan Sheets

Contractor will prepare, coordinate, and submit design plan sheets in English units for all highway design, and assure that interface information is provided to the other design sub-contractors. Contractor will prepare, but not limited to, the following design plan sheets based on approved improvements during the Project Approval/Environmental Document (“PA/ED”) phase for the Project:

4.1.1 Title Sheet, Key Map, and Line Index

4.1.2 Typical Cross Sections

These sheets will be based on the approved standard sections, including existing and proposed pavement structural sections.



#### 4.1.3 Layout

These sheets will be prepared at 1"=50' scale on 22"x34" plan sheets with control lines, existing right-of-way lines, and all basic layout information and identify proposed roadway improvements and proposed right-of-way lines. For clarity, certain information on local roads will be shown at 1"=20' scale on Construction Detail sheets.

#### 4.1.4 Pavement Elevation Sheets (Construction Detail)

It is anticipated that mainline vertical design data will be detailed on pavement elevation sheets. It is assumed that profile sheets with superelevation diagrams will not be required.

#### 4.1.5 Drainage Layout

Contractor will prepare Draft Drainage Plans based on Drainage Report. The design efforts will be coordinated with other design disciplines of the Project Team.

#### 4.1.6 Utility Plans

The Contractor will show existing utility locations and propose preliminary locations for, utility relocations required by the Project. VTA will prepare the utility agreements and will provide utility coordination services.

#### 4.1.7 Stage Construction Plans

Contractor will prepare conceptual staging plans to show a high-level staging concept for CT review. Additional staging and traffic handing details will be developed at the 65% phase.

#### 4.1.8 Pavement Delineation

Prepared at 1"=50' scale.

#### 4.1.9 Summary of Quantities

Contractor will prepare a summary of quantities sheets. Quantities for items that have not been designed yet will be estimated as percentage of the total cost or other high-level estimate of the quantities.

#### 4.1.10 Soundwall Wall Modification – General Plan:

Prepared at 1"=50' scale





#### 4.1.11 Other Pertinent Plans

Contractor will be fully responsible for preparing and submitting an adequate number and type of plans in order to receive Caltrans' and other agencies' comments early in the design phase to minimize change in subsequent tasks. Other plans, such as signage, stage construction, and traffic handling, may be submitted for review by the appropriate Caltrans departments.

#### 4.2 Structure Type Selection – Soundwall Modification Design

Contractor will develop a Type Selection Report based on the information collected during the PA/ED phase of the Project. The soundwall modifications that have been approved as part of the Advance Planning Study will be advanced to 35% design.

Type Selection Reports will be produced in accordance with Caltrans guidelines and seismic design criteria. Preliminary seismic analyses will be performed to size columns and foundations as part of the Type Selection process.

Contractor will interface with Caltrans' Project Development and Caltrans DOS to prepare the Structure Type Selection Report for Caltrans approval. Advanced Planning Studies previously prepared in PA&ED phase will not be updated by Contractor. The Structure Type Selection Reports will include a Site Plan, Structure Description write-up, Summary Memorandum, a General Plan and Foundation Plan for each soundwall, cost estimate, and preliminary foundation data. This phase will include a review of all available project information, a preliminary analysis of the proposed soundwall modification, and an evaluation of two soundwall modification strategies. This evaluation will include a comparison matrix with costs, right-of-way impacts, staging considerations, and utility impacts.

Contractor will meet with Caltrans Structures to discuss the Structure Type Selection Reports. At the meeting Contractor will present the evaluated alternatives and discuss all the factors considered that led to selecting the proposed soundwall modification strategy. Contractor will prepare and distribute meeting minutes from the type selection meeting. Contractor will incorporate any changes to the Structure Type Selection Reports and prepare the final Structure Type Selection Reports for distribution. Provided that all issues raised at the Type Selection Meeting are satisfactorily addressed and a consensus is reached, Caltrans will provide written approval of the specific structure type.

The soundwall modifications will be coordinated with geotechnical recommendations.

#### 4.3 Cost Estimate and Specification Outline

Contractor will prepare Basic Engineering Estimating System (BEES) 35% level cost estimate and technical specifications outline.



Contractor will prepare preliminary construction quantity estimates for the Project, including roadway, sound wall and right-of-way items. The Contractor's estimates will be prepared using a format acceptable to VTA and Caltrans District 4 and will be in accordance with the Construction Contract Development Guide, latest version. These will be based upon the Caltrans' Standard Items of Work, with items added if necessary. The Contractor's cost estimate will identify construction work items and quantities and unit costs and will summarize the estimated total Project cost, including allowances for supplemental work, VTA furnished materials, expenses, mobilization and contingencies.

#### 4.4 Right-of-way Engineering

Contractor will be responsible for interfacing and coordinating selected right-of-way activities with VTA's Right-of-way Engineering Contractor for the Project. Contractor will coordinate with VTA to update the right-of-way information shown on the plans.

##### 4.4.1 Right-of Way Needs, Data Sheets and Certification

Contractor will perform the following right-of-way activities:

- a. Determine all right-of-way needs, including temporary construction easement and permanent easements, utilities and acquisition information, and other right-of-way information necessary to complete the Project.
- b. Prepare drawings and exhibits for submittal to VTA and Caltrans prior to preparation of Right-of-way Engineering Documents.
- c. Attend focused meetings to discuss utility and right-of-way related issues.
- d. Communicate to VTA in a timely manner any change in design, which may have an impact on the right-of-way and acquisition process.
- e. Identify utility issues (relocation, notices, if required).
- f. Prepare the following documents for parcels, utilities, and construction and utility easements affected by the Project:
  - 1) Draft Right-of-way Data Sheet
  - 2) Final Right-of-way Data Sheet
- g. Communicate with Caltrans and VTA to include proper dates into the certification for acquisitions, condemnations, clearances, and other right-of-way related issues that may have an impact on the design schedule.



- h. Review draft Right-of-way Certification to ensure that all parcels which are required for the construction of the Project are included in the certification.
- i. Review final Right-of-way Certification when the plans are complete and all outstanding utility issues (notices, clearances, etc.) are complete.

#### 4.4.2 Right-of-Way Surveying, Mapping and Documentation

It is anticipated that VTA will provide the Real Estate services needed to acquire property including the preparation of the documents needed to acquire and transfer property to Caltrans and/or City. Contractor will perform surveys and prepare the right-of-way engineering and survey mapping documents needed for right-of-way acquisition including preparation of: existing property Base Maps, Appraisal Maps, Plats and Legal Descriptions, Right-of-Way Record Maps, Record of Surveys, Monumentation Maps, and other information necessary for VTA to acquire the rights-of-way for the Project.

VTA will obtain the Right-of-way Certification from Caltrans. Contractor will prepare the Draft Right-of-way Certification and confirm that sufficiency of right-of-way has been secured early enough in design to not impact the Project schedule during construction. Contractor will review and sign the Right-of-way Sufficiency Certificate. Contractor will prepare, sign, and submit the Utility Certification.

#### 4.4.3 Work performed by others

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

- a. Permit coordination
- b. Utility coordination
- c. Right-of-way coordination
- d. Appraisals
- e. Acquisition
- f. Utility Notices

If requested by VTA, Contractor will provide the services in 4.4.3 for an additional fee.

#### 4.5 Utility Design Process

Contractor will be responsible for interfacing utility design coordination with VTA's Utility Coordinator ("UC"). Contractor will coordinate with UC to provide



current utility information on plans and documents that are prepared by the Contractor. Contractor will perform the following work activities:

4.5.1 Communicate with VTA’s UC to identify utility issues (relocation and notices).

4.5.2 Prepare input for utility notices. Provide utility notices and potholing information in compliance with Caltrans’ utility requirements. Contractor will submit a pothole workplan for review by VTA and approval by Caltrans prior to performing field work.

4.5.3 Communicate with VTA Right-of-way Coordinator and VTA’s UC to ensure inclusion of the proper utility permit requirements and other utility data for Right-of-way Certification and design. Address necessary utility impacts caused by the proposed construction.

4.5.4 Prepare input for utility agreements.

4.5.5 Incorporate third party utility relocations into project plans.

4.5.6 Review and comment on utility notices and agreements.

#### 4.6 Utility Coordination Responsibilities

4.6.1 Contractor has sole responsibility to communicate the scope or scope changes of the Project to private utility owners such as PG&E, AT&T, Verizon, and Sprint, and public utility owners (County and City), and collect applicable utility as-built plans, and/or record maps for existing and abandoned facilities that may not have been collected during the PA/ED phase.

4.6.2 VTA will assign a Utility Coordinator (“UC”) for the Project. Contractor will provide the UC with a copy of all newly acquired utility as-built plans and record maps. UC will assist in expediting receipt of as-built plans from private utility owners.

4.6.3 UC will provide the Contractor with most recent utility owner contact information that VTA may have on file. Contractor will convey to UC updated contact information so that VTA can update the master list. Contractor will contact Underground Service Alert (“USA”) for a list of utility owners that USA has on record within the scope of the Project.

4.6.4 Contractor has sole responsibility for reviewing, further developing, and/or creating the final Utility Plan that identifies all known existing and abandoned private and public utilities located within the scope of the Project.



4.6.5 The Composite Utility Plan will be based on utility as-built plans, record maps, and the Contractor’s field survey of visible above-ground utility facilities, such as manholes, valve boxes, and utility poles.

4.6.6 Contractor and UC, with the VTA Project Manager’s (“VTA PM”) concurrence, will determine extent of pothole requirements.

4.6.7 Contractor has sole responsibility to create and/or finalize the development of the Master Utility Inventory Matrix (“Matrix”) that identifies utilities that are known to be located within the scope of the Project. The Matrix will include, but is not limited to, the following:

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

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

4.6.9 Contractor will coordinate meetings with the private and public utility owners to discuss and review potential utility conflicts, relocation and/or new service design issues. Contractor will invite VTA PM and UC to meetings, and be responsible for recording, maintaining, and distributing meeting minutes and action items lists.

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

4.6.10 Contractor will further develop and/or finalize the following:

- a. Composite utility relocation plan.
- b. Utility relocation schedule incorporating input from various utility owners.

4.6.11 Contractor will develop, perform, and demonstrate to the UC the Contractor’s QA/QC processes used to develop or finalize the Composite Utility Plan. The Composite Utility Plan QA/QC process may include, but is not limited to, the following:



- a. Contractor will review the utility as-built plans with the UC.
- b. Contractor will perform an on-site project walkthrough with the UC.
- c. Contractor will review the Composite Utility Plan with the UC.

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

4.6.13 Contractor will manually or electronically plot existing utility owners' easements or other property rights (License and Permit) and finalize new utility easements/property rights and transcribe them onto the Composite Utility Plan.

- a. Contractor will request copies of agreements, appraisal maps, and legal descriptions from VTA Real Estate, via the VTA PM.
- b. Contractor will request utility owners to submit evidence of their easements or other property rights.
- c. Contractor will request written verification from each of the utility owners that the property rights for their respective facilities have been accurately depicted.
- d. Contractor will coordinate with utility owners and VTA regarding their request for temporary construction easements, staging areas, and access rights to the Project.

4.6.14 Contractor will create a plan to integrate the Contractor's design process with the underground engineering (Utility Relocation Plans) prepared by private utility owners. Contractor will review the private utility owners' utility relocation plans, identify any betterments, and verify that the plans accommodate the Project. Contractor will review private utility owners' Utility Relocation Plans with the UC.

#### 4.7 Update Design Survey

Contractor will provide supplemental design surveying services in support of PS&E for the Project. Contractor will review the existing plans prepared during PA/ED phase of the Project and will perform field surveys necessary to confirm their accuracy, topographic surveys to complete design, including, but not limited to, roadway cross sections, verifying accessible utilities and drainage facilities, pavement elevations and locations, pothole locations, boring locations, conforms, vertical clearances, obstructions, retaining walls, screen/sound walls, drainage swales, and ditches, as needed to complete the PS&E Phase.



---

#### 4.8 VTA Quality Assurance/Quality Control Audit Meeting

Contractor will review and complete VTA's Quality Assurance Checklist, prepare quality control documentation and participate in a Final Design - 35% VTA QA/QC audit meeting with VTA to review proposed submittals per agreed-upon Project milestone schedule. After the audit, Contractor will prepare responses to corrective actions before submittal to Caltrans.

#### Task 4 Deliverables

Contractor will perform in-house quality control review and submit the following Project documents for VTA internal QA/QC review:

- A. 35% Highway Plans
- B. 35% Soundwall General Plan
- C. Right-of-way and utility documents
- D. Cost estimate and specifications outline
- E. Draft and Final Type Selection Report will be prepared for the soundwalls described above.

### **5. TASK #5 Final Design - (65% PS&E)**

Task 5 develops draft plans, specifications, and estimates for Final Design - (65% PS&E) and includes responding to comments received from the agencies' review of Final Design - (35% PS&E) submittals, identifying and resolving conflicts.

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

The 65% PS&E submittals will consist of all design documents that are required for the Project. Contractor will prepare and include in the submittal at least the following:

#### 5.1 Design Plan Sheets

Contractor will update all design plan sheets. Plans will be prepared in accordance with requirements stated in Caltrans' English Publication Plans, Specifications and Estimates Guide and, where applicable, to the Office of Special Funded Projects ("OSFP") Information and Procedures Guide and the Drafting and Plans Preparation



Manual, all to be the latest editions. Title blocks will be signed and sealed by an appropriate California Registered Engineer.

### 5.1.1 Highway Design Plans

A set of highway design plans will contain some or all the following sheets. Contractor will use the following code letters and sheet names and arrange sheets in the order shown.

*Table 1 - List of Design Plans*

<b>ID Letter Code</b>	<b>Sheet Name</b>
T	Title Sheet
X	Typical Cross Sections
PC	Project Control
K	Key Map and Line Index
L	Layout
C	Construction Details (including 1" = 20' pavement elevations, removals, misc. details, architectural treatments, and soundwall details)
WPC	Temporary Water Pollution Control
WPCD	Temporary Water Pollution Control Details
WPCQ	Temporary Water Pollution Control Quantities
D	Drainage Plans
DP	Drainage Profile
DD	Drainage Details
DQ	Drainage Quantities
U	Utility Plans
UD	Utility Details
UQ	Utility Quantities
SC	Stage Construction
TH	Traffic Handling Plan
THD	Traffic Handling Details
THQ	Traffic Handling Quantities





ID Letter Code	Sheet Name
PD	Pavement Delineation Plan
PDD	Pavement Delineation Details
PDQ	Pavement Delineation Quantities
Q	Summary of Quantities
EC	Erosion Control Plan
ECD	Erosion Control Details
ECQ	Erosion Control Quantities
-	Sound Wall Modification No. 1
-	Sound Wall Modification No. 2.
-	Sound Wall Modification No. 3
-	Log of Test Borings

### 5.1.2 Structure Plan Sheets

Contractor will prepare sound wall modification designs based on *American Association of State Highway Transportation Officials Load and Resistance Factor Design* (“AASHTO LRFD”) Bridge Design Specifications, latest edition, with Caltrans Amendments (AASHTO-CA-BDS-8) and Caltrans Seismic Design Criteria, latest edition.

Below is a list of the anticipated structure modifications for this project:

**Table 2 - Structures List**

Structure Name	Description
Sound Wall Modification No. 1	SR 85 near Lubich Drive in Mountain View – Soundwall Cap
Sound Wall Modification No. 2	SR 85 north of Cox Avenue Overcrossing - Soundwall Cap
Sound Wall Modification No. 3	SR 85 west of the Callahan Avenue Undercrossing – Soundwall Cap

### 5.2 Project Specifications and Standard Special Provisions

Contractor will review Caltrans’ Standard Specifications, latest edition, and Caltrans’ Standard Special Provisions (“SSP”) or Revised Standard Special Provisions (“RSSP”) applicable thereto.



For all work items necessary for construction of the Project, Contractor will assemble data and prepare a draft of (1) necessary modifications to the SSP and (2) additional special specifications which may be necessary. Detailed information is provided in Caltrans Construction Contract Development Guide, latest version... Contractor will prepare the Special Provisions (“SP”) for Sections 8 (Materials), Section 9 (Description of Work), and Section 10 (Construction Details), the equivalent of VTA’s Technical Specifications. VTA will prepare the standard language (Bid Forms, Special Conditions (“SC”), and General Conditions (“GC”)). Contractor will submit the SP in Caltrans standard format.

Contractor will coordinate specifications with other design sub-contractors to assist design interface activities.

### 5.3 Right-of-way and Utility Certifications

Contractor will provide the Project’s right-of-way and utility requirements to VTA for review. Contractor will prepare, sign, and submit the Draft Utility Certification documents to VTA. Contractor will review and sign the Right-of-way Sufficiency Certificate. VTA will review and submit the Right-of-Way Certification with input from the Contractor.

### 5.4 Construction Quantities and Cost Estimate

Contractor will update the estimate of construction quantities and cost estimates to reflect design development from Final Design - (35% PS&E) to Final Design - (65% PS&E).

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

Contractor will combine all highway and sound wall design documents and produce a single construction contract package.

Contractor will perform this design combination prior to Final Design - 65% PS&E submittal.

### 5.6 VTA Quality Assurance Meeting

VTA will review all Project documents for completeness and overall quality. Contractor will support VTA QA staff during their review.

VTA will conduct a review of all Project documents to ensure that all the agreed upon comments received from VTA, Caltrans, and other agencies were incorporated into the Final Design - (65% PS&E) package. Contractor will support VTA in this review.



### 5.7 Joint Resolution Team Meeting

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

### 5.8 PS&E Documentation

Contractor will prepare a 65% PS&E package comprised of the deliverables listed in Final Design - (35% PS&E) together with the following supporting documents:

- a. Draft Damage Clause Calculations for lane closure (SSP 12-200)
- b. Crumb Rubber Usage Report, if required
- c. Underground Classification Application, if required

### Task 5 Deliverables

Contractor will perform in-house quality control review and submit the following Project documents for VTA internal QA/QC review:

- A. Design Plan Sheets
- B. Specifications and Special Provisions
- C. Quantity Calculations
- D. Cost Estimate
- E. Draft Utility Certification
- F. Draft Right-of-way Sufficiency Certificate
- G. Lane Closure Damage Calculations
- H. Crumb Rubber Usage Report
- I. Draft Underground Classification Application

## **6. TASK #6. Final Design Reports**

Contractor will prepare and update design reports for highways and soundwalls and provide all design interface information to the other design contractors for preparation of other reports. The Contractor's submittal will contain sufficient design calculations and other information based upon established Caltrans' design criteria.

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



## 6.1 Geotechnical Design Report

The proposed field investigation and testing activities are planned to be completed during the PS&E phase of work. It is assumed that the field explorations will be presented on Logs of Test Borings (LOTB”) sheets. Caltrans will require that each structure element (Sound Wall Modification) should have a separate Foundation Report (FR) prepared for the design package. The draft and final Geotechnical Design Report (GDR) will be completed in conjunction with the 65% and 95% PS&E plans respectively.

Contractor will prepare a GDR for embankments, trenches and temporary cuts or fills. The embankments are expected to have potential impact on staging, settlements and construction time windows. Detail scope for preparing this report is as follows:

### 6.1.1 Research and Data Collection

Review of additional available geologic and soil literature in the vicinity of the site including review of as-built drawings and existing LOTB.

### 6.1.2 Field Exploration

No specific boring program is proposed for Geotechnical Design Report. Based on the limited grading associated with gaining access to soundwalls and providing working areas to modify soundwalls, it is anticipated that the borings completed for the soundwall Foundation Reports will be sufficient for the Geotechnical Design Report. Some limited surface sample collection or hand auger borings should be included in this task to supplement the soundwall borings.

Contractor’s field engineer will classify and log surface and subsurface soil conditions encountered during the field review.

### 6.1.3 Laboratory Testing

Laboratory tests will be performed on representative soil samples, such as moisture contents, unit weights, unconfined compression, gradation analyses, Plasticity Index tests, and consolidation tests, as necessary.

### 6.1.4 Soils Analysis/Evaluation

Contractor’s engineer will perform engineering analyses and develop design recommendations for maximum cut slopes, fill slopes and excavations/trenches.

### 6.1.5 Draft and Final Geotechnical Design Report (GDR)

Design alternatives that are included in the final design will be described in the Final design recommendations for the draft and final GDR. The GDR will be completed during the PS&E Phase of the project and must be consistent with Caltrans Geotechnical Design Report Guidelines dated January 2020.



## 6.2 Foundation Report and Log of Test Borings

Contractor will prepare Foundation Reports (FR) and LOTBs for the Project (Soundwall Modifications No. 1 to No.3, see summary table below). Based on Caltrans requirements, separate foundation reports are required for each sound wall structure.

***Table 4 - Assumed Sound Wall Modifications***

Wall ID	Modification	Length (ft)	Max. Design Height	Notes
SW 1	Add cap to existing soundwall	1,600 ft	TBD	
SW 2	Add cap to existing soundwall	1,200 ft	TBD	
SW 3	Add cap to existing soundwall	1,000 ft	TBD	

Following is a task breakdown for the proposed work.

### 6.2.1 Research and Data Collection

Review of readily available geologic and soil literature in the vicinity of the site including review of any as-built drawings and existing LOTB.

### 6.2.2 Permits/USA Clearances

Contractor will comply with the Caltrans Permit requirements. A double permit will be required subject to VTA agreements with Caltrans and for lane closures. VW permit and grouting inspection will be required for the field explorations exceeding 45 feet depth.

### 6.2.3 Field Exploration

For the proposed sound walls, rotary wash borings up to 120 feet depth are planned. The boring locations will depend upon the available access and the boring data from previous studies. A truck-mounted drill rig is assumed for the field work. Traffic control and shoulder closures are anticipated for almost all the explorations.

These explorations will provide an evaluation of subsurface conditions for the proposed structures.



*Table 5 - Assumed Subsurface Explorations*

<b>Structure Elements</b>	<b>Number of Borings</b>	<b>Approximate Depths (ft)</b>	<b>Total Exploration Depths (ft)</b>
Soundwall No. 1	6	25	150
Soundwall No. 2	4	25	100
Soundwall No. 3	3	25	75

Assume hollow stem augers and/or rotary wash drilling methods for the borings

The boring locations will depend upon the available access and the boring data from previous studies. Coordination and encroachment/permit to enter is anticipated for many boring locations.

Contractor's field engineer will classify and continuously log subsurface soil conditions encountered in each test boring during drilling and obtain "relatively undisturbed" and bulk samples of substrata from test borings. The borings will be drilled and capped in accordance with the permit and VW requirements.

#### 6.2.4 Laboratory Testing

Contractor will perform laboratory tests on representative soil samples such as moisture density, consolidation tests, unconfined compression, gradation analyses, corrosion tests, Plasticity Index tests, and consolidation tests, as necessary.

#### 6.2.5 Soils Analysis/Evaluation

Contractor will perform engineering analyses and develop design recommendations for the proposed soundwall foundation design. The foundation design will follow AASHTO LRFD BDS with the California Amendments.

#### 6.2.6 Preliminary Foundation Report (PFR)

Contractor will prepare one PFR for the Soundwall modifications that will create non-standard walls.

#### 6.2.7 Prepare Draft Foundation Report (FR)

Contractor will develop recommendations for the three (3) sound wall modifications with the LOTB.

The reports will discuss seismic considerations, evaluate the liquefaction potential, and comment on the site soil conditions from this standpoint. The seismic design criteria will be developed based on Caltrans Seismic Design Criteria V2.0 (SDC v2.0) and ARS Online 3.0.



### 6.2.8 Prepare Final Foundation Report

The final FR will include updates based on review comments from VTA and Caltrans. Prepare final design recommendations for the soundwall foundations and provide a Final FR with the LOTB.

### 6.2.9 Boring Logs

Boring logs will be presented in the LOTB format. The general plan will be used as a base map to show the exploration locations.

## 6.3 Pavement Design and Materials Report (PDMR)

Contractor will prepare a Draft and Final PDMR during the PS&E Phase to provide recommendations on pavement designs, culvert materials recommendations, and ... PDMR must consistent with Caltrans Pavement Design and Materials Report Guidelines dated September 9, 2020.

### 6.3.1 Research and Data Collection

Review of additional available geologic and soil literature in the vicinity of the site including review of as-built drawings and existing LOTB.

### 6.3.2 Permits/USA Clearances

The field explorations will comply with the Caltrans Permit requirements. A double permit will be required subject to VTA agreements with Caltrans and for lane closures. If City permits are required, it is assumed that VTA will provide them. Contractor will field locate the borings and call for USA clearance.

### 6.3.3 Field Exploration

The boring program is provided in the table below:

#### *Geotechnical Borings*

<b>Project Elements</b>	<b>Number of Borings</b>	<b>Approximate Depths (ft)</b>	<b>Total Exploration Depths (ft)</b>
Pavement	20	5	100

These explorations will provide an evaluation of subsurface conditions for the proposed roadway portion of the project. The boring locations will depend upon



the available access and any boring data from previous studies. It is assumed that these borings and surface sample collections will be relatively shallow (5' maximum) and that the samples collected can be obtained using a hand auger.

Contractor's field engineer will classify and log soil conditions encountered at each sample location at the time of sample collection for Laboratory testing.

#### 6.3.4 Laboratory Testing

Laboratory tests will be performed on representative soil samples, such as moisture contents, unit weights, unconfined compression, gradation analyses, R-value tests, corrosion tests, Plasticity Index tests, and consolidation tests, as necessary.

#### 6.3.5 Soils Analysis/Evaluation

Contractor's engineer will perform engineering analyses and develop design recommendations for the pavement and for drainage culverts. It is expected that the Caltrans Mechanistic-Empirical Tool (CalME) will be required for pavement design, which could require additional effort for various pavement options.

#### 6.3.6 Draft and Final Pavement Design and Materials Report (DPGR)

Contractor will prepare a Draft and Final DPGR during the PID Phase to provide a preliminary evaluation of geologic hazards, existing site conditions, seismicity, and feasibility of identified geotechnical options. DPGR must be prepared to be consistent with Caltrans Geotechnical Design Report Guidelines dated January 2020.

### 6.4 Site Investigation Report

The Project's scope of work for the Preliminary Soil Investigation ("PSI") will be a comprehensive and focused investigation that includes the existing and potential recognized environmental conditions (RECs) identified in the Initial Site Assessment ("ISA") Report in PA/ED phase and suspect areas of concern at the site. Following approval of the work plan, Contractor will prepare for the PSI field work by marking out in white paint the proposed boring locations and calling the USA North 811 a minimum of 72 hours prior to the start of the field investigation to identify underground utilities that could conflict with the boring locations. Contractor will obtain applicable permits. Due to the general lack of grading associated with the proposed improvements, it is assumed that testing for aerial deposited lead will not be required for the Project. If during the PS&E phase it is determined that additional soil investigations are required, this will be considered additional work and a new task order will be issued.





Field survey existing Sound Walls for suspect asbestos and lead-containing paint (“LCP”) and collect representative samples of thermoplastic paint stripe.

Analytical Laboratory Analyses:

- a. 30 asbestos samples for PLM analysis
- b. 10 asbestos samples for point count (1,000 pts)
- c. 10 paint samples for total lead and chromium
- d. 5 paint samples for soluble (WET or TCLP) lead.

Prepare Site Investigation Report - Asbestos/LCP Survey Report.

#### 6.5 Drainage Report

Contractor will review readily available data and prepare design calculations to assess the capacity of the existing drainage systems. Contractor will prepare the Drainage Report, which will include calculations to assess the need for any drainage improvements. The results and design recommendations will be summarized in the Drainage Report. The Drainage Report is expected to include the following:

- a. An evaluation of the existing conditions
- b. Unusual and special conditions
- c. Drainage mapping
- d. Proposed systems

#### 6.6 Stormwater Data Report and Treatment BMP Checklists

Contractor will review and update the Stormwater Data Report prepared during the Project’s PA/ED phase for the Project and Treatment BMP Checklists in accordance with Caltrans standards.

#### 6.7 Lane Closure Report

Contractor will prepare a Lane Closure Report (LCR), presenting the traffic data and methodologies used to develop Project lane closure and shoulder closure charts. Lane closure charts will show the number of lanes required during different hours of the day for freeway mainline, local roads and ramps. Shoulder closure charts will show the hours that the freeway mainline, local roads and ramp shoulders can be closed outside of the approved freeway mainline and ramp closure charts’ hours. Reported closures to include freeway mainline, local roads, and interchange ramps. Contractor will use available 24-hour census data provided Caltrans, adjusted to mid-point of construction.

#### 6.8 Transportation Management Plan

Contractor will update a Transportation Management Plan (“TMP”) identifying TMP element to minimize construction-related congestion impacts and mitigate those impacts



where appropriate through awareness strategies. The TMP report will be prepared using Caltrans latest TMP Guidelines.

#### 6.9 Utility Policy Variance Request

Contractor will update the Utility Policy Variance Request (UPVR) prepared during the PA&ED Phase. Contractor will represent all non-standard utility features to remain at the completion of the project for Caltrans review and approval.

#### 6.10 Supplemental Design Standard Decision Document

If required, contractor will prepare a Supplemental Design Standard Decision Document (“DSDD”) to identify and justify design exceptions modified or introduced from the PA&ED Phase.

#### 6.11 Supplemental Traffic Analysis (Allowance)

Throughout the detailed design of stage construction and traffic handling, there are inevitable additional analysis needed to demonstrate to reviewing agencies the operations and potential delay of various scenarios. At VTA’s written direction, consultant will perform additional modelling and/or analysis to address the requests of Caltrans and/or the City. Assume this effort has a budget of \$5,000.

### Task 6 Deliverables

Contractor will perform in-house quality control review and submit the following Project documents for VTA internal QA/QC review, and submit to Caltrans for review:

- A. Preliminary Foundation Reports (Type Selection with LOTB sheets)
- B. Foundation Reports for Structures
- C. Draft and Final Geotechnical Design Reports
- D. Draft and Final Pavement Design and Materials Report
- E. Draft and Final Preliminary Site Investigation Report – Asbestos and Lead Containing Paint
- F. Draft and Final Lane Closure Report
- G. Draft and Final Transportation Management Plan
- H. Draft and Final Drainage Report
- I. Draft and Final Stormwater Data Report and Treatment BMP Checklists
- J. Draft Cost Certification
- K. Supplemental DSDD
- L. Updated Utility Policy Variance Request



## **7. TASK 7. Final Design - (95% PS&E)**

Contractor will attend JRT meetings with VTA, Caltrans, and other agencies to resolve Project issues. Contractor will provide written response to Final Design - (65% PS&E) review comments, with justification noted for each comment not incorporated, prior to making submittals of Final Design - (95% PS&E) documents. Contractor will check that all comments are incorporated or resolved with Caltrans and all its functional units, other reviewing agencies, and Caltrans DOS.

The Contractor's structural submittal will be a complete, checked, bid-ready set of documents.

Contractor will perform the following activities:

### 7.1 Design Plan Sheets

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

### 7.2 Project Specifications and Special Provisions

Contractor will incorporate all agreed upon comments into the SP which are specific to the Project for use with Caltrans' latest edition. SP will be submitted in Microsoft Word format and Caltrans Standard format.

### 7.3 Permits

Contractor will assist VTA in preparing the drafts of all permit applications for the Project which will be reviewed by Caltrans' Project Development, Caltrans DOS, and Environmental staff.

#### 7.3.1 Caltrans Encroachment Permit

Draft permit application will include all attachments and exhibits and will fulfil all applicable conditions identified in the permits to meet Caltrans requirements as indicated in the Caltrans PS&E Guide, Cover Memorandum Attachment A, and the OSFP Information and Procedures Guide latest editions or current policy.

### 7.4 Right-of-way and Utility Certification

Contractor will update right-of-way and utility requirements and provide them to VTA in accordance with requirements as directed in Final Design - (65% PS&E). Contractor will prepare, sign, and submit the Utility Certification documents to the VTA for review. VTA will sign and submit the draft Right-of-Way Certification with input from the Contractor for Caltrans review and approval.



### 7.5 Construction Quantities and Cost Estimate

Contractor will update the Construction Quantity Estimate submitted in Final Design - (65% PS&E). Contractor will submit updated quantity calculations showing all sketches, diagrams, and dimensions necessary for their use by field inspectors. All quantity calculations will be independently checked.

Contractor will prepare a Draft Caltrans Cost Certification.

### 7.6 Construction Schedule

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

Contractor will coordinate mitigation, highway, and structures construction schedule information to prepare the Project's Preliminary Construction Schedule.

Contractor will update the construction schedule and will promptly notify VTA of any difference between the updated and the construction schedule included in the most recent VTA schedule.

### 7.7 VTA Quality Assurance Meeting

VTA will review all Project documents for completeness and overall quality. Contractor will support VTA QA staff during their review. VTA will conduct a review of all Project documents to ensure that all the agreed upon comments received from VTA, Caltrans, and other agencies were incorporated into the Final Design - (95% PS&E) package. Contractor will support VTA in this review.

### 7.8 JRT Meeting

Contractor will attend JRT meetings with VTA, Caltrans, and other agencies to review comments and to identify and resolve conflicts from the Final Design - (65% PS&E) review. Contractor will provide written response to all Final Design - (65% PS&E) review comments received for all documents and provide justification for written responses.

### 7.9 Biddability Review

Contractor will participate in a "Biddability" Review if required by VTA. VTA will provide representatives to conduct the Biddability Review. Contractor will coordinate the Biddability Review meetings. Contractor will adequately address the comments generated by the reviewers including providing explanation for comments not incorporated into the design.



### 7.10 Independent Check (Structures)

Contractor will perform an independent check of all drawings and calculations per Caltrans Standard procedure for external review of structures PS&E package.

Per Section 4-7 of the Caltrans Office of Special Funded Projects Information and Procedures Guide, structure quantity calculations are not required for submittal to Caltrans Structures. Contractor will perform an independent quality control check of the design quantity calculations using a line by line check method on a hardcopy of the quantity calculations. Preparation of a separate set of structure independent check quantity calculations is not included in this scope of services.

Contractor will perform an independent quality control check of the structure Special Provisions using a line by line method on a hardcopy of the structure Special Provisions.

#### Task 7 Deliverables

- A. Design Plan Sheets
- B. Special Provisions
- C. Draft permit applications
- D. Right-of-way Certification
- E. Right-of-way Sufficiency Certificate
- F. Draft Cost Certification
- G. Draft Utility Certification
- H. Draft cost estimate
- I. Construction schedule
- J. Design calculations
- K. Quantity calculations
- L. Final design reports (update if needed)
- M. Crumb Rubber Usage report (update if needed)
- N. Independent structural check calculations

### **8. TASK #8 Final Design - 100% PS&E and Final PS&E**

This Task incorporates comments from Final Design - (95% PS&E) and produces Final Design - (100% PS&E) and (Final PS&E) documents ready for Caltrans District 4 and DOS review and VTA advertisement. Contractor will review comments received from the reviewing agencies on the Final Design - (95% PS&E) submittals and attend comment resolution meetings with VTA



(JRT meeting, see Final Design - (95% PS&E)), Caltrans, and other agencies to resolve issues. All reviewing agency comments should be received prior to 100% submittal. Contractor will incorporate agreed upon comments and assist VTA in preparing Bid Documents for advertisement. If additional comments on 100% PS&E are received, Contractor will review, resolve issues, and incorporate agreed upon comments into the Final PS&E for Caltrans signature.

Contractor will perform the following services and prepare and deliver the following submittals:

### 8.1 Plans, Specifications and Estimates

Contractor will update and incorporate into the design sheets, specifications and quantity estimates submitted for Final Design - 100% PS&E and Final PS&E the comments received from VTA, Caltrans, and all its units, and other agencies.

Contractor will submit to VTA and Caltrans the revised quantities and cost estimate.

Contractor will coordinate the plans, specifications and estimates with those of other design sub-contractors and provide highway design interfaces with structures design when all documents are combined to form a single Project PS&E package.

Contractor will prepare a fully edited set of SP (VTA's Technical Specifications).

Contractor will review VTA' GC/SC if requested by VTA.

Contractor will submit the Final Design - (100% PS&E) and (Final PS&E) SP in Caltrans format. Contractor will submit the SP signature and engineer seal sheets to VTA.

### 8.2 Final Permits

For all permits required from permitting agencies, Contractor will assist VTA in preparing the final documents and supply required Project design and construction information to VTA and Caltrans to ensure conditions are resolved. VTA will include these permits as part of the Bid Documents.

### 8.3 Right-of-way and Utility Certification

Contractor will provide final right-of-way and utility requirements to VTA and update, sign, and submit the final Utility Certification document. VTA will sign and obtain the final Right-of-Way Certification with input from the Contractor to Caltrans for approval.



#### 8.4 Construction Bid Documents

The Bid Documents will be prepared in accordance with the latest editions of the Caltrans' manual, guide for the Submittal of Plans, Specifications and Estimates and the OSFP Information and Procedures Guide, and VTA Contracts Procurement guideline. Contractor will perform in-house quality control review and submit the following documents:

- a. Final design plan sheets
- b. Special Provisions and Appendix (Caltrans format)
- c. Permits, certifications and agreements
- d. Final cost estimate and quantities
- e. Final estimate including a Marginal Estimate for structures with “USE” column completed
- f. Quantity summary forms for structures
- g. Construction schedule
- h. Final Information Handout and Cover Memorandum
- i. Final design calculations

VTA will be responsible for preparing the boiler plate, packaging the bid set, and the advertising, awarding, and administering (AAA) of this Project. Task 6 requires the Contractor to provide the Technical Specifications, engineers estimate and quantities in compliance with the VTA guidelines.

Contractor will incorporate into the Bid Documents all comments received from VTA, Caltrans and other reviews.

#### 8.5 Resident Engineer's File and Surveys File

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

Contractor will provide the Resident Engineers' File items in DOS format and check consistency of all the design documents.

The following items, as a minimum, will be included in the Resident Engineer's File:

- a. Quantity calculations (Roadway and Structures)
- b. SWPPP and Estimates



Contractor will provide VTA with a Survey File and Resident Engineer's File consistent with Caltrans requirements with the exception of items not required for locally administered projects.

#### 8.6 VTA Quality Assurance Meeting

VTA will review all Project documents for completeness and overall quality. Contractor will support VTA QA staff during their review.

VTA will conduct a review of all final Project documents to ensure that all the agreed upon comments received from VTA, Caltrans, and other agencies were incorporated into the Final Design - (Final PS&E) package. Contractor will support VTA in this review.

#### 8.7 JRT Meeting

Contractor will attend one JRT meeting with VTA, Caltrans, and other agencies to review comments and to identify and resolve conflicts from the Final Design - (95% PS&E) review and Final Design - (100% PS&E). Contractor will provide written response to all Final Design - (95%) and (100% PS&E) review comments received for all documents and provide justification for written responses.

#### 8.8 Noise Study Report – Before and After

Contractor will complete a before and after study that assesses noise levels of the average sound level over a one-hour period measured as A-weighted sound pressure levels (dBA) at receptor locations at each of the five SR 85 segments where improvements are constructed. Baseline measurements (before improvements) must be obtained at approximately the same time that the project is advertised for construction. The resulting sound levels (after improvements) must be obtained no later than 8-weeks after all of the improvements are in place and the construction area signs have been removed. At Location #4, in Saratoga, where a sound wall cap is proposed on one side of SR 85, before and after measurements must be obtained on both sides of SR 85. These measurements at Location #4 will help quantify the additional benefits provided by the new sound wall cap relative to just the pavement surface treatment.

### Task 8 Deliverables

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

- A. Final design plan sheets
- B. Final Special Provisions
- C. Final cost and quantities estimate





- D. Final construction schedule
- E. Final quantity summary forms for structures
- F. Final design and check calculations
- G. Resident Engineer’s File
- H. Surveys File
- I. Noise Study Report – Before and After Construction

## **9. TASK #9 Construction Bidding Services**

Construction bidding procedures are the responsibility of VTA. Contractor will provide engineering services to support the construction bidding phase of the Project as described herein.

The following types of services are anticipated under this task:

### 9.1 Bid Document Revisions

Provide clarification of designProvide information in response to bidders’ questions regarding the Bid Documents.Attend the Pre-bid Meeting and other meetings as requested by VTA.

### 9.2 Bid Addenda

Prepare addendum to the Bid Documents, if requested by VTA. (2 assumed)

#### Task 9 Deliverables

- A. Bid Document Revisions as needed
- B. Addenda to Bid Document as needed

## **E. Project Assumptions and Exclusions**

The Services are based upon the following assumptions:

- Existing right of way will be shown on preliminary plans based on available right of way maps and supplemented by field surveys of right of way if required in future PS&E phase of the Project.
- PDT meetings will be held at the VTA River Oaks offices. The initial kick-off PDT meeting and other topic specific meetings may occur at Caltrans or City offices.
- VTA will provide public outreach notifications, facilities, and technical equipment.
- No pavement evaluation of the existing pavement is included.



- VTA will manage, apply, and secure permits, if applicable, with other agencies including, but not limited to, Santa Clara Valley Water District, and Regional Water Quality Control Board.
- VTA will prepare agreements required to support approval of the proposed improvements. Documentation is anticipated to include:
  - a. Caltrans cooperative agreements (PID, PA/ED, ROW, and PS&E activities)
  - b. Caltrans construction cooperative agreement
  - c. Updated freeway agreement (if required)
  - d. Landscape maintenance agreement (if required)
  - e. Local agreements as required
- The following reports, studies, and processes are not included in the scope of services outlined above for PA/ED phase:
  - a. Traffic studies including Existing Condition, Forecast, and Traffic Operation Analysis Report
  - b. Design Standard Decision Document
  - c. Conceptual Landscape Plan
  - d. Preliminary Hydrology and Drainage Report
  - e. Biological Assessment, Biological Mitigation and Monitoring Plan
  - f. Site Investigation Report
  - g. Natural Environmental Study
  - h. Cultural studies
  - i. Air Quality Report
  - j. Tree Survey Report
  - k. Visual Impact Assessment
  - l. Water Quality Assessment Report
  - m. Community Impact Report
  - n. Preliminary Geotechnical Report
  - o. Pavement Life Cycle Analysis
  - p. Lane Closure Report

Sound walls modifications will be non-standard and will need a special structural design to incorporate modifications.

It is assumed that the Sound Wall 100% PS&E submittal receives no comments and will only be updated to revise the date for the Bid Submittal to Caltrans.



---

## **F. Potential Additional Services**

VTA’s intent, subject to the limitations and clarifications set forth below, is to award the Proposer selected under this RFP all phases of design work for the Project. In addition to the Tasks outlined above, this may include Design Support During Construction (“DSDC”), as described below (“Potential Additional Services”).

VTA may, in its sole discretion, request for Contractor to perform these Potential Additional Services under the Contract resulting from this RFP. These Potential Additional Services are considered optional and Proposer’s must not include cost information/performance of these Potential Additional Services in Proposals; however in order to qualify for award of the Potential Additional Services, Proposer’s must inform VTA if they are qualified and capable of providing the Potential Additional Services and must provide evidence of such qualifications and capabilities in the Proposal.

### **Task 10: DSDC**

The DSDC phase will include engineering services to support VTA with Project delivery and acceptance. This task is comprised of, but not limited to, the following key tasks:

- Clarification of existing design
- Responses to construction contractor questions about the plans and specifications
- Review of shop drawings
- Review of construction contractor technical submittals for conformance with the plans and specifications
- Noise monitor

### **Reserve the Right to Not Award**

Notwithstanding the foregoing and for the avoidance of doubt, VTA reserves the right to (i) not award any Potential Additional Services, (ii) award some portion of the Potential Additional Services, and/or (iii) engage another party to perform any of the Potential Additional Services. Therefore, the Proposer awarded the Contract under this RFP is not guaranteed work on any Potential Additional Services.

### **Potential Additional Services Procedure**

Upon VTA’s request for Contractor to perform any Potential Additional Services, a detailed Scope of Services will be provided to Contractor in order to prepare a Contract amendment to include the Potential Additional Services. Upon successful negotiations a Contract amendment will be executed by both parties. Contractor must not perform any Potential Additional Services unless and until this process is completed and a written Contract amendment is signed by both parties.



**IX. ADMINISTRATIVE SUBMITTALS**

Proposer must submit all forms as part of the Proposal. **Forms No. 4, 5, 6, 7 and 11 must be printed and submitted in a separate and sealed envelope** as part of the Proposal.

**FORM 1. GENERAL INFORMATION**

**FORM 2. LEVINE ACT STATEMENT**

**FORM 3. EXCEPTIONS TO THE CONTRACT**

**FORM 4. A&E SERVICES 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 FOR DATA  
COLLECTION REQUIREMENTS**

**FORM 8. LOCAL FIRM CERTIFICATION**

**FORM 9. KEY STAFF AVAILABILITY FORM**

**FORM 10. RESOURCE PLAN (Hours)**

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



**FORM 1. GENERAL INFORMATION**

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

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

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

**POINT(S) OF CONTACT**

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

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

**AUTHORIZED SIGNATORIES:**

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

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



**FORM 2. LEVINE ACT STATEMENT**

Prime Proposer and Subconsultants must submit a signed Levine Act Statement

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

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

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

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

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

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

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

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

\_\_\_\_\_  
Signature:

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

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



**FORM 3. EXCEPTIONS TO THE CONTRACT**

**SUBMIT IN A SEPARATE SEALED ENVELOPE**

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

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

Proposer takes exception to the following:

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

\*Make copies of this page if necessary

“Proposer takes no exceptions”

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**FORM 4. A&E SERVICES COST PROPOSAL FORM**

**SUBMIT IN A SEPARATE SEALED ENVELOPE**

Proposer Name:

**DETAIL DESCRIPTION OF COST ELEMENTS**

A. DIRECT LABOR				
Specify Classification/Title	Proposed Employee Name	ESTIMATED HOURS	RATE/HOUR	ESTIMATED COST (\$)
<b>TOTAL DIRECT LABOR COST</b>				
B. INDIRECT COST RATE		TYPE	RATE (%)	X Total DLC=
<b>ICR subject to approval and annual recertification.</b>		Fringe and Benefits		
		Overhead		
		General and Administrative		
<b>TOTAL INDIRECT COSTS</b>				
<b>1.</b>			<b>TOTAL LABOR COST (A+B)</b>	
<b>2.</b>	<b>FIXED FEE</b>	<b>%</b> =	<b>X Total Labor Cost</b>	
<b>3. TOTAL OF SUBCONTRACTOR COSTS (Attach Subcontractor Proposals. Must be in same format)</b>				
<b>4. TOTAL OF OTHER DIRECT COSTS (Attach Listing. Must be allocable and approved in advance)</b>				
<b>TOTAL COST PROPOSAL (SUM 1-4)</b>				

NOTE: Fair Labor Standards Act (FLSA) exempt employees must be marked with an asterisk (\*) and employees subject to prevailing wages must be marked with two asterisks (\*\*).

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.*

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  
SUBMIT IN A SEPARATE SEALED ENVELOPE**

Firm (Prime):	_____	Phone:	_____
SBE:	<input type="checkbox"/> Yes <input type="checkbox"/> 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 an 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.*

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	\$ _____

SBE Contract Amount		SBE Goal Achieved		SBE Contract Goal
X 100 =		Base Contract	_____ %	_____ %



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

**SUBMIT IN A SEPARATE SEALED ENVELOPE**

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

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

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

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

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

+F=Female	+M=Male
-----------	---------

Total Proposed Amount: \$ \_\_\_\_\_

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

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



**FORM 8. LOCAL FIRM CERTIFICATION**

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

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

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

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

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

Subcontractor Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

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

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

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



RFP S19246 SR 85 NOISE REDUCTION PROJECT PHASE 2 –  
PAVEMENT OVERLAYS AND SOUNDWALL  
MODIFICATIONS

**FORM 9. KEY STAFF AVAILABILITY FORM**

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

Note:

\* List all projects and current workload for each project. Add additional rows as needed. File available for download on the VTA solicitations website.



**FORM 10. RESOURCE PLAN (Hours)**

**EXCEL FILE TO BE DOWNLOADED FROM VTA WEBSITE**



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

**SUBMIT IN A SEPARATELY SEALED ENVELOPE**

**EXCEL FILE TO BE DOWNLOADED FROM VTA WEBSITE**



**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 ENTERPRISES (SBE) REQUIREMENT

EXHIBIT A7 PREVAILING WAGE REQUIREMENTS

EXHIBIT A8 DESIGN PROFESSIONAL SERVICES SPECIAL TERMS AND  
CONDITIONS





**EXHIBIT A CONTRACT**  
BETWEEN  
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY  
AND  
CONTNAME  
FOR  
[SERVICES]

CONTRACT NO. S19246

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

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

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

**E. PERFORMANCE OF THE SERVICES:**

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



**F. ASSIGNMENT AND SUBCONTRACTS:**

1. Contractor shall not assign or transfer this Contract or any portion thereof without the prior written consent of VTA. Additionally, Contractor shall not subcontract any part of its Services other than to those subcontractors that may be identified herein **or** in Exhibit [ ]. Any assignment, transfer, change or subcontract in violation of this Contract shall be void.
2. Contractor shall be fully responsible and liable for the Services, products and actions of all subcontractors and suppliers of any tier, and shall include in each subcontract any provisions necessary to make all the terms and conditions of this Contract fully effective.

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

**H. AUDIT AND RECORDS:**

1. Contractor shall maintain, in accordance with generally accepted accounting principles and practices, complete books, accounts, records and data with respect to actual time devoted and costs incurred for the Services. Such documentation shall be supported by properly executed payrolls, invoices, contracts and vouchers evidencing in detail the nature and propriety of any charges. Such documentation shall be sufficient to allow a proper audit of the Services. All checks, payrolls, invoices, contracts and other accounting documents pertaining in whole or in part to the Services shall be clearly identified and readily accessible.
2. For the duration of this Contract, and for a period of three (3) years thereafter, VTA, its representatives and the state auditor shall have the right to examine and audit during Contractor’s normal business hours the books, accounts, records, data and other relevant information to the extent required to verify the costs incurred hereunder where such costs are the basis for billings under this Contract.
3. Contractor shall report indirect costs in accordance with the cost principles contained in 48 CFR Part 31, and follow the uniform administrative requirements set forth in 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:** Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, VTA shall have the right to rescind this Contract without liability.
2. **INTEREST OF PUBLIC OFFICIALS:** No Board Member, officer or employee of the VTA during his or her tenure or for two (2) years thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.
3. **INTEREST OF THE CONTRACTOR:** The Contractor covenants that, presently, Contractor, its officers, directors or agents, have no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree (or create an appearance of conflict) with the performance of the Services. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be knowingly employed.

**J. TERMINATION AND SUSPENSION:**

1. VTA may, by giving at least ten (10) business days' written notice to Contractor, terminate this Contract, or suspend performance hereunder, in whole or in part at any time for VTA's convenience. Contractor shall be compensated (i) in accordance with the terms of this Contract for the Services satisfactorily performed prior to the effective date and time of termination or suspension, or (ii) the minimum dollar amount stated herein, whichever is applicable. Contractor shall have no right to recover lost profits on the balance of the Services.
2. VTA, by written notice given to Contractor, may declare default in Contractor's performance of any term of this Contract, specifying with particularity the basis for such default. Contractor shall deliver a response thereto in writing to VTA within two (2) business days of receipt of the notice, setting forth a reasonable proposal to cure the default. If Contractor fails to deliver the foregoing response on time or fails to cure the default within ten (10) business days after receipt of the notice (or within such additional time the Parties may agree upon in writing), VTA may elect to terminate this Contract for cause by serving written notice thereof to Contractor.
3. In the event of such termination for cause, VTA shall be relieved of any obligation of further payment to Contractor, including its obligation to procure the minimum dollar amount stated herein (if any), and may complete the remainder of the Services by itself, or by using an alternative, third party contractor. The additional cost to VTA for completing the Services shall be deducted from any sum due to the Contractor and the balance, if any,



shall be paid to the Contractor upon demand. The foregoing shall be in addition to any other legal or equitable remedies available to VTA.

4. If, after termination for failure to fulfill Contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of VTA.

## **K. GENERAL PROVISIONS:**

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



- 5. CONFIDENTIALITY AND DISCLOSURE:** Except as set forth in this paragraph, Contractor must not disclose to third parties any information, data, or materials that the Contractor obtains from VTA or otherwise learns of or is exposed to in the course of the performance of this Contract or information developed or obtained by Contractor in the performance of this Contract (“**Confidential Information**”). In addition, Contractor must not disclose or use any Confidential Information for any purpose other than the performance of the Services. Notwithstanding the foregoing, Contractor may disclose Confidential Information to third parties or use such information for purposes other than performance of the Services if: (1) VTA provides express written consent for such use or disclosure; (2) the information is known to Contractor prior to obtaining such information from VTA or performing Services under this Contract; (3) the information is, at the time of disclosure by Contractor, then in the public domain; (4) the information is obtained by or from a third party who did not receive it, directly or indirectly, from VTA and who has no obligation of confidentiality with respect thereto. In addition, Contractor may disclose Confidential Information if required to do so by court order. However, upon receipt of an order requiring such disclosure, Contractor must inform VTA as soon as practicable in order to allow VTA to challenge such order if it determines that such challenge is appropriate. For purposes of this Section, “third parties” do not include those employees or authorized subcontractors engaged in the performance of the Services.
- 6. NONWAIVER:** Failure of VTA to insist upon strict performance of any terms or conditions of this Contract or failure or delay in exercising any rights or remedies provided herein or by law or its failure to properly notify Contractor in the event of breach or its acceptance of or payment for any Services hereunder shall not release Contractor from the representations or obligations of this Contract and will not be deemed a waiver of any right of VTA to insist upon strict performance hereof or any of its rights or remedies hereunder.
- 7. SEVERABILITY:** If any of the provisions of this Contract (or portions or applications thereof) are held to be unenforceable or invalid by any court of competent jurisdiction, VTA and Contractor shall negotiate an equitable adjustment in the provisions this Contract with a view toward effecting the purpose of this Contract, and the validity and enforceability of the remaining provisions or portions or applications thereof will not be affected thereby.
- 8. INDEPENDENT CONTRACTOR:** In performance of the Services, Contractor will be acting as an independent contractor and not the agent or employee of VTA.
- 9. ENTIRE CONTRACT:** This Contract constitutes the entire contract between VTA and Contractor relating to the subject matter hereof and supersedes any previous contracts, agreements, or understandings, whether oral or written.
- 10. AMENDMENT:** Except as expressly provided herein, the provisions of this Contract cannot be altered, modified or amended except through the execution of a written amendment executed by VTA and Contractor.



**11. COMPLIANCE WITH APPLICABLE LAW:** In the performance of the Services, Contractor and its subcontractors shall comply with all applicable requirements of state, federal and local law. The provision of this paragraph shall be included in any subcontracts hereunder.

**12. DOCUMENTS AND WRITTEN REPORTS:** In accordance with Government Code § 7550(a), any document or written report prepared in whole or in part by nonemployees of VTA shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the document or written report if the total cost of the work performed by nonemployees of the agency exceeds five thousand dollars (\$5,000.00). The contract and subcontract numbers and dollar amounts shall be contained in a separate section of the document or written report.

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

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

**1. AUTHORIZED REPRESENTATIVES:**

**VTA:**  
John Wesley White, Chief Procurement Officer  
3331 N. First Street, Bldg. B  
San Jose, CA 95134-1927  
John.White@vta.org

**Contractor:**  
Name/Title  
Company Name  
Address  
City/State/Zip  
Telephone  
Email

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

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

**VTA:**  
Erron Alvey, Contracts Administrator  
3331 N. First Street, Bldg. B  
San Jose, CA 95134-1927  
Erron.Alvey@vta.org



**Contractor:**  
Name/Title  
Company Name  
Address  
City/State/Zip  
Telephone  
Email

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

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

**N. INDEMNITY AND DEFENSE OF CLAIMS:** Contractor shall adhere to the indemnity and defense of claims requirements set forth in Exhibit A8.

**O. BUSINESS DIVERSITY PROGRAM REQUIREMENTS:** Contractor shall adhere to the Small Business Enterprise requirements set forth in Exhibit A6.

**P. SPECIAL PROVISIONS:**

- 1. **HIGHWAY PROJECT REQUIREMENTS:** All files and drawings shall comply with the CALTRANS current CADD User’s Manual and current Drafting and Plans Manuals.

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

*Santa Clara Valley  
Transportation Authority*

*Contractor*

\_\_\_\_\_  
Name  
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  
COST PLUS FIXED-FEE**

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

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

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

**1. DIRECT LABOR COSTS:** Direct labor costs shall be the total number of hours worked by each employee multiplied by the rate for such employee's labor category as set forth in the attached Exhibit A3. This exhibit shall contain the names and rates for Exempt and Non-Exempt Personnel.

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

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

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

**2. LABOR RATE ADJUSTMENTS:**

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

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



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

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

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

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



website [www.gsa.gov/mie](http://www.gsa.gov/mie). At no time shall alcohol, travel upgrades, fines, memberships, loss of personal property or cash, “no shows,” or personal itinerary changes be subject to reimbursement by VTA.

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

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

## **B. INVOICING:**

1. **INVOICE FORMAT:** Contractor shall be compensated and reimbursed by VTA on the basis of invoices submitted every month for the Services performed during the preceding month. The charges for each individual assigned under this Contract shall be listed separately. Further, invoices shall be in a form acceptable to VTA and each invoice must include:
  - Description of the work performed.
  - Hours worked by personnel classification.
  - Rate per personnel classification.
  - Other Direct Costs.
  - Subcontractor Costs supported by itemization in the same format.
  - Fixed-Fee.
  - Total Costs.
  - Percent of Schedule and Budget Expended.
2. **WAIVER:** Contractor shall be deemed to have waived the right to payment for Services not invoiced within six (6) months of the date the Services were performed. For purposes of this provision the date of the invoice shall be the date it is received by VTA.
3. **INVOICE SUBMITTAL:** Contractor shall submit invoices by e-mail to the address listed below. Invoices shall be in a PDF, Word, or Excel format.

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

4. Should VTA contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. VTA may, at any time, conduct



an audit of any and all records kept by Contractor for the Services. Any overpayment uncovered in such an audit may be charged against the Contractor's future invoices and any retention funds.

**C. PROMPT PAYMENT:** VTA will pay Contractor within thirty (30) days after receipt by VTA of a proper, fully documented, invoice. Contractor shall pay subcontractors for satisfactory performance of any of the Services performed by subcontractors within fifteen (15) days of receipt of payment by VTA for such Services. Contractor agrees further to return retainage payments to each subcontractor within fifteen (15) days after the subcontractor's work is satisfactorily completed.



**EXHIBIT A3 LABOR 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  
for  
PROFESSIONAL SERVICE CONTRACTS**

**INSURANCE:** Without limiting Contractor’s obligation to indemnify and hold harmless VTA, Contractor must procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Contractor, its agents, representatives, or employees, or subcontractors. The cost of such insurance must be included in Contract price. In the event of any material change in the Contract Scope of Services, VTA reserves the right to change the insurance requirements set forth herein. Contractor must furnish complete copies of all insurance policies, within three (3) business days of any request for such 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 Employer’s Liability insurance.
- d. Professional Liability, including limited contractual liability coverage, covering liability arising out of any negligent act, error, mistake or omission in the performance of Contractor’s services under this Contract. This coverage must be continuously maintained for a minimum of two (2) years following completion of this Contract. This coverage may be written on a “claims made” basis, if so, please see special provisions in Section B.

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

- a. General Liability (including Umbrella/Excess insurance): \$2,000,000 limit per occurrence for bodily injury, personal injury, and property damage. If a General Liability or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. This requirement may



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

- b. Automobile Liability \$1,000,000 limit per accident for bodily injury and property damage.
  - c. Workers’ Compensation and Employer’s Liability: Statutory Workers’ Compensation limits and Employer’s Liability limits of \$1,000,000 per accident.
  - d. Professional Liability: \$2,000,000 each occurrence/aggregate minimum limit per claim. This requirement may be satisfied by a combination of Professional Liability insurance with Excess or Umbrella policies, but in no event may the Professional Liability primary policy limit per occurrence be less than \$2,000,000, unless Umbrella/Excess policies feature inception and expiration dates concurrent with the underlying policy, “Follow Form” coverage, and a “Drop Down” provision.
- 3. Self-Insured Retention:** The certificate of insurance must disclose the actual amount of any deductible or self-insured retention, or lack thereof, for all coverages required herein. Any self-insured retention or deductible in excess of \$50,000 (\$100,000 if Contractor is a publicly-traded company) must be declared to and approved by VTA. If Contractor is a governmental authority such as a state, municipality or special district, self-insurance is permitted. To apply for approval for a level of retention or deductible in excess of \$50,000, Contractor must provide a current financial report including balance sheets and income statements for the past three years, so that VTA can assess Contractor’s ability to pay claims falling within the self-insured retention or deductible. Upon review of the financial report, if deemed necessary by VTA in its sole discretion, VTA may elect one of the following options: to accept the existing self-insured retention or deductible; require the insurer to reduce or eliminate the self-insured retention or deductible as respects VTA, its directors, officers, officials, employees and volunteers; or to require Contractor to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Applicable costs resulting therefrom will be borne solely by Contractor. Contractor may request execution of a nondisclosure agreement prior to submission of financial reports.

**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, Contractor must obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision must cover at least two (2) years.
3. No prior acts exclusion may be added to the policy during the contract period.
4. The policy 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 directors, 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 Contractor, including VTA’s general supervision of Contractor; products and completed operations of Contractor and its subcontractors; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to VTA, its directors, officers, officials, employees, or volunteers. Additional Insured endorsements must provide coverage at least as broad as afforded by the combination of ISO CG 20 10 10 01 and CG 20 37 10 01.
- b. Any failure to comply with reporting provisions of the policies may not affect coverage provided to VTA, its directors, officers, officials, employees, or volunteers.
- c. Contractor’s insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.
- d. The General Liability General Aggregate limit must apply per project, not per policy.

**2. All Coverages:**

- a. The insurer must agree to waive all rights of subrogation against VTA, its directors, officers, officials, employees, and volunteers for losses arising from work performed by Contractor and its subcontractors for VTA.



- b. Contractor’s insurance coverage must be primary insurance as respects VTA, its directors, officers, officials, employees, and volunteers. Self-insurance or insurance that may be maintained by VTA, its directors, officers, officials, employees, or volunteers may apply only as excess to Contractor’s insurance. Contractor’s insurance must not seek contribution from VTA’s insurance program.

**3. Other Insurance Provisions**

- a. The Certificate must disclose the actual amount of the Deductible or Self-Insured Retention
- b. If any coverage forms or endorsements required by this Contract are updated by their publishers, whether they be the insurance carrier(s), the Insurance Services office, or the American Association of Insurance Services, during the duration of this Contract, VTA reserves the rights to require Contractor to procure said coverage forms or endorsements using the updated versions upon the next renewal cycle.

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

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

The certificates must (1) identify the insurers, the types of insurance, the insurance limits, the SIRs/deductibles or lack thereof 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 (“VTA”)  
3331 North First Street  
San Jose, CA 95134-1906  
Contract No. S19246

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



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

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

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



## **EXHIBIT A6 SMALL BUSINESS ENTERPRISE (SBE) REQUIREMENTS**

### **A. SMALL BUSINESS ENTERPRISES:**

- 1.** It is VTA policy to ensure that Small Business Enterprise (“SBE”) firms, as defined in Federal Regulations at 13 CFR Part 121 and 49 CFR Part 26, have an equitable opportunity to participate in the performance of Contracts and subcontracts.

In connection with its performance under this Contract, Contractor agrees to cooperate with VTA in meeting the **5.75 %** SBE utilization goal set for this project.

- 2.** 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.sbdb.com>. Contractor and its subcontractors will receive an email providing a Log-On identification, password, and instruction on how to use the system. All lower-tier subcontractors and vendors will be required to provide or verify SBE utilization documentation.
  - 3.** Contractor will be required to submit quarterly for the base work, monthly as Additional Services are incorporated into the contract, SBE utilization reports electronically to the VTA Office of Business Diversity Programs. These reports shall be submitted electronically by the Contractor and will document when payments to subcontractors were made, the dollar value of the payments to SBE firms, and the percentage of the contract completed.
- B.** At the conclusion of this Contract, Contractor shall submit a final SBE utilization report electronically to the VTA Office of Business Diversity Programs to: [OSDB.OSDB@VTA.org](mailto:OSDB.OSDB@VTA.org) by indicating a final audit where requested in the B2Gnow system. This final report will document when payments to subcontractors were made, the dollar value of payments to SBE firms, and the percentage of the Services completed.



---

## EXHIBIT A7 PREVAILING WAGE REQUIREMENTS

- A. CALIFORNIA PREVAILING WAGE LAW:** This Contract is a “public work” as defined in Section 1720 through 1720.6 of the California Labor Code (“Labor Code”) and is therefore subject to the requirements of Labor Code Section 1720 et seq. requiring the payment of prevailing wages and compliance with other applicable requirements. Contractors and subcontractors of all tiers who perform work under this Contract are required to comply with these requirements.
- B. DIR REGISTRATION:** Contractor and subcontractors of all tiers used for the Contract must be registered with the DIR pursuant to Labor Code Section 1725.5 (with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)) prior to (i) submission of the bid or Proposal and/or (ii) execution of the Contract, as applicable. Those who fail to register and maintain their status as a public works contractor are not permitted to perform work hereunder.
- C. SUBCONTRACTOR LISTING:** Contractor must provide VTA with a list of all subcontractors of every tier, for any dollar amount. Contractor must not allow any unidentified subcontractor of any tier to perform work under this Contract.
- D. APPLICABLE RATES:** Workers employed under the Contract must be paid at the rates at least equal to the prevailing wage rates as adopted. If Contractor uses a craft or classification not shown on the prevailing wage determinations, Contractor may be required to pay the wage rate of that craft or classification most closely related to it as shown in the general determinations effective at the time of Contract award.
- 1. CALIFORNIA PREVAILING WAGE RATES:** The applicable California prevailing wage rates can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the Contracts Office at VTA, which will be available to any interested party upon request. Contractor is also required to have a copy of the applicable prevailing wage rates posted and/or available at the jobsite or material staging area.
  - 2. SPECIAL PREVAILING WAGE RATES:** Special prevailing wage rates generally apply to work performed on weekends, holidays, and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractor is on notice, and responsible for ensuring that its subcontractors of all tiers are on notice, that information about such special rates, holidays, premium pay, shift work, and travel and subsistence requirements can be found at [www.dir.ca.gov](http://www.dir.ca.gov).



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

**F. CERTIFIED PAYROLLS:**

**1. SUBMISSION TO VTA:** In the performance of work under this Contract, Contractor is responsible for its compliance, as well as that of its subcontractors of every tier, with Labor Code Section 1776. On a weekly basis, Contractor will present to VTA all applicable and necessary certified payrolls (for itself and all applicable subcontractors of every tier) for the time period covering the immediately preceding week. The term “certified payroll” includes all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by VTA.

**2. SUBMISSION TO THE CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (“DIR”):** In addition to submitting the certified payrolls and related documentation to VTA, on a weekly basis Contractor and subcontractors of all tiers must submit certified payroll and related documents electronically to the DIR. Failure to submit payrolls to the DIR when mandated by the Contract will also result in the withholding of progress, retention, and final payment, if applicable.

**3. FLOW DOWN:** Contractor will incorporate into every lower-tier subcontract and purchase order these instructions where labor compliance documentation is required.

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



1.

EXHIBIT A8  
DESIGN PROFESSIONAL SERVICES SPECIAL TERMS AND CONDITIONS  
(Revised 11/2019)

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

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

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

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

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



**Intellectual Property** means all current and future legal and/or equitable rights and interests in know-how, patents (including applications), copyrights (including moral rights), trademarks (registered and unregistered), service marks, trade secrets, designs (registered and unregistered), utility models, circuit layouts, business and domain names, inventions, solutions embodied in technology, and other intellectual activity. Without limiting the generality of the foregoing, Intellectual Property includes original architectural design in any tangible medium of expression, including a constructed building or structure, or architectural plans, models, or drawings.

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

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

**Project** means the studying, testing, and implementation of noise reduction efforts on State Route 85 in Santa Clara County, pursuant to VTA’s SR 85 Noise Reduction Program.

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

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





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

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

**4. CONTRACTOR INTELLECTUAL PROPERTY:**

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

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



**5. THIRD PARTY INTELLECTUAL PROPERTY:**

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

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

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



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

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

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

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

- i.** Contractor is a [INSERT ORGANIZATION TYPE], duly organized and validly existing under the laws of [INSERT STATE], having the requisite power and all required licenses to carry on its present and proposed activities. Contractor has the full power, right, and authority to execute and deliver this Contract and to perform each and all of the obligations of Contractor provided for under this Contract. Contractor is duly qualified to do business and is in good standing in the State of California as of the Effective Date, and will remain duly qualified and in good standing throughout the Contract term and for as long as any obligations remain outstanding under the Contract.
  - ii.** The execution, delivery, and performance of this Contract has been duly authorized by all necessary action of Contactor's governing body. Each person executing this Contract has been duly authorized to execute and deliver each such document on behalf of Contractor.
- 3. COMPLIANCE WITH APPLICABLE LAW:** As of the Effective Date, Contractor is not in breach of any applicable law that would have a material adverse effect on the Services or the performance of any of its obligations under the Contract.



4. **NO PENDING LEGAL ACTION:** As of the Effective Date, there is no action, suit, proceeding, investigation, or litigation pending and served on Contractor which challenges Contractor's authority to execute, deliver, or perform, or the validity or enforceability of, this Contract, or which challenges the authority of the representative of Contractor executing this Contract; and Contractor has disclosed to VTA before the Effective Date any pending and un-served or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which Contractor is aware.
  
5. **NON-INFRINGEMENT:** Contractor represents and warrants that the Design Intellectual Property, Instruments of Service, and any Contractor Intellectual Property required by, incorporated in, or exercised as part of, the Design Intellectual Property does not infringe upon any right, title, or interest of any person or entity including, without limitation, Intellectual Property rights under applicable United States law or international treaties to which the United States is a member or signatory party. Contractor further represents and warrants that, prior to any delivery of any Design Intellectual Property, Instruments of Service, or Contractor Intellectual Property to VTA, Contractor has conducted a diligent and comprehensive search and evaluation to ensure non-infringement of such upon any right, title, or interest of any person or entity including, without limitation, Intellectual Property rights under applicable United States law or international treaties to which the United States is a member or signatory party.
  
6. **NON-PROJECT USE AND MODIFICATION:**
  - i. **Disclaimer of Suitability for Non-Project Use:** Contractor does not represent that the Instruments of Service, as prepared and delivered by Contractor, are suitable for reuse by VTA or other parties for any purposes other than the Project. Reuse of the Instruments of Service by VTA for any purpose unrelated to the Project will be at VTA's sole risk without any liability to Contractor.
  
  - ii. **VTA Non-Project Use:** If VTA uses the Instruments of Service for purposes other than the Project, VTA shall indemnify, defend, and hold harmless Contractor from all third-party claims, damages, and expenses, including reasonable attorneys' fees, to the extent that the claim(s) is/are caused by such use by VTA.
  
  - iii. **VTA Independent Modification:** If VTA independently modifies the Instruments of Service without Contractor's involvement or consent, VTA shall indemnify, defend, and hold harmless Contractor from all third-party claims, damages, and expenses, including reasonable attorneys' fees, to the extent that the claim(s) is/are caused by such modification by VTA.



## E. INDEMNIFICATION AND DEFENSE OF CLAIMS:

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

- i. Indemnification:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor must indemnify, defend, 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, causes of action, suits, legal or administrative proceedings, judgment, settlement monies (regardless of stated purpose or designation), liabilities, losses, injuries, damages, expenses, fines, penalties, liens, stop notices, or fees and costs (including attorneys’ and experts’ fees and costs) (each a “Claim” and collectively “Claims”), to the extent that the Claims arise out of, pertain to, are caused by, or relate to the negligence, recklessness, or willful misconduct of Contractor and/or its agents, employees, or subcontractors, whether such Claims are based upon a contract, or for personal injury, death, or property damage, or upon any other legal or equitable theory whatsoever.
- ii. Defense:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor must, at its own expense, and upon written request by VTA or any individual Indemnitee, immediately defend any suit, action, proceeding, dispute, or demand brought against any Indemnitee founded upon, alleging, or implicating any Claims covered by Contractor’s indemnity obligation set forth in subparagraph (i) immediately above, regardless of whether Contractor and/or any of its agents, employees, or subcontractors was in fact negligent or reckless or engaged in willful misconduct. In the event a court of competent jurisdiction determines that any suit, action, claim, or demand brought against any Indemnitee was caused in any part by VTA or its agents, servants, or independent contractors who are acting on behalf of VTA, VTA shall promptly reimburse Contractor for the costs of defending the Indemnitees in such action incurred by Contractor, but only in proportion to the liability of VTA or its agents, servants, or independent contractors who are acting on behalf of VTA. In no event will the cost to defend charged to Contractor exceed Contractor’s proportionate percentage of fault. However, notwithstanding the previous sentence, in the event that one or more defendants is unable to pay its share of defense costs due to bankruptcy or



dissolution, Contractor must meet and confer with other parties regarding unpaid defense costs.

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

- i. Indemnification:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor must indemnify, defend, and hold harmless the Indemnitees from and against any and all Claims which may be suffered by, incurred by, accrued against, charged to, or recoverable by a third party from any Indemnitee, by reason of any such Claim arising out of or relating to any actual or alleged infringement of any Intellectual Property rights by any (i) Design Intellectual Property, (ii) Instruments of Service, (iii) Contractor Intellectual Property, or (iv) use of any of the aforementioned.
- ii. Defense:** Subject to the limitations in **Section E.3. Limitation on Indemnification and Defense of Claims** below, and to the greatest extent permitted by law, Contractor must, at its own expense, and upon written request by VTA, or any individual Indemnitee, immediately defend any suit, action, claim, or demand brought against any Indemnitee founded upon, alleging, or implicating any claims, liabilities, losses, injuries, damages, expenses, fines, penalties, or fees and costs covered by Contractor's indemnity obligation set forth in subparagraph (i) immediately above, regardless of whether any of the (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property did, in fact, infringe upon any Intellectual Property rights.
- iii. Additional Remedies:** If any part of the (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property is, or in Contractor's judgment may become, the subject of any infringement Claim, or is likely to be claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property right, Contractor must, at its expense and option, do one of the following: (a) procure for VTA the necessary right (including without limitation payment of any settlement monies, royalty, or license fee) to continue using such (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property, whether on its own and/or as incorporated into any Instruments of Service, the Project, or any building structure (regardless of construction status or operational status); (b) except when the Claim concerns a building structure (regardless of construction status or operational status), replace or modify the infringing portion of the (i) Design Intellectual Property, (ii) Instruments of Service, or (iii) Contractor Intellectual Property, so it becomes non-infringing; or (c) if (i) the Claim does not involve a building structure (regardless of construction status or operational status) and (ii) none of the foregoing are commercially reasonable, take back the infringing Instruments of Service and refund



to VTA a pro-rated amount of any fees paid for the infringing portion of the Instruments of Service. If, in the sole opinion of VTA, the return of such infringing Instruments of Service makes the retention of other Instruments of Service acquired from Contractor under this Contract impractical, incomplete, or otherwise rendered useless for purposes of the Project, VTA will then have the option of terminating this Contract, or applicable portions hereof, without penalty. Contractor will take back such Instruments of Service and refund any fees VTA has paid Contractor.

- iv. Limitation on Infringement Indemnification and Defense of Claims:** Contractor will have no liability or obligation under **Section E.2. Intellectual Property Infringement Indemnification and Defense of Claims** with respect to any Claim to the extent the Claim is based upon (a) any reuse of the Instruments of Service by VTA for any purpose unrelated to the Project, or (b) modifications, alterations, combinations, or enhancements of the Instruments of Service by any person or entity other than, and independent of, Contractor, and at the request of VTA, but only to the extent of such modifications, alterations, combinations, or enhancements.
  - v. Procedures:** Contractor’s obligations under **Section E.2. Intellectual Property Infringement Indemnification and Defense of Claims** are conditioned on the following: VTA must (a) promptly notify Contractor, in writing, of any Claim subject to **Section E.2. Intellectual Property Infringement Indemnification and Defense of Claims** of which VTA has actual knowledge (provided that failure to do so will only release Contractor from this indemnity and defense of claims obligation to the extent that such failure led to material prejudice); (b) in writing, grant Contractor control of the defense of any such Claim and of all negotiations for its settlement or compromise, subject to VTA’s right to participate in the defense of such Claim (at VTA’s own expense), and provided that no such settlement or compromise may impose any liability or other obligations on VTA; and (c) reasonably cooperate with Contractor to facilitate the settlement or defense of the Claim.
- 3. LIMITATION ON INDEMNIFICATION AND DEFENSE OF CLAIMS:** Nothing in **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** is intended to impose on Contractor a duty to defend, indemnify, or hold harmless that is prohibited by applicable law. Contractor’s obligations under **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** do not extend to Claims to the extent caused by the sole or active negligence or willful misconduct of VTA or its agents, servants, or independent contractors who are acting on behalf of VTA or from damages for defects in designs furnished by those persons. Furthermore, to the extent that Contractor’s Services giving rise to a Claim under **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** are subject to California Civil Code Section 2782.8, Contractor’s obligations under **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** shall be limited, to the extent required by Civil Code Section 2782.8, to any liabilities, losses, injuries, damages, expenses, fines, penalties, liens,



stop notices, or fees and costs (including attorneys' and experts' fees and costs) that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, and in no event shall the cost to defend charged to Contractor exceed Contractor's proportionate percentage of fault.

4. **SURVIVAL:** All of the requirements of **Section E. INDEMNIFICATION AND DEFENSE OF CLAIMS** will survive the expiration or termination of this Contract and remain in full force and effect.





## **XI. APPENDICES**

### **ALL APPENDICES ARE AVAILABLE FOR DOWNLOADING FROM VTA WEBSITE**

- Appendix A – SR 85 Noise Reduction Study Phase I (2016)
- Appendix A1 – SR 85 Express Lanes Project Initial Study with Negative Declaration/Environmental Assessment with Finding of No Significant Impact (2015)
- Appendix A2 – SR 85 Express Lanes Project Noise Study Report (2012)
- Appendix A3 - SR 85 Express Lanes Project Noise Abatement Decision Report (2012)
- Appendix A4 - Capital Preventive Maintenance Project Report for SR 85 from Almaden Expressway to Stevens Creek Boulevard (2005)
- Appendix A5 - Final Environmental Impact Statement for the SR 85 Transportation Corridor Project (1987)
- Appendix A6 - SR 85 Project Report for the SR 85 West Valley Transportation Corridor (1985)
- Appendix B – Noise Reduction Pilot Testing Locations
- Appendix C – Preliminary Project Milestone Schedule