



***Santa Cruz County Regional Transportation Commission***

**--NOTICE--**

**Request for Proposals (RFP) 2605  
for Construction Management Services**

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**Coastal Rail Trail Segment 12 in Aptos, CA Project**

The Santa Cruz County Regional Transportation Commission (RTC) invites interested parties to submit proposals for Construction Management Services for Rail Trail Segment 12 in Aptos, CA.

**Issue Date: February 12, 2026**

**Closing Date: March 27, 2026, 2:00 PM**

Interested parties must deliver five (5) double-sided paper copies, as well as one (1) electronic PDF version of the proposal by the closing date.

Responses relating to this RFP shall be submitted to:  
**Santa Cruz County Regional Transportation Commission (RTC)**  
**Subject: RFP2605**  
**Attention: Amin AbuAmara, P.E.**  
**Mail: 1101 Pacific Avenue, Suite 250, Santa Cruz, CA 95060**  
**Electronic: [info@sccrtc.org](mailto:info@sccrtc.org)**  
**Phone: 831-460-3200**

*This notice, along with its enclosures, comprises the Request for Proposals (RFP) for this project. Responses should be submitted in accordance with the instructions set forth in this RFP. Email inquiries relating to this RFP should include "Construction Management Services for Coastal Rail Trail Segment 12, RFP 2605" in the subject header. The RTC reserves the right to amend the RFP by addendum before the final proposal submittal date. This RFP and addenda will be available at: <http://www.sccrtc.org/about/opportunities/rfp/>.*





**SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION  
1101 PACIFIC AVENUE, SUITE 250, SANTA CRUZ, CA 95060**

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**DATE:** February 12, 2026

**TO:** Interested Consultants

**FROM:** Amin AbuAmara, Director of Capital Projects

**SUBJECT:** Request for Proposals (RFP) 2605 for Construction Management Services for Coastal Rail Trail Segment 12 in Aptos, CA,

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**INVITATION**

The Santa Cruz County Regional Transportation Commission (RTC) invites qualified and experienced consultants to submit proposals for Construction Management Services for Rail Trail Segment 12 in Aptos, CA with a Cost Proposal with a Fee Schedule that includes an estimate of costs per task including subconsultants and other direct costs (ODCs) to complete the project in a separate sealed envelope. Please submit five (5) double-sided paper copies and one (1) digital PDF copy of your Proposal.

**REQUEST FOR PROPOSALS**

The RFP is available on the RTC website:  
[www.sccrtc.org/about/opportunities/rfp/](http://www.sccrtc.org/about/opportunities/rfp/) and at the RTC office.

**RESPONSE DUE DATE**

Proposals are due in the Santa Cruz County Regional Transportation Commission office by 2:00 PM on **Monday, March 27, 2026 2:00 PM**. Any proposals received after the date and time specified above will not be considered. RFP Responses shall be considered firm offers to enter into a contract, as described in this RFP for a period of ninety (90) days from the time of submittal.



## **PROCUREMENT SCHEDULE**

Thursday, February 12, 2026	Distribute RFP
Thursday, February 26, 2026, 1:00 PM	Pre-Proposal Meeting
Friday, March 13, 2026, 12:00 PM	Requests for clarification/questions due
<b>Monday, March 27, 2026, 2:00 PM</b>	<b>Proposals Due</b>
Tuesday, April 7, 2026	(Optional) Interview Short Listed Consultants
TBD-Tentative July/August	Commission Awards Contract

## **CONTACT**

Responses and inquiries relating to this RFP shall be submitted to:

Santa Cruz County Regional Transportation Commission

Attn: Amin AbuAmara, P.E.

1101 Pacific Avenue, #250, Santa Cruz, CA 95060

831-460-3200 / Email: [info@sccrtc.org](mailto:info@sccrtc.org)

Email inquiries relating to this Request for Proposals should include "Construction Management Services for Coastal Rail Trail Segment 12, RFP2605" in the subject header.



## **Request for Proposals: Construction Management Services for Coastal Rail Trail Segment 12 in Aptos, CA Project**

### **Description**

The Santa Cruz County Regional Transportation Commission (RTC) is seeking proposals from qualified and experienced professional consultants for Construction Management Services for Coastal Rail Trail Segment 12 in Aptos, CA in accordance with the proposed scope of services listed below.

This contract may be funded by local, State, and/or federal funds.

This RFP seeks to identify firms with the experience, capacity, and technical expertise to provide comprehensive construction management, inspection, materials testing, and related professional services for this federally funded transportation project.

The RTC has limited office space for Construction Management consultants to co-locate with staff, therefore consultants are expected to have their own office space out of which to perform the work. In addition, consultants are expected to be present at the RTC offices and at on-site meetings as necessary to manage the project. In the future, the RTC could expand its office space to add workstations for Construction Management consultants to utilize. Therefore, respondents' and subconsultants' cost proposals must include Indirect Cost Rates (ICRs) for both the home office and the field office.



## **Background Information**

The Santa Cruz County Regional Transportation Commission (RTC) is the state-designated regional transportation planning agency for Santa Cruz County, California, a coastal area bordering the San Francisco Bay Area with a population of approximately 270,000. The RTC is responsible for planning, developing and managing multi-modal transportation projects that include highway, bicycle, pedestrian, freight rail, passenger rail, and transportation demand management projects. The RTC is responsible for securing and administering local, state, and federal funds to implement projects and programs consistent with approved transportation policies. Implementation of federally mandated activities is done in coordination with the region's Metropolitan Planning Organization (MPO) - the Association of Monterey Bay Area Governments (AMBAG) and the state department of transportation (Caltrans). The RTC is governed by a board of directors comprised of all 5 County Supervisors, a representative from each of the 4 cities in the county (Capitola, Santa Cruz, Scotts Valley, and Watsonville), and 3 representatives from the Santa Cruz Metropolitan Transit District. Additional information about the RTC is available at [www.sccrtc.org](http://www.sccrtc.org).

The RTC purchased the Santa Cruz Branch Rail Corridor (SCBRL) from Union Pacific in 2012 which is an active short line railroad that travels through Santa Cruz County between Pajaro and Davenport for a total of 32 miles.

In 2020, the RTC entered into Cooperative Agreement with Caltrans for the Project Approval & Environmental Document (PA/ED) component of the Highway 1 Auxiliary Lanes and Bus on Shoulders between State Park Drive and Freedom Boulevard Interchanges and Coastal Rail Trail Segment 12 project (Project).

In 2023, the RTC entered into Cooperative Agreement with Caltrans for the Plans, Specifications and Estimates (PS&E) and Right of Way components of the project designating the RTC as the implementing agency, with Caltrans providing oversight.

In November 2025, the RTC approved splitting the Highway 1 Freedom to State Park Auxiliary Lanes & Bus on Shoulder Project and the Coastal Rail Trail Segment 12 Project into two separate stand-alone projects; and committed to implementing the construction component of the Coastal Rail Trail Segment 12 Project. The reason for this split approach was that, although Highway 1 and Coastal Rail Trail components have been a single project through environmental and design, Caltrans had requested a commitment by the RTC to lead the construction component of the Coastal



Rail Trail Segment 12 project be in place prior to the SB1 application due date in November 2025. In 2025, the RTC was successful in securing the State's Cycle 4 Senate Bill (SB)1 Grant as well as the Federal MEGA grant and was awarded \$94 million and \$30 million, respectively, for construction of this Project.

The selected qualified firm would be in charge of assisting the RTC of advertising, awarding, and administering (AAA) the Coastal Rail Trail project Segment 12 currently scheduled for September 2027 (estimated working days = 360 days), while Caltrans will AAA the highway portion of the project currently scheduled for July 2027 (estimated working days = 770 working days). The selected qualified firm will also be in charge of assisting in all needed coordination with Caltrans and the project designer for interface between these two projects such as constructability reviews, multi-agency coordination, permitting, leading to the 100% PS&E and construction contract awards. The engineer's estimate for this project is \$49M. The 95% PS&E plan set will be supplied as a downloadable pdf from the SCCRTC website.



## **Scope of Construction Management Services**

Disclaimer: The scope of services listed below is not intended to be comprehensive. The consultant should list all scope and personnel required to deliver the project in compliance with Federal, State, and Local requirements.

All anticipated items of labor, material and equipment not specified in detail that are incidental to or necessary for providing the project construction management services shall be included in the Cost Proposal.

### **A. TASK 1 PRE-CONSTRUCTION SERVICES**

Consultant shall provide constructability reviews of contract documents at the various stages of project development, including coordination with the RTC and its design consultant, to assist in preparing a high quality Ready to List (RTL) package.

#### **1. Constructability and Biddability Reviews**

- Collaborate with the RTC and design consultant to perform constructability, biddability, consistency and maintainability reviews on 100% and Final Design (contract bid set) packages, recommending necessary revisions to reduce risks and delays.
- Recommend design improvements and evaluate packages for conformance with industry construction standard practices.
- At 100% PS&E, the consultant will provide a biddability review of the package to ensure that all items are accounted for in terms of measurements and payment clauses and item prices.
- Consultant will recommend a bidding strategy to obtain the most advantageous bid for the RTC.
- Review the resident engineer files for completeness and errors.
- Assist, as necessary, the RTC in preparing an Independent Cost Estimate for the Project prior to bid opening.

#### **2. Contract Document Review**

- Conduct final reviews of contract documents ensuring



compliance with standards and cross-checking quantity sheets against bid item quantities. Consultant shall independently check high-risk and high-value quantities.

- Consultant will assist in strengthening and updating front-end specifications in collaboration with the RTC, Legal Counsel, and Program Management Oversight Consultant.

### **3. Field Investigation and Verification**

- Field verify and investigate existing facilities against contract documents to identify potential conflicts and reduce risks. The goal is to minimize construction “surprises.”

### **4. Permits, Agreements, and Right-of-Way Verification**

- Verify that necessary documents such as permits, agreements, easements, temporary construction easements, and/or property rights have been secured and/or in place prior to construction contract advertisement and are accurately included and described in the contract documents.

### **5. State and Federal Funding Compliance**

- Assist in preparing documentation for projects funded through state and federal sources and adhering to federal advertising and contract administration procedures.
- Consultant will assist in preparing all necessary documents and forms to obtain state and federal approval of the project and to allocate funding.
- The consultant shall be familiar with the Local Assistance processes related to state and federal contracts.

### **6. Bid Set Preparation and Advertisement**

- Consultant will assist in preparing construction front-end bid set (including the bid book) in cooperation with the RTC. These documents include, but are not limited to, Notice to Bidders, boilerplate construction specifications, contract booklet, and newspaper/legal

noticing documents.

- Consultant will assist in advertising the construction contract.

## **7. Bid Management**

- Manage bid inquiries, issue necessary addendums, conduct pre-bid conferences, and assist with bid evaluations and acceptance, including checking bid documents against bid opening checklist requirements. The Project designer of record, the RTC, and the Program Management Oversight Consultant will assist with technical responses to bid inquiries and addenda.

### Anticipated Pre-Construction Deliverables

Key deliverables for pre-construction services include and are not limited to:

- Constructability Report
- Field Investigation/Verification Report
- Review and comment on 100% PS&E
- Review and comment on Final PS&E
- Complete Bid Documents
- Responses to Bidders
- Results of Bid Document Review

## **B. TASK 2: CONSTRUCTION MANAGEMENT SERVICES**

The consultant shall provide all professional services consistent with the industry-accepted roles of Construction Manager for the construction of the Project. This shall include providing all services necessary to administer the construction contract in accordance with the Caltrans Construction Manual, and Construction Procedure Directives. Construction management and construction support work shall be performed in accordance with the tasks as described in the Caltrans Work Breakdown Structure.

Consultant will act as the RTC's field representative and be responsible for coordinating the field activities of all Project-related utility relocation work including oversight of relocation work performed by third parties.

Consultant shall generally provide resources fully equipped to ensure projects are constructed in accordance with the Plans, Specifications, and

Estimates and in compliance with laws, funding requirements, and other project constraints. Anticipated resources include Resident Engineer, Structures Representative, Assistant Resident Engineer, Assistant Structures Representative, Structure Materials Representative, Office Engineer, Qualified SWPPP Practitioner, Qualified Inspectors (e.g. Materials, Electrical, Structural, Roadway), Construction Staking and Survey, and Materials Testing to effectively administer the project through completion.

## **1. Project Management and Coordination**

- Manage coordination among the RTC, the contractor, and stakeholders.
- Coordinate with and assist the RTC in scheduling, claims support, and public meetings and outreach.
- Coordinate, host and/or facilitate meetings including preparation of all materials and staffing as may be required.
- Provide a staffing schedule each month for the following month's work.
- Evaluate the Construction Contractor's schedule for actual versus planned progress and document all scheduling discrepancies.
- Prepare and submit construction monthly progress reports along with Construction Management (CM) payment invoice. Monthly progress reports shall include the following:
  - Overview of work accomplished, including photos;
  - Work to be completed the following month;
  - Updated schedule of work;
  - Explanations for deviations from the initial schedule;
  - Explanation of any upcoming risks/problem areas and corrective action to be taken; and
  - Status of submittals, RFI's, change orders, and claims.
- **Inspection and Compliance**
  - Perform field inspection activities, monitor contractor's performance, and enforce all requirements of applicable codes, specifications, and contract drawings.
  - Perform inspections and enforce the contractor's storm water pollution prevention program. Ensure timely reporting of all required documentation associated with the Construction General Permit, Caltrans, and the Regional Water Quality Control

Boards.

- Manage job site safety.
- Ensure contractor's compliance with the requirements of state and local agencies, including encroachment permits, regulatory permits, business licenses, regulations, Federal Aviation Administration, environmental permits, etc.
- Provide biological monitoring services and perform project related training.
- Conduct regular inspections of the job site to assess housekeeping and cleanliness, proper storage of materials, management of construction area signage, and other relevant factors. This is essential to ensure that the construction area remains safe and organized throughout the duration of the activities.
- Maintain daily inspection reports of work, including photos, descriptions of daily activities, any corrective actions to be taken by Construction Contractor, persons and equipment onsite, and work to be completed the following day(s).
- Review of materials and equipment delivered to site for compliance with submittals and contract documents.
- Performing labor compliance inspections and conducting interviews
- Coordinate and provide material testing and specialty inspections as required.
- Review of Construction Contractor's compliance with health and safety standards and regulations and reporting of non-compliance.
- Monitor record documents to ensure proper maintenance and completion by Contractor.
- Provide specialty construction inspection for specific construction operations, systems or equipment which may include but not be limited to:
  - Electrical and Instrumentation ( code requirements, field inspection, operational and acceptance testing)
  - Mechanical (code requirements, field inspection, operational and acceptance testing)
  - Construction Safety (OSHA)

- Storm Water Pollution Prevention (NPDES requirements)
- Traffic Control
- Environmental Permit Compliance
- Structural Steel & Concrete
- Geotechnical Stability
- Provide services, either directly or through appropriately qualified sub-consultants, for the following:
  - Materials testing - field sampling and laboratory testing of various construction materials and existing soil materials.
  - Hazardous materials handling support.

## **2. Documentation and Administration**

- Perform pre-construction documentation.
- Perform all construction administrative activities, including correspondence, construction records (e.g. diaries, requests for information), accounting, document tracking, and document control per Caltrans requirements.
- Maintain a digital project plan room which clearly delineates revised plan sheets on an individual basis.
- Incorporate a paperless construction administration delivery process (e-construction).
- Assist the RTC by providing project related documentation and reporting, presentations, and answer questions for committee or board meetings.
- Maintain accurate accounting and cost records.
- Complete funding reimbursement forms. Project may have several funding sources.
- Maintain project files in compliance with Caltrans requirements and undergo Caltrans audits as necessary.
- Collect and monitor subcontractor request forms.
- Document work with a robust photographic record.
- Document work with a drone technology when needed.

## **3. Quality Assurance and Testing**

- Develop and prepare a project specific quality management plan, quality assurance plan, and source inspection quality management plan in accordance with Caltrans requirements.
- Schedule, manage, perform, and document all field and laboratory testing services.
- Ensure the contractor is performing required quality control

inspection and testing at intervals specified in the contract documents.

- Issue nonconformance reports and ensure defective work is corrected.
- Ensure non-standard design/construction elements are closely monitored and tested at frequencies that mitigate risk, and that appropriate work-specific QC/QA plans are developed and implemented prior to construction.

#### **4. Change Order and Progress Payments**

- Coordinate, review, and evaluate potential change orders and cost estimates/quotations.
- Evaluate, negotiate, recommend, prepare and recommend course of action for change order requests and submittals. Provide complete management of the change order process.
- Inspect and evaluate site conditions that are perceived to be different than shown in contract documents.
- Review, gather, and evaluate information for resolution of potential claims or disputes.
- Prepare and recommend progress payments.

#### **5. Construction Support and Coordination**

- Review submittals (e.g. detours and staging plans) from the contractor and oversee the submittal process.
- Review Construction Contractor Requests for Information (RFI's) and coordinate with Design Engineer for resolution and response. Log all RFI's and associated response.
- Review Construction Contractor monthly invoices and recommend payment requests.
- Provide Construction Contractor with acceptability or deficiencies in work and required actions for contract compliance.
- Maintain project documents files in the format and location specified by the RTC.
- Electronic and hard copy project record management and filing using Department's and/or PM's systems
- Preparation and distribution management of various documents, correspondence and submittals
- Maintenance of tracking logs
- Review project schedules

- Cost estimation
- Review shop drawings and check contractor shoring and falsework calculations in conformance with Caltrans manuals.
- Procure agency-furnished items to minimize schedule and cost impacts to the project.
- Obtain and manage storage, control inventory, and release materials to contractors in a secure and timely fashion.

## **6. Labor Compliance**

- Gather certified payrolls, prepare weekly listings, and perform interviews to ensure compliance with prevailing wage requirements.

## **7. Construction Surveying**

- Provide construction staking and survey services including quantity calculations, staking requests, geometry control, and quality assurance checks.

## **8. Construction Claims Analysis and Support**

- Consultant staff providing construction management and support services may be required to retrieve documents, prepare reports and participate in interviews near or after completion of construction as needed to assist the RTC in resolving claims made by or against the construction Contractor for the project.
- Provide services of a senior level Construction Manager to analyze and make recommendations for claims resolution.

## **9. Acceptance and Closeout**

- Perform site inspection(s) to determine if facilities are complete and in compliance with contract documents.
- Provide final inspection services, including testing and installed facilities.
- Develop and maintain a project corrective item work list(s) (i.e. punch-list) and inspection of corrective actions performed.
- Verify all O&M Manual submittals as well as spare parts as required by the contract documents.
- Perform project closeout activities, including preparation of the final construction project report and filing of end of project documentation.
- Close out permits, agreements, and right-of-way with various agencies and parties.
- Verify contractor's as-built records. Submit as-built records to Caltrans. Prepare and submit final construction report.

- Verify Construction Contractor has made all payments and that all required releases including warranty release, lien release(s), and release of claims have been submitted by Construction Contractor.
- Recommend retention release to Construction Contractor.
- Review final payment and release of retention.

**10. Office/Equipment/Supplies/Facilities/Special Considerations**

- Consultant shall secure a facility of sufficient proximity to the project site to carry out the scope of services for the duration of the construction project, and all necessary equipment (e.g. copier, desks) to adequately accommodate the construction management team. This may be considered as reimbursable other direct costs if not already included in consultant overhead.
- Consultant shall provide the necessary equipment, tools, and supplies to provide the required services. This may include cell phones, laptops, computer programs, vehicles equipped for construction activities, laths, manuals, office supplies, safety gear, etc. These may be considered as reimbursable other direct costs if not already included in consultant overhead.
- Consultant may be required, consultant shall secure special permits, fees, and insurance to access worksite

**REPORTS AND MEETINGS**

Consultant shall meet with the RTC Project Manager as needed to discuss progress on the project(s). Consultant shall participate in meetings as required to ensure effective communication. These meetings may include, but are not limited to:

- The RTC Advisory Committees and RTC meetings (monthly, participation as needed)
- Contractor meetings (weekly as needed as part of construction management)
- Resource, permitting, and funding agencies

**C. KEY POSITION AND PERSONNEL**

Positions to be filled or required for the Project may include one or more of the following (*Key Team Member positions are in bold*):

- **Construction/Project Manager**
- **Resident Engineer (California P.E. required)**



- **Structural Representative (Bridge Engineer)  
(California P.E. required)**
- Licensed Commercial UAS Operator (Local)
- Assistant Resident Engineer (Roadway, Drainage)
- Qualified SWPPP Practitioner (QSP)
- Assistant Structural Representative (Bridge/Structures)
- Structure Materials Representative
- Roadway and Structures Inspectors
- Office Engineer
- Office Assistant
- Utility Coordinator
- Survey Staking Crews
- Materials Testing Technicians/Laboratories
- Biological Monitor

## **General Information**

### **RFP Definitions:**

Throughout this RFP, the following definitions will be used:

- “Contract” means a written agreement executed between the RTC and a selected respondent.
- “Consultant” or “Contractor” means the firm, team, or person qualified to provide services described in this RFP.
- “Respondent” means an individual, joint venture, or a company that submits, or intends to submit, a proposal in response to this RFP.
- “RFP” or “Request for Proposals” means the process described in this document.
- “RFP Response” and “Proposal” mean all documents submitted by a respondent in reply to this RFP request.
- “RTC Contract Manager,” “RTC Project Manager,” or “Contract Administrator” means the lead RTC staff assigned to oversee work of the consultant selected to implement this project.
- “RTC website” means the website maintained by the Santa Cruz County Regional Transportation Commission (RTC) at [www.sccrtc.org](http://www.sccrtc.org).

**Inquiries:** Inquiries will be accepted by phone, mail or email. All inquiries related to this RFP should be directed to:

Amin AbuAmara, PE, 1101 Pacific Avenue, Suite 250, Santa Cruz, CA 95060  
Director of Capital Projects Phone: 831-460-3200 / Email: [info@sccrtc.org](mailto:info@sccrtc.org)

Information obtained from other sources is not official and should not be relied upon for completion of the RFP. Inquiries and answers may be documented and available on the RTC website to all potential respondents at the RTC’s option.



**Pre-Proposal Meeting:** A non-mandatory pre-proposal meeting will be held on **Thursday, February 26, 2026** at 1:00PM in the RTC's Conference Room with Teams meeting option, 1101 Pacific Avenue, Suite 250A, Santa Cruz, California. **Coastal Rail Trail Segment 12 Pre-proposal Meeting:** <https://us02web.zoom.us/j/84894887698>

Meeting ID: 848 9488 7698

+16694449171,,84894887698# US

+16699009128,,84894887698# US (San Jose)

Join instructions

[https://us02web.zoom.us/meetings/84894887698/invitations?signature=XxsFVEpEMP1t\\_BXBhcl5eSLvqQNrPeJNS536IDev5kk](https://us02web.zoom.us/meetings/84894887698/invitations?signature=XxsFVEpEMP1t_BXBhcl5eSLvqQNrPeJNS536IDev5kk). There will be opportunities for questions and answers, but time may be limited by scheduling constraints. Interested parties are encouraged to submit questions or requests for clarification by email in advance of the meeting to [info@sccrtc.org](mailto:info@sccrtc.org). Responses to questions raised at the Pre-Proposal Meeting will be posted on the RTC website (see below).

**Questions, Requests for Clarification and Additional Information on the RFP:** The RFP and any subsequent information regarding this RFP, including changes made to this document and questions/responses on this RFP, will be posted on the RTC's website: <http://www.sccrtc.org/about/opportunities/rfp/>. It is the sole responsibility of the respondent to check the website for addenda to the RFP documents. Any questions, requests for clarification or exceptions to RFP requirements must be received by RTC no later than 12:00PM on **Friday, March 13, 2026 12:00 PM** to guarantee response. Email questions or requests for clarification to: [info@sccrtc.org](mailto:info@sccrtc.org). Responses to questions concerning this RFP posed before this deadline will be posted on the RTC website: <http://www.sccrtc.org/about/opportunities/rfp/> by 4:00 PM on Wednesday, March 18<sup>th</sup>, 2026.

**Closing Date for RFP Responses:** By 2:00 PM on **Monday, March 27, 2026** the RTC must receive five (5) hard copies, one (1) Cost Proposal in a separate sealed envelope, and one (1) electronic copy to the mail address listed on the cover of this RFP. Proposal materials received after this time will not be considered. Please submit electronic files on a flash drive with the hard copy of your proposal.

**Addenda to RFP:** The RTC reserves the right to amend this RFP at any time up until the due date. Any amendments to or interpretations of the RFP



shall be described in written addenda posted on the RTC website. All addenda issued shall become part of the RFP.

If the RTC determines that the addenda may require significant changes in the preparation of proposals, the deadline for submitting the proposals may be postponed by the number of days that the RTC determines will allow Proposers sufficient time to revise their proposals. Any new due date shall be included in the addenda.

**Compensation: The payment method for the contract will be Actual Cost Plus Fixed-Fee or Lump Sum ([Sample Cost Proposal Form 1](#)) .**

The contract is expected to begin in July/August of 2026 pending approval by the Commission with a term of 3 years, with an option to extend an additional 2 years for a maximum total term of 5 years. The intent of this contract is to address peaks in workload of in-house project management staff and/or perform a specialized service which the RTC does not have. This contract will be funded by multiple programs of Measure D funds and state and federal grants.

**Proposal Format:** Respondents to this RFP must submit the appropriate number of copies of the proposal in response to this RFP as described above and on the cover sheet. In keeping with RTC's resource conservation policy, proposers are asked to print proposals double-sided and are encouraged to use recycled paper with no plastic inserts for proposals. Covers and binding are not required, however, if provided they should be of recyclable material.

In order to simplify the review process and to facilitate comparative analysis, the proposals shall be organized in the following manner. Proposal content and completeness are most important; however, effort should be made to produce a complete, competitive, and qualifying response that is also concise. The proposal content shall be limited to 20 pages, not including required forms, cost proposal, and resumes. The RTC, at its option, may require a Proposer to provide additional information and/or clarify requested information. The screening of proposals will determine which Proposers will be invited to an interview, if necessary.

**The following information must be included in the proposals submitted in response to this RFP:**

1. **Signed Transmittal Letter:** Proposals must include a maximum 2-page transmittal letter indicating the name of the organization submitting the proposal; whether the proposing entity is an individual, partnership, corporation, company, or joint venture; the name, telephone number, email, and business address of the contact person



who will be authorized to respond to questions regarding the Proposal; and the name of the individual authorized to negotiate the contract on behalf of the consulting entity. The transmittal letter should refer to this RFP by title and date, include statement of California licensing (if applicable), and be signed by a person authorized on behalf of the consulting firm to solicit business for the firm.

2. **Profile of the Firm:** This section shall include a brief description of the firm's size as well as the local organizational structure. 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 Respondent or by its subcontractors where litigation is still pending or has occurred within the last five years or (b) any type of project where claims or settlements were paid by the Respondent or its insurers within the last five years.
3. **Qualifications of Firm and Key Personnel:** This section shall provide a description of the Respondent's qualifications and previous experience on similar contracts. Description of project/program management experience shall include a summary of the work performed, total cost of program/projects managed, percentage of the work the respondent was responsible for, period over which the work was completed, and the name, title, and phone number of the clients to be contacted for references. A minimum of 3 client references shall be included for the Project Manager and each of the Key Personnel. At least two references shall be provided for the Project Manager and each of the Key Personnel.
4. **Project Staffing:** This section shall discuss how the Respondent would staff this project. Respondent team members shall be identified by name, location, specific responsibilities, and estimated person-hours of participation. An organizational chart shall be included identifying "Key Personnel" who are members of the project team that may not be changed once the proposal is submitted without prior approval of the RTC. The organizational chart shall identify any Disadvantaged Business Enterprise (DBE) firms. The Project Manager and Key Personnel relevant experience will be an important factor considered by the RTC Review Committee.
5. **Technical Approach/Work Plan:** This section of the proposal shall establish the Respondent's understanding of RTC's objectives and work requirements and Respondent's ability to satisfy those objectives and requirements. The work plan should include estimated hours allocated to complete each subtask as specified in the Scope of Services included

as Attachment A. Succinctly describe the proposed approach for addressing the required work, outlining the activities that would be undertaken in completing the various tasks and specifying who would perform them. This information should be provided as part of the main proposal (unsealed) showing only the estimated hours allocated to complete each subtask as specified in the Scope of Services, and a schedule for completing the work, and the percentage of the work performed by DBE firms. A sample Work Plan is included as *Attachment B*. The Respondent may also suggest technical or procedural innovations that have been used successfully on other projects that may facilitate the completion of this project. Consideration of practical, outside the box thinking is encouraged.

6. **Cost Proposal:** Include a Cost Proposal that outlines the budget for each task and related deliverables as outlined in the proposer's Scope of Services in a separate sealed envelope. This cost shall include all costs to the RTC, including all labor, profit, administrative and overhead fees and other direct costs broken down by tasks/subtask and personnel by title. The budget shall show the costs of the prime consultant and ALL subconsultants, identifying which subconsultants are DBE. Mark-ups for subconsultants are not allowed.
  - a. Cost Proposal forms provided in the "Required Forms" section below are also required.
  
7. **Required Forms:** Proposal must include the following completed forms:
  - a. [Form 1](#) California Levine Act Statement regarding conflict of interest
  - b. [Form 2](#) Exceptions to the Agreement
  - c. [Certification of Indirect Costs and Financial Management System](#) (Include completed form in a sealed envelope separate from the proposal. Do not make any reference to cost in the electronic or hard copies of the proposal.)
  - d. [Cost Proposal Form 1. Contracts with Cost-Plus-Fixed Fee or Lump Sum Form](#) (Include completed form in a sealed envelope separate from the proposal. Do not make any reference to cost in the electronic or hard copies of the proposal.)

- e. [Cost Proposal Form 4. Contractors subject to Prevailing Wage requirements](#) (Include completed form in a sealed envelope separate from the proposal. Do not make any reference to cost in the electronic or hard copies of the proposal.)
- f. [Disclosure of Lobbying Activities \(Caltrans Local Assistance Procedures Manual, Exhibit 10-Q\)](#)

All forms shall be included in the Respondent's Proposal and do not count toward the page limit. Levine Act Statement and LAPM forms shall be completed for the prime firm as well as all subconsultants.

### **Method and Criteria for Selection**

**RFP Response Review and Selection:** An evaluation committee comprised of RTC staff and other individuals that the RTC deems appropriate will review each proposal for completeness and content. The evaluation committee will analyze responses based on the needs described in this Request for Proposals (RFP), including relevant experience of the consultant with federal- and state-funded projects. The evaluation committee will review and rank the proposals and conduct interviews.

Responsive proposals will be evaluated as follows:

- **Project/Program Understanding (up to 30 points)**  
Understanding of the RFP objectives and RTC's project/program needs that demonstrates the respondent's overall understanding of the requirements and ability to meet those requirements.
- **Key Staff's Relevant Experience (up to 30 points)**  
Relevant Experience includes experience working with Caltrans District 5, providing construction management for highway, local roadway, railroad, and bicycle/pedestrian facilities, experience working on complex highway, bridge, and rail/trail improvement projects involving multiple agencies, and understanding of local context. Information regarding the firms and individual Key Staff's availability to take on this project shall be provided in the proposal.
- **Management Approach (up to 40 points)**  
Methods of construction management including project communication, schedule and budget control, and quality assurance and quality control.

Specialized experience with similar kinds of work and in accordance with the example tasks provided in this RFP, including experience with local, state and federal procedures, capability to explore and develop innovative or advanced techniques and methods, past record of performance on contracts with RTC and other public agencies.

Any proposal that the evaluation committee determines does not include enough information to permit the evaluators to rate the proposal in any one of the listed evaluation criteria will be considered non-responsive and may not be further evaluated. A proposal that fails to include one or more items requested above under "Proposal Format" may be considered complete and generally responsive, if evaluation in every criterion area is possible.

**Interview Review and Selection:** Following review of proposals, the evaluation committee may conduct interviews with respondents or develop a short list of consultants to interview in order to make a final selection leading to negotiations for a contract for provision of professional services. It is expected that key staff proposed to work on the project will attend interviews conducted as part of the selection process. Interviewees will be evaluated as follows:

- **Project/Program Understanding (up to 30 points)**, objectives, and RTC needs.
- **Management Approach and Expertise (up to 25 points)** for performing the work efficiently and effectively.
- **Qualifications of the Key Personnel (up to 25 points)** and key staff, experience with similar kinds of work, including local, state and federal procedures, capability to explore and develop innovative or advanced techniques and methods, past record of performance on contracts.
- **Effectiveness of the Interview (up to 20 points)** in overall interview discussions and presentation.

**Authority to Commit RTC:** Based on the findings of the evaluation committee, the RTC Contract Manager and the Executive Director of the RTC may recommend to the RTC board that one or more consultants be selected to perform the work.

The contract, if awarded, will be awarded to the firm that presents the proposal that in the opinion of the RTC board is the most advantageous to the RTC, based on the evaluation criteria. Upon approval by the RTC board,

the Executive Director will be authorized to enter into an agreement with the selected consultant(s). The RTC may accept or reject any and all proposals and waive any and all formalities and irregularities at any stage of the evaluation as it may deem to be in the best interest of the RTC.

### **Selection Disputes**

Respondents not selected for interview or contract award will be informed by mail and/or email. Upon request, the RTC will offer a debriefing to respondents who were not selected, at a mutually agreeable time after award of the contract.

A proposer may object to a provision of the RFP on the grounds that it is arbitrary, biased, or unduly restrictive, or may object to the selection of a particular consultant on the grounds that RTC procedures, the provisions of the RFP or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied. Any objection must be submitted in writing to the RTC Contract Manager and must include an explanation of the basis for the objection:

- a. No later than 4:00 pm on the fifth business day prior to the date proposals are due, for objections to RFP provisions; or
- b. No later than 4:00 pm on the fifth business day after the date the proposer is notified that its proposal was found to be non-responsive or did not meet the minimum qualifications; or
- c. No later than 4:00 pm on the fifth business day after the date on which a proposer is notified that it was not recommended for selection, or that another proposer is recommended for selection for objections to consultant selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the RTC authorizes the award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail. The RTC Contract Manager will respond to the objection in writing within thirty days. No contract to a consultant shall be executed until the expiration of the objection period or, if an objection is filed, the issuance of a written response to the protest by the RTC Contract Manager.

The proposer may appeal the decision of the RTC Contract Manager by filing a written appeal with the RTC Executive Director, no less than three (3)



working days after receipt of the written response from the RTC Contract Manager. The Executive Director's decision will be final.

### **Consultant Selection Timetable**

The RTC intends to adhere to the following timeline, but it is subject to change at the discretion of the RTC. All times shown are in Pacific Time.

#### Request for Proposals

- RTC Issues Notice of RFP: Thursday, February 12, 2026

#### Consultant Proposals

- Pre-Proposal Meeting: Thursday, February 26, 2026 1:00 PM, RTC's Conference Room, 1101 Pacific Avenue, Suite 250, Santa Cruz, California
- Questions, Requests for Clarification or Questions Due: Friday, March 13, 2026, by 12:00 PM – *send questions to: info@sccrtc.org*
- Responses to questions, addenda and any other clarification materials posted on the RTC website: by 4:00 PM on Wednesday, March 18<sup>th</sup>, 2026.
- **Proposals Due: Monday, March 27, 2026, 2:00 PM AT 2:00 PM**
- Interviews: Tuesday, April 7, 2026
- Contract Award: July/August 2026

### **General Conditions**

**Respondent's Proposal Preparation Expenses:** Respondents are solely responsible for their own expenses in preparing and submitting a response to this RFP as well as for subsequent interviews and contract negotiations with the RTC. The RTC will not be liable to any respondent for any costs or damages incurred by the respondent in preparing the RFP response, loss of anticipated profit, or for any other claim.

**Ownership of RFP Responses:** All documents, including specific RFP responses, submitted to the RTC become the property of the RTC. All materials submitted by proposers are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), except that the RTC may withhold from disclosure clearly marked confidential trade secret information contained in any proposals, and proposer's submission of information so marked shall constitute its agreement to defend and indemnify the RTC from any claim or liability for nondisclosure thereof. After award of the contract (or if not awarded, after rejection of all proposals), all responses will be regarded as public records and will be subjected to review



by the public. Any language purporting to render all or portions of the proposal confidential will be regarded as non-effective and will be disregarded.

**Accessible Electronic Documents:** In order to facilitate public engagement and ensure accessibility of documents, Consultant shall provide Americans with Disabilities Act of 1994 (ADA)-accessible electronic copies of any documents being distributed for board and public review, final reports, and public outreach materials, as applicable. Guidance on ADA remediation of documents is available at: <https://www.section508.gov/create/>

**Collection and Use of Personal Information:** Respondents are solely responsible for familiarizing themselves and ensuring that they comply with the laws applicable for the collection and dissemination of personal information, including resumes and other personal information concerning respondent employees and employees of any proposed subconsultants.

**Non-Commitment of RTC:** This RFP is not an agreement to purchase or contract for services. The RTC reserves the right to modify or cancel in whole or in part this RFP, to reject any and all proposal, to accept the proposals they consider most favorable to the RTC's interests in their sole discretion, and to waive irregularities or informalities in any proposals or in the proposal procedures. The RTC reserves the right, in its sole discretion, not to enter into a contract as a result of this RFP. The RTC further reserves the right to reject all proposals and seek new proposals when the RTC considers such procedure to be in their best interests. All responses will be assessed in light of the needs described in this RFP, including the Scope of Services. The RTC is under no obligation to receive further information, written or oral, from any respondent. Any award will be to the consultant(s) whose proposal is, in the sole judgment of the RTC board on the basis of the evaluation criteria herein, most advantageous to RTC.

**Changes to Proposals Prior to Closing Date:** Any proposals received prior to the due date and time specified above may be modified by written request of the proposer. Any modification must be received by the proposal due date and time specified in this RFP. After that date, no additional wording or comments will be added to the response unless requested by the RTC for purposes of clarification.

**Modification of RFP Terms:** The RTC reserves the right to modify the terms of this RFP at any time, and may cancel this RFP or further review of responses at any time without entering into a contract. It is the sole responsibility of prospective and actual respondent to check for modifications

of and additional information pertaining to the RFP on the RTC website:  
<http://www.sccrtc.org/about/opportunities/rfp/>.

**Notification of Further RFP Respondent Review and Interview Not**

**Binding:** A respondent may withdraw from consideration at any time by notifying the RTC in writing, by phone or by email. The RTC may, at its sole discretion, withdraw the name of a respondent for further review by notifying the respondent in writing, by phone or by email. Notice in writing, by email or by phone to a respondent that it has been identified as a candidate for further review and an interview will neither constitute a contract, nor give the respondent any legal or equitable rights or privileges relative to this RFP.

**Contract:** Any contract proposed with a selected respondent shall comply with all public contracting statutes applicable in the State of California. For your reference, a sample contract is enclosed as *Attachment A*.

Respondents shall be prepared to accept the terms and conditions of the contract provided herein as *Attachment A*, which include requirements for Compensation, Indemnity and Insurance. If a Proposer desires to take exception to the above, Proposer shall provide the following information using Form 2, identified as "Exceptions to the Contract." The exceptions to the Contract shall include the following:

1. Proposer shall clearly identify each proposed change to the Agreement, including all relevant exhibits.
2. Proposer shall include the reasons as well as specific recommendations for alternative language.

The above factors will be considered in evaluating proposals. Proposals that take substantial exceptions to the Agreement or proposed compensation terms may be determined by the RTC, at its sole discretion, to be unacceptable and no longer considered for award. Only the exceptions stated in the proposal will be considered when negotiating the Agreement.

The RTC may accept the proposal or negotiate the terms and conditions of the Agreement with the highest-ranked firm. If mutual agreeable terms are not reached, the RTC reserves the right to terminate negotiations and may open negotiations with the next highest ranked firm. RTC further reserves the right to terminate negotiations at any point without obligation to contract for services with any firm. If a proposer wishes to recommend a change to any standard RTC contract provision, the provision and any proposed alternative language must be requested in writing prior to the closing date

for receipt of requests for clarifications/exceptions listed above. If no such change or exception is requested in writing, the consultant will be deemed to accept RTC's standard contract provisions. In addition, if the project will be funded by Federal funds, federal required contract provisions will be included in the RTC standard agreement.

**Conflict of Interest:** The nature of the proposed services for this RFP may lead to a conflict of interest for firms that are currently under contract with the Commission or those that may seek contract opportunities in the future. Consultants selected for this contract will be prohibited from competing for future planning, environmental, design, and construction management contracts as a prime or subconsultant. The prospective consultant shall demonstrate no conflicts of interest, and a commitment to avoid potential conflicts that might arise from work performed for others, past associations or pending relationships. Prospective consultants shall disclose any financial, business or other relationship with RTC that may have an impact upon the outcome of this contract or RTC construction projects. The prospective consultant shall also list current clients who may have a financial interest in the outcome of this contract or RTC projects that will follow. In particular, the prospective consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on RTC projects.

**Past and future contracts:** Firms that have participated in past studies or other activities associated with the current RFP are not precluded from submitting proposals for this study. The firm selected to conduct the work under this RFP will not be precluded from conducting work on future projects by the RTC.

**Local, State, and Federal Regulations:** Any contract awarded under this request for proposals is expected to be funded by local funding sources. The consultant must be able to meet requirements for contracts using local and/or state transportation funds, and local and state grant language will be incorporated into the contract, as applicable. This includes, but may not be limited to, applicable provisions set forth in the Caltrans *Local Assistance Procedures Manual (LAPM)* and Caltrans Division of Transportation Planning: *Master Fund Transfer Agreement*.

The selected consultant(s) shall also have all state and local licenses required by applicable law for the performance of the services or any portion thereof.

**Non-discrimination:** It is the policy of the RTC to ensure nondiscrimination in the award and administration of all contracts and to create a level playing field on which firms can compete fairly for



contracts and subcontracts relating to the RTC's construction, procurement, and professional services activities. The consultant, subrecipient or subcontractor shall not discriminate on the basis of race, color, sex, gender, religious creed, national origin, ancestry, physical disability (including HIV and AIDS status), mental disability, medical condition (e.g., cancer), genetic information, marital status, gender, gender identity, gender expression, age, sexual orientation, military, or veteran status in the performance of the contract. This applies to all consultants' and subconsultants' employment, solicitations, selection of subconsultants and procurement of materials. Pursuant to Title VI of the Civil Rights Act of 1964 – disadvantage business enterprises will be afforded full opportunity to submit bids in response to this invitation.

**Disadvantage Business Enterprise (DBE):** As a recipient of federal financial assistance from the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA), the RTC is also committed to and has adopted a DBE Program for contracts in accordance with federal regulations. This solicitation is subject to Title 49, part 26, Code of Federal Regulations (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs."

There is **no DBE goal** or good faith effort required for the contract resulting from this procurement. On October 24, 2025, Caltrans issued a notice stating that the DBE program would be suspended until further notice. RTC is committed to working closely with consultants to maintain compliance as may be required by any future updates. For more information on the suspension go to: <https://dot.ca.gov/programs/local-assistance/local-civil-compliance/disadvantaged-business-enterprise-dbe>

Where subcontracting opportunities exist, consultants should utilize the Caltrans DBE Database to find certified DBEs to consider for their team:

<https://caltrans.dbesystem.com/> (Search Directory of Certified Firms).

**Drug-Free Workplace:** Consultants shall comply with the provisions of Government Code § 8350 et seq., regarding Drug-Free Workplace



Certification, and with the U.S. DOT regulations "Drug-Free Workplace Requirements Grants" in 49 CFR Part 29, Subpart F.

**Financial Management and Accounting System Requirements:**

Contracts shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31. Consultant's financial management system must be adequate to accumulate and segregate reasonable, allowable, and allocable direct and indirect project costs. **NOTE: Indirect cost rate (ICR) documentation review and Caltrans approval is required PRIOR TO CONTRACT EXECUTION.** \*Sole proprietors with no employees and billing a straight rate may be an exception to this requirement.

- a. All firms (including all tiers of subconsultants) must include the [ICR Certification](#) (or Safe Harbor Certification) and [cost proposal form](#) in their response to this RFP. The forms are included in the Required Forms listed in the RFP. The ICR on the cost proposal must be the same or lower as the ICR shown on the ICR Certification form.
- b. The [ICR Certification](#) shall represent the most recently completed Fiscal Period, ending in 2023/2024. ("Fiscal Period" is written on the fourth line under the "Indirect Cost Rate" heading on the form). The date must have a beginning and an end (e.g., 01/01/2024 – 12/31/2024).
- c. If a subconsultant chooses, they may be eligible to submit a [Safe Harbor Certification form](#) in lieu of the ICR Certification form. Eligibility requirements are found on the form. RTC submits the completed form to Caltrans. If the Safe Harbor certification is approved by Caltrans and [Acceptance ID](#) issued, no further documentation is required. The cost proposal must be updated with the Safe Harbor rate after approval with the overall project budget updated to match.

**ICR review will be conducted after the successful proposer has been notified by the RTC, and BEFORE contract execution :**

- a. The [Caltrans Acceptance ID](#) is issued upon review and acceptance of the consultant's ICR. Some firms may already have an ID for the corresponding Fiscal Period.



- b. **If the consultant has been issued a [Caltrans Acceptance ID for Indirect Cost](#)** for the corresponding Fiscal Period, the consultant may provide documentation such as a letter from Caltrans confirming the ICR. If the consultant does not have this documentation, then RTC may contact Caltrans to confirm the rate. Once confirmed, no further action is required from the consultant.
- c. **If the consultant or subconsultant(s) do NOT have an approved Caltrans ID for their ICR and are not eligible for the Safe Harbor rate**, the consultant must submit the following documents for review. These documents are also shown on the [Caltrans Financial Documents Review Request form](#):
- i. [ICR Certification](#)
  - ii. [ICR Schedule](#) with FAR References for Disallowed Costs (a)
  - iii. Post-Closing Trial Balance and Supplemental Reconciliation Schedule (to tie the proposed ICR Schedule to the Trial Balance)
  - iv. If there is a *CPA Audited ICR Report and Schedule*, this must also be included. **\*Prime consultant must provide this report.**
  - v. Completed and signed [AASHTO Internal Control Questionnaire Appendix B](#) with all attachments such as written policies.
  - vi. After initial review, additional documents may be requested such as Executive Compensation Analysis, Income Statement, Bonus Policy, or Other Direct Cost Schedules, etc.

Once the ICR is reviewed by either Caltrans or RTC, and the contract is executed, the ICR will be valid for the duration of the contract unless amended by contract amendment.

To access the Santa Cruz Branch Rail Line without an escort by RTC staff, the consultant will be required to obtain a right of entry agreement and meet all conditions required for access and construction of the repairs. Since only walk-on contractor

access to the rail corridor is anticipated, flagging is not anticipated to be required for this project. Consultant is to pay for all costs necessary to obtain and comply with required safety training(s). Consultant should also adhere and follow "Contractor & Volunteer Safety Procedures on RTC Railroad Property" provided by RTC.

**Enclosed with this Request for Proposals:**

Attachment A: RTC Standard Contract  
Attachment B: Sample RTC Work Plan

**Linked Attachments with this Request for Proposals:**

Attachment C: [Financial Document Review Request form](#) (for reference only)  
Attachment D: [Disclosure of Lobbying Activities](#) (Caltrans Local Assistance Procedures Manual, Exhibit 10-Q)  
Attachment E: [Form 1](#) California Levine Act Statement  
Attachment F: [Form 2](#) Exceptions to the Agreement  
Attachment G: [Certification of Indirect Costs and Financial Management System](#)  
Attachment H: [Cost Proposal Form 1. Contracts with Cost-Plus-Fixed Fee or Lump Sum Form](#)  
Attachment I: [Cost Proposal Form 4. For Contractors subject to Prevailing Wage requirements](#)

**Available on the RTC Website:**

<http://www.sccrtc.org/about/opportunities/rfp/>  
Plan Sheets



**Attachment A: Sample RTC Contract**



**CONTRACT NO. TPXXXX**  
**ARCHITECTURAL & ENGINEERING CONTRACT**

**This is a Sample Contract, and language and provisions contained herein are subject to change. Contract award is subject to approval by the Commission.**

THIS AGREEMENT made and entered into on \_\_\_\_\_, by and between the SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, hereinafter called COMMISSION, and <<consultant name>>, hereinafter called CONSULTANT. The parties agree as follows:

**1. DUTIES.**

- A. CONSULTANT agrees to exercise special care and skill in accordance with customary and ordinary professional practices and principles accepted in the industry, to conduct the *Construction Management Services for Rail Trail Segment 12 in Aptos, CA*, as specified in Scope of Services (Exhibit X), which by this reference is incorporated herein. If there is any conflict between the approved Scope of Services (Exhibit X) and this contract, this AGREEMENT shall take precedence.
- B. CONSULTANT shall provide the personnel listed below to perform the above-specified services, which persons are hereby designated as key personnel under this AGREEMENT.

Name	Firm	Function

- C. No person named in paragraph B of this Article or in the Cost Proposal (Exhibit X), or their successor, shall be removed or replaced by CONSULTANT, nor shall their agreed-upon function hereunder be changed, without the prior written consent of the COMMISSION Contract Manager.
- D. This AGREEMENT includes the subcontractors and/or subconsultants listed in Cost Proposal (Exhibit X).
- E. Except as expressly authorized herein, CONSULTANT'S obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the COMMISSION. However, claims for money due or which become due to CONSULTANT from COMMISSION under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such



approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the COMMISSION.

F. Consultant's Progress Reports and/or Meetings

1. CONSULTANT shall perform the services in accordance with the Project Schedule attached hereto (Exhibit X) and incorporated by reference. The CONSULTANT shall submit written progress reports with each invoice. The report should be sufficiently detailed for the Contract Manager to determine if the CONSULTANT is performing to expectations or is on schedule; to provide communication of interim findings; and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
2. The CONSULTANT'S Project Manager shall meet with the COMMISSION'S Contract Manager, as needed, to discuss progress on the AGREEMENT.

**2. COMPENSATION.**

In consideration for CONSULTANT accomplishing work to be performed under this AGREEMENT, as described in Scope of Services (Exhibit X) and Project Schedule (Exhibit X), COMMISSION shall compensate CONSULTANT in accordance with the approved Cost Proposal (Exhibit X), dated <<Date>>, attached hereto and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.

- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. COMMISSION will reimburse CONSULTANT for actual costs incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal (Exhibit X), unless additional reimbursement is provided for by written AGREEMENT amendment. The consideration to be paid to CONSULTANT as provided herein shall be for CONSULTANT'S and subconsultants' expenses in the approved Cost Proposal (Exhibit X). In the event that COMMISSION Contract Manager determines that a change to the work from that specified in the Scope of Services (Exhibit X) is required, the AGREEMENT time or actual costs reimbursable by COMMISSION may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph C shall not be exceeded, unless authorized by AGREEMENT amendment.



- B. The method of payment for this AGREEMENT will be based on actual cost plus fixed fee and the total amount including fixed fee, payable by the COMMISSION shall not exceed <<\$XXXX>>.
- C. COMMISSION will pay CONSULTANT a fixed fee not to exceed<<\$XXXX>> payable by progress payments as described in Paragraph E, below. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work by AGREEMENT amendment and approved by the COMMISSION Contract Manager in their sole discretion.
- D. Payments will be made monthly in arrears based on services provided and allowable incurred costs. CONSULTANT'S fixed fee will be included in the monthly progress payments and will be calculated based on the fixed fee percentage of CONSULTANT'S labor cost, not to exceed the fixed fee amount shown in Paragraph D, above. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Project Schedule (Exhibit X) or the Scope of Services (Exhibit X), COMMISSION shall have the right to terminate this AGREEMENT in accordance with the provisions of Article 8 Termination.
- E. The CONSULTANT and each subconsultant indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. In no event will CONSULTANT be reimbursed for overhead costs at a rate that exceeds the accepted overhead rate.
- F. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal (Exhibit X) and is approved by COMMISSION'S Contract Manager. Increases are not allowed until one (1) year after this agreement is executed, and every year thereafter. The salary escalation rate is established at <<XX%>> for the duration of the AGREEMENT.
- G. Reimbursement for transportation and subsistence costs shall not exceed the per diem rates authorized to be paid rank and file State employees under current State Department of Personnel Administration (Cal HR), as specified in the approved Cost Proposal (Exhibit X).
- H. When milestone cost estimates are included in the approved Cost Proposal (Exhibit X), CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Manager before exceeding such cost estimate or shifting hours or costs between tasks.
- I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by COMMISSION and notification to proceed has been issued by COMMISSION'S Contract Manager. No



payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.

- J. Invoices shall be submitted no more than once per month and no later than 30 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall be emailed to:

[AAbuAmara@sccrtc.org](mailto:AAbuAmara@sccrtc.org) and [AccountsPayable@sccrtc.org](mailto:AccountsPayable@sccrtc.org)

The invoices must include the following information:

1. This agreement number, amendment number, phase/task numbers, and project title;
2. Description of services performed;
3. Percentage of work complete for each phase, task, and milestone;
4. Labor (staff name, hours charged, hourly billing rate, current charges and cumulative charges) performed during the billing period by phase/task;
5. Report of expenditures by CONSULTANT and subconsultants divided by phase/task;
6. Fixed fee payment requested;
7. Itemized expenses incurred during the billing period;
8. Total payment requested; and
9. Total amount previously paid under this AGREEMENT.

### **3. RETENTION.**

No retainage will be withheld by the COMMISSION from progress payments due CONSULTANT. Retainage by CONSULTANT or subconsultants (as identified in Article 1) is prohibited, and no retainage will be held by the CONSULTANT or subconsultants from progress payments due to subconsultants. Any violation of this provision shall subject the violating CONSULTANT or subconsultants to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code and/or Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, statutory, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT or deficient subconsultant performance, or noncompliance by a



subconsultant, or other good faith dispute that legally permits a CONSULTANT to withhold payments to subconsultants under California law or good cause that allows CONSULTANT to withhold payment under federal law.

#### **4. PROMPT PAYMENT FROM COMMISSION TO CONSULTANT.**

COMMISSION shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT. If COMMISSION fails to pay promptly, COMMISSION shall pay interest to the CONSULTANT, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, COMMISSION shall act in accordance with both of the following:

- A. Each payment request shall be reviewed by COMMISSION as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- B. Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than fifteen (15) days, after receipt.
- C. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

#### **D. PROMPT PAYMENT CERTIFICATION**

Consult must submit LAPM Exhibit 9-P to the COMMISSION by the 15<sup>th</sup> of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The COMMISSION must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The COMMISSION must email a copy of Exhibit 9-P to [DBE.Forms@dot.ca.gov](mailto:DBE.Forms@dot.ca.gov) before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.

#### **5. FUNDING REQUIREMENTS.**

- A. It is mutually understood between the CONSULTANT and COMMISSION that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of



both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.

- B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to COMMISSION for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, federal or state agency, or COMMISSION that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. COMMISSION has the option to terminate the AGREEMENT pursuant to Article 8 Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

## **6. PREVAILING WAGE.**

This CONTRACT is subject to the Prevailing Wage provisions and provisions relating to certified payroll records and apprenticeship of the Labor Code of California and Department of Industrial Relations regulations. There shall be paid to each worker of the CONTRACTOR, or any of his subcontractors engaged in work on the project, not less than the prevailing wage rate regardless of any contractual relationship that may be alleged to exist between CONTRACTOR or subcontractor of such worker. Holiday and overtime work, when permitted by law, shall be paid at a rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. Non-compliance during the term of the CONTRACT will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold COMMISSION harmless against any claims, or demands, or liability arising from failure to comply with all applicable requirements under the Prevailing Wage and related requirements.

## **7. TERM.**

- A. The AGREEMENT shall end on \_\_\_\_\_, unless earlier terminated pursuant to Article 8 below or extended by AGREEMENT amendment.
- B. The CONSULTANT is advised that this AGREEMENT is not binding and enforceable until it is approved by the COMMISSION and fully executed.

## **8. TERMINATION.**

- A. This AGREEMENT may be terminated by COMMISSION, for cause or without cause provided that COMMISSION gives not less than thirty (30) calendar



days written notice of its intent to terminate and in the event of termination for cause, provides the reasons for termination stated in the notice and provides CONSULTANT an opportunity to cure during the notice period.

- B. COMMISSION may temporarily suspend this AGREEMENT, at no additional cost to COMMISSION provided that CONSULTANT is given written notice of temporary suspension. If COMMISSION gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to the COMMISSION by termination of this AGREEMENT for damages sustained by COMMISSION by virtue of any breach of this AGREEMENT by CONSULTANT, and COMMISSION may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due to COMMISSION from CONSULTANT is determined.
- D. If COMMISSION terminates this AGREEMENT with CONSULTANT, COMMISSION shall pay CONSULTANT the sum due to CONSULTANT under this AGREEMENT for services satisfactorily performed prior to termination, unless the cost of completion to COMMISSION exceeds the funds remaining in the AGREEMENT in which case the overage shall be deducted from any sum due CONSULTANT under this AGREEMENT and the balance, if any, shall be paid to CONSULTANT upon demand.
- E. Upon termination, COMMISSION shall be entitled to all CONSULTANT'S work produced under this AGREEMENT, including, but not limited to, reports, investigations, appraisals, inventories, studies, analysis, drawing and data estimates performed to that date, whether or not complete.
- F. COMMISSION may terminate this AGREEMENT for CONSULTANT'S default if a federal or State proceeding for the relief of debtors is undertaken by or against CONSULTANT, or CONSULTANT'S principal, or if CONSULTANT or CONSULTANT'S principal makes an assignment for the benefit of creditors.
- G. CONSULTANT may terminate this AGREEMENT by giving the COMMISSION at least one hundred and twenty (120) days advance written notice if CONSULTANT terminates without cause. CONSULTANT shall be liable for any and all reasonable costs incurred by COMMISSION as a result of such early termination, default, including but not limited to re-procurement



costs of the same or similar services defaulted or not provided by CONSULTANT under this Agreement.

**9. SAFETY.**

- A. CONSULTANT agrees to abide by all safety laws, regulations and requirements associated with working on and in the vicinity of a railroad track, and all conditions of entry that may be required to avoid interference with facility operations. CONSULTANT, subcontractors, and/or authorized agents shall be required to complete the railroad safety training prior to commencing work within the right of way.
- B. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by COMMISSION Contract Manager and project stakeholders. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- C. Pursuant to the authority contained in Section 591 of the Vehicle Code, COMMISSION has determined that areas within the limits of the project are open to public traffic unless otherwise identified as private property. The CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles.
- D. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

**10. INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS.**

To the fullest extent permitted by law, CONSULTANT shall exonerate, indemnify, defend, protect, and hold harmless the COMMISSION, its governing body, officers, officials, agents, employees and volunteers from and against:

- A. Any and all claims, demands, costs, damages, losses, expenses, or liability arising from or connected with the services provided under this AGREEMENT to the extent caused by recklessness, willful misconduct or negligent acts, errors, or omissions of the CONSULTANT, its officers, subconsultants, employees, volunteers, or agents. The CONSULTANT will reimburse COMMISSION for any expenditure, including reasonable attorney's fees, incurred by COMMISSION in defending against claims ultimately determined to be due to recklessness, willful misconduct or to negligent acts, errors, or omissions of the CONSULTANT, its officers, subconsultants, employees, volunteers, or agents.



- B. Any and all federal, State and local taxes, charges, fees, penalties, or contributions required to be paid with respect to CONSULTANT and CONSULTANT'S officers, subconsultants employees, volunteers, and agents engaged in the performance of this AGREEMENT (including, without limitation, unemployment insurance, social security, and payroll tax withholding).
- C. In the event that CONTRACTOR or any employee, agent, or subcontractor of CONTRACTOR providing services under this AGREEMENT is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of COMMISSION, CONTRACTOR shall indemnify, defend, and hold harmless COMMISSION for the payment of any employee and/or employer contributions for PERS benefits on behalf of CONTRACTOR or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of COMMISSION.
- D. The provisions of this section shall survive expiration, termination, or suspension of this AGREEMENT.

## **11. INSURANCE.**

CONSULTANT, at its sole cost and expense, for the full term of this AGREEMENT, and any extensions thereof, shall obtain and maintain at a minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects COMMISSION and any insurance or self-insurance maintained by COMMISSION shall be excess of CONSULTANT'S insurance coverage and shall not contribute to it. Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A:VII if admitted in the State of California.

### **A. Types of Insurance and Minimum Limits**

1. Workers' Compensation in the minimum statutorily required coverage amounts.
2. Automobile Liability Insurance for each of CONSULTANT'S vehicles used in the performance of this AGREEMENT, including owned, non-owned (e.g., owned by CONSULTANT'S employees), leased or hired vehicles, in the minimum amount of one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by the CONSULTANT is not a material part of performance of this AGREEMENT



and CONSULTANT and COMMISSION both certify to this fact by initialing here: \_\_\_\_\_ / \_\_\_\_\_.

3. Comprehensive or Commercial General Liability Insurance coverage at least as broad as ISO form CG 00 01, with a minimum limit of two million dollars (\$2,000,000) per occurrence, and four million dollars (\$4,000,000) in the aggregate, including coverage for: (a) products and completed operations, (b) bodily and personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability.
4. Railroad Protective Liability Insurance in the minimum amount of two million dollars (\$2,000,000) per occurrence and four million (\$4,000,000) aggregate, if any work is to be conducted within the rail line right-of-way or within fifty (50) feet of the track or Commercial General Liability Insurance coverage that does not exclude work on the railroad.
5. Errors & Omissions applicable to the work being performed, with a limit no less than two million dollars (\$2,000,000) per claim or occurrence and two million dollars (\$2,000,000) aggregate per policy period of one year.
6. Professional Liability Insurance in the minimum amount of one million dollars (\$1,000,000) combined single limit.
7. If the CONSULTANT maintains broader coverage and/or higher limits than the minimums shown above, the COMMISSION requires and shall be entitled to the broader coverage and/or the higher limits maintained by CONSULTANT. Policy should include coverage for completed operations for 10 years or the term matching statute of limitations. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COMMISSION. CONSULTANT hereby acknowledges and agrees that any and all insurances carried by it shall be deemed liability coverage for any and all actions it performs in connection with this AGREEMENT.

#### B. Other Insurance Provisions

1. If any insurance coverage required in this AGREEMENT is provided on a "Claims Made" rather than "Occurrence" form, CONSULTANT agrees that the retroactive date thereof shall be no later than the effective date of this AGREEMENT, and that it shall maintain the required coverage for a period of three (3) years after the expiration of this AGREEMENT (hereinafter "POST AGREEMENT COVERAGE") and any extensions thereof. CONSULTANT may maintain the required POST



AGREEMENT COVERAGE by renewal or purchase of prior acts or tail coverage. The COMMISSION will not be responsible for any premiums or assessments on the policy.

2. All policies of Commercial General Liability Insurance and Railroad Protective Liability Insurance shall be endorsed to cover the Santa Cruz County Regional Transportation Commission, its officials, employees, agents and volunteers, as additional insureds with respect to liability arising out of the work or operations and activities performed by or on behalf of, the CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations. Endorsements shall be at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01, covering ongoing operations and products and completed operations.
3. CONSULTANT agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide COMMISSION on or before the effective date of this AGREEMENT with Certificates of Insurance and endorsements for all required coverages. The Certificates of Insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible. The certificates shall require the carrier to notify COMMISSION in writing of any material change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of such cancellation, or material change, or non-renewal. Insurance shall not be canceled until after ten (10) days prior written notice in the event of nonpayment of premium. Failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. All Certificates of Insurance and endorsements shall be delivered or sent via email to:  
[contracts@sccrtc.org](mailto:contracts@sccrtc.org)
4. The CONSULTANT agrees that the insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, the CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of the COMMISSION. In the event the CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, the COMMISSION



may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

5. If any insurance policy of CONSULTANT required by this AGREEMENT includes language conditioning the insurer's legal obligation to defend or indemnify COMMISSION on the performance of any act(s) by the named insured, then said insurance policy, by endorsement, shall also name the COMMISSION as a named insured. Notwithstanding the foregoing, both the CONSULTANT and its insurers agree that by naming the COMMISSION as a named insured, the COMMISSION may at its sole direction, but is not obligated to, perform any act required by the named insured under said insurance policies.
6. CONSULTANT shall do all things required to be performed by it pursuant to its insurance policies including but not limited to paying within five (5) workdays, all deductibles and self-insured retentions (SIR) required to be paid under any insurance policy that may provide defense or indemnity coverage to COMMISSION or any additional insured. If CONSULTANT'S insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this AGREEMENT so as to not prevent any of the parties to this AGREEMENT from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability.
7. CONSULTANT hereby grants to COMMISSION a waiver of any right of subrogation which any insurer of said CONSULTANT may acquire against the COMMISSION by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COMMISSION has received a waiver of subrogation endorsement from the insurer.
8. CONSULTANT shall cause the foregoing provisions to be inserted in all subcontracts for any work covered under this AGREEMENT, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

## **12. FEDERAL, STATE AND LOCAL LAWS.**

- A. CONSULTANT warrants that in the performance of this AGREEMENT, it shall exercise usual and customary professional care in its efforts to comply with



all applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and regulations promulgated thereunder. In the event of a conflict between the laws and lawful regulations of any government entities having jurisdiction over the project, the CONSULTANT shall notify COMMISSION of the nature and impact of such conflict. The COMMISSION agrees to cooperate and work with the CONSULTANT in an effort to resolve any conflict.

- B. Those laws, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on COMMISSION as a recipient of federal or state funds are imposed on CONSULTANT.

### **13. NON-DISCRIMINATION AND COMPLIANCE PROVISIONS.**

- A. The CONSULTANT'S signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Government Code 12990 et seq. and 2 CCR 11102. CONSULTANT and subconsultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- B. During the performance of this AGREEMENT, the CONSULTANT and its subconsultants shall not deny the AGREEMENT benefits to any person on the basis of race, color, sex, gender, religious creed, national origin, ancestry, physical disability (including HIV and AIDS status), mental disability, medical condition (e.g., cancer), genetic information, marital status, gender, gender identity, gender expression, age, sexual orientation, military, or veteran status. CONSULTANT and subconsultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Such action shall include, but not be limited to, the following: recruitment; advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government. Code §12990 et seq.) and the applicable regulations promulgated thereunder (.2 CCR 11000et seq.), the provisions of Government Code section 11135 to 11139.5, and the regulations of standards adopted by the COMMISSION to implement such article.



- D. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other AGREEMENT.
- E. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- F. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- G. CONSULTANT and its subconsultants shall permit access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by State to investigate compliance with this Article.
- H. In the event of CONSULTANT'S non-compliance with the non-discrimination clauses of this AGREEMENT or with any of the said rules, regulations or orders, the COMMISSION may cancel, terminate or suspend the AGREEMENT in whole or in part. CONSULTANT may also be declared ineligible for further agreements with the COMMISSION.
- I. The CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant must carry out applicable requirements of 49 CFR 26 in the award and administration of Federal-aid contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT, or such other remedy as the COMMISSION deems appropriate.
- J. CONSULTANT or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the COMMISSION'S components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or



methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

#### **14. TITLE VI ASSURANCES**

During the performance of this Agreement, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

- A. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this AGREEMENT.
- B. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate and shall set forth what efforts CONSULTANT has made to obtain the information.



- E. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  2. cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (A) through (E) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.
- G. CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the COMMISSION, State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
- H. During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
3. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;



4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and



12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**15. FEDERAL CERTIFICATIONS AND ASSURANCES.**

- A. CONSULTANT and all subcontractors shall comply, as applicable, with the Federal Highway Administration (FHWA) "Transportation Planning Process Certification" requirements in accordance with 23 CFR 450.336, as may be amended, and the federal transportation act and its successors thereto. It may include but is not limited to:
1. 23 U.S.C. 134,49 U.S.C. 5303, and this subpart;
  2. In nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
  3. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1), 49 CFR Part 21, and the Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794;
  4. Section 1101(b) of the FAST Act Pub. L. 114-357) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
  5. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR parts 27, 37, and 38;
  6. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
  7. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
  8. The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
  9. Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and
  10. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.



- B. CONSULTANT shall also comply with "Certifications and Assurances for Federal Transportation Administration (FTA) Assistance", including "Certifications and Assurances Required of Each Applicant" in compliance with 49 U.S.C. Chapter 53, published annually in the Federal Register and found online at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>

The 2025 FTA Certifications includes the following areas under "Assurances Required of Each Applicant:"

1. Authority of Applicant and its Representatives
2. Standard Assurances
3. Intergovernmental Review Assurance
4. Suspension and Debarment Certification
5. Lobbying Certification
6. U.S. OMB Assurances in SF-424B and SF-424D

**16. PROHIBITION OF EXPENDING COMMISSION, STATE, OR FEDERAL FUNDS FOR LOBBYING.**

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No State, federal or COMMISSION appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the State Legislature or United States Congress, or any employee of a Member of the Legislature or Congress, in connection with the awarding this AGREEMENT or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
2. If any funds other than state or federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any local, State, or federal agency; a Member of the State Legislature or Congress; an officer or employee of the State Legislature or Congress, or any employee of a Member of the State Legislature or Congress; in connection with the awarding or making of this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.



- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this AGREEMENT that they shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

## **17. CONFLICT OF INTEREST.**

- A. During the term of this AGREEMENT, CONSULTANT shall disclose any financial, business, or other relationship with COMMISSION that may have an impact upon the outcome of this AGREEMENT, or any ensuing COMMISSION construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT, or any ensuing COMMISSION construction project, which will follow.
- B. CONSULTANT certifies that it has disclosed to COMMISSION any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise COMMISSION of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either COMMISSION ordinance or State law.
- C. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

## **18. LICENSES.**

If a license or permit of any kind is required of CONSULTANT, its employees, agents, or subcontractors by federal or State law, CONSULTANT warrants that



such license or permit has been obtained, is valid and in good standing, that CONSULTANT shall keep it in effect at all times during the terms of this AGREEMENT, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

**19. DEBARMENT AND SUSPENSION CERTIFICATION.**

- A. CONSULTANT'S signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to the COMMISSION. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

**20. INDEPENDENT CONSULTANT STATUS.**

- A. CONSULTANT and COMMISSION have reviewed and considered the principal test and secondary factors herein and agree that CONSULTANT is an independent CONSULTANT and not an employee of COMMISSION. CONSULTANT is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONSULTANT is not entitled to any employee benefits provided by the COMMISSION, including any pension or PERS benefits. COMMISSION agrees that CONSULTANT shall have the right to control the manner and means of accomplishing the result contracted for herein.
  - 1. PRINCIPAL TEST: The CONSULTANT rather than COMMISSION has the right to control the manner and means of accomplishing the result contracted for.
  - 2. SECONDARY FACTORS: (a) The extent of control which, by agreement, COMMISSION may exercise over the details of the work is slight rather than substantial; (b) CONSULTANT is engaged in a distinct occupation or business; (c) In the locality where the work is to be done by CONSULTANT is usually done by a specialist without supervision, rather than under the direction of an employer; (d) The skill required



in the particular occupation is substantial rather than slight; (e) The CONSULTANT rather than the COMMISSION supplies the instrumentalities, tools and work place; (f) The length of time for which CONSULTANT is engaged is of limited duration rather than indefinite; (g) The method of payment of CONSULTANT is by the job rather than by the time; (h) The work is part of a special or permissive activity, program, or project, rather than part of the regular business of COMMISSION; (i) CONSULTANT and COMMISSION believe they are creating an independent CONSULTANT relationship rather than an employer-employee relationship; and (j) The COMMISSION conducts public business.

It is recognized that it is not necessary that all secondary factors support creation of an independent CONSULTANT relationship, but rather that overall there are significant secondary factors which indicate that CONSULTANT is an independent CONSULTANT.

- B. It is understood and agreed that CONSULTANT (including CONSULTANT'S employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONSULTANT'S assigned personnel, officers, employees, agents, or subconsultants shall not be entitled to any benefits payable to COMMISSION employees, including, but not limited to, healthcare, retirement, and leave benefits.
- C. CONSULTANT'S obligation to pay its subconsultant(s) is an independent obligation from COMMISSION'S obligation to make payments to the CONSULTANT.
- D. COMMISSION is not required to make any deductions or withholds from the compensation payable to CONSULTANT under the provisions of the AGREEMENT and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT'S assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the COMMISSION as to the designation of tasks to be performed and the results to be accomplished.
- E. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision and control of CONSULTANT. CONSULTANT hereby indemnifies and holds COMMISSION, its governing body, officers, employees, and agents, harmless from any and all claims that may be made against COMMISSION based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- F. Except as expressly authorized herein, CONSULTANT'S obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall



not subcontract any work, without the prior written approval of the COMMISSION. However, claims for money due or which become due to CONSULTANT from COMMISSION under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the COMMISSION.

## **21. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS.**

- A. CONSULTANT agrees that the AGREEMENT Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Part 31 or 2 CFR Part 200 are subject to repayment by CONSULTANT to COMMISSION.
- D. When a CONSULTANT or subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.
- E. Contractor and subcontractors shall establish and maintain, an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item (i.e., direct labor, other direct costs, subrecipients/subcontractor, etc.) and enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

## **22. RETENTION OF RECORDS/AUDIT.**

- A. For the purpose of determining compliance with Government Code section 8546.7, CONSULTANT, its subconsultants, and COMMISSION shall maintain and make available for inspection all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT, including but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT'S independent CPA, shall make such materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment



acquired with federal funds must be retained for three (3) years after final disposition. If any action has occurred relative to the records, the records must be retained until completion of the action and resolution of all issues that arise from it.

- B. The State, State Auditor, COMMISSION shall have access to any books, records, and documents of CONSULTANT, subconsultants, and its/their certified public accountants' (CPA) work papers that are pertinent to the AGREEMENT. CONSULTANT shall furnish indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof if requested.

### **23. INSPECTION OF WORK.**

The CONSULTANT and any subconsultant shall permit the COMMISSION and the State to review and inspect the project activities and files at all reasonable times during the term of this AGREEMENT including review and inspection on a daily basis if desired.

### **24. ACKNOWLEDGMENT.**

CONSULTANT shall acknowledge in all reports and literature that the material is prepared for and on behalf of the COMMISSION.

### **25. WORK PRODUCTS/OWNERSHIP OF DATA.**

- A. All material, data, information, and written, graphic or other work produced under this AGREEMENT shall be the property of COMMISSION, as such the material, data, information, and written, graphic or other work is subject to the unqualified and unconditional right of the COMMISSION to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for any purpose; and to authorize others to do so. CONSULTANT shall have no property right therein whatsoever.
- B. Immediately upon termination or expiration of this AGREEMENT or upon completion of all work under this AGREEMENT, the COMMISSION shall be entitled to and the CONSULTANT shall deliver to the COMMISSION reports, investigations, appraisals, inventories, studies, analysis, drawing and data estimates performed to date, whether completed or not, and other such materials as may have been prepared by CONSULTANT in performing this AGREEMENT (which is not CONSULTANT'S privileged information, as defined by law or CONSULTANT'S personnel information) along with all other property belonging exclusively to the COMMISSION which is in the CONSULTANT'S possession. Publication of the information derived from



work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by the COMMISSION.

- C. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of COMMISSION without restriction or limitation upon its use or dissemination by COMMISSION.
- D. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this AGREEMENT. Any reuse by COMMISSION for another project or project location shall be at COMMISSION'S sole risk.
- E. Applicable patent rights provisions regarding rights to inventions shall be included in the AGREEMENT as appropriate (48 CFR 27, Subpart 27.3— Patent Rights under Government Contracts for federal-aid contracts).
- F. The COMMISSION may permit copyrighting reports or other AGREEMENT products, subject to its rights in Section G below. If copyrights are permitted, the agreement shall provide that the COMMISSION shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.
- G. If any of the work is subject to copyright, trademark, service mark, or patent, CONSULTANT now grants to the COMMISSION a perpetual, royalty-free, nonexclusive and irrevocable license and/or right to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense and/or right.

## **26. CONFIDENTIALITY OF DATA.**

- A. All financial, statistical, personal, technical, or other data and information relative to COMMISSION'S operations, which are designated confidential by COMMISSION and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or disclosure pursuant to a public hearing held by COMMISSION relating to the AGREEMENT, shall



not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or COMMISSION'S actions on the same, except to COMMISSION'S staff, CONSULTANT'S own personnel involved in the performance of this AGREEMENT, at public hearings or in response to questions from a government entity.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by COMMISSION, and receipt of COMMISSION'S written permission.

**27. NATIONAL LABOR RELATIONS BOARD CERTIFICATION.**

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT'S failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

**28. DRUG-FREE WORKPLACE.**

CONSULTANT shall comply with the provisions of Government Code § 8350 et seq., regarding Drug-Free Workplace Certification, and with the U.S. DOT regulations "Drug-Free Workplace Requirements Grants" in 49 CFR Part 29, Subpart F.

**29. EVALUATION OF CONSULTANT.**

CONSULTANT'S performance will be evaluated by COMMISSION. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

**30. CHANGE IN TERMS.**

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties authorized to bind the



parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

- C. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the COMMISSION'S Contract Manager.

### **31. DISPUTES.**

This AGREEMENT shall be construed under the laws of the State of California. Pending final resolution of a dispute hereunder, CONSULTANT shall proceed diligently with the performance of this AGREEMENT and shall comply with COMMISSION'S instructions.

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after thirty (30) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit disputes, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of the COMMISSION'S Contract Manager and Executive Director, who may consider written or verbal information submitted by the CONSULTANT. The committee's determination regarding such dispute shall be the final administrative decision of the COMMISSION unless the committee determines, in its sole discretion, that the COMMISSION should provide the final administrative decision.
- B. Not later than 30 days after completion of all work under the AGREEMENT, CONSULTANT may request review by COMMISSION of unresolved claims or disputes, other than audit. The request for review will be submitted in writing and carried out in accordance with the process described in paragraph A.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse the CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

### **32. AUDIT REVIEW PROCEDURES.**

- A. CONSULTANT and subconsultants' contracts, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, an AGREEMENT Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the AGREEMENT, Cost Proposal (Exhibit X) and ICR and



related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review, it is CONSULTANT'S responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's workpapers, including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by COMMISSION Contract Manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by COMMISSION at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the COMMISSION, and/or Federal, State, or other local governments have access to CPA workpapers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

- B. CONSULTANT'S Cost Proposal (Exhibit X) may be subject to a CPA ICRA Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigation (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal (Exhibit X) shall be adjusted by the CONSULTANT and approved by the COMMISSION Contract Manager to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, COMMISSION will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.



Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%)—the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
  - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%)—the accepted rate will be eighty-five percent (85%) of the proposed rate.
  - c. If the proposed rate is greater than two hundred percent (200%)—the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
  3. If the CONSULTANT fails to comply with the provisions or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
  4. CONSULTANT may submit to COMMISSION final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of COMMISSION; and (3) IOAI has issued its final ICR review letter. The CONSULTANT must submit its final invoice to COMMISSION no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COMMISSION and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

### **33. SUBCONTRACTING.**

- A. The CONSULTANT is responsible for performing the work required under the AGREEMENT in a manner acceptable to COMMISSION , such acceptance will not be unreasonably withheld or delayed. The CONSULTANT'S organization and all associated consultants and subconsultants must be identified in Article 1 of this CONTRACT or the Cost Proposal (Exhibit X). If the CONSULTANT wishes to use a subconsultant not specified in this AGREEMENT or Exhibit X, prior written approval must be obtained from the Contract Manager. The subcontract must contain all



required provisions of this AGREEMENT. All subawards must include adequate oversight, management, and administration of engineering and design related consultant services and be administered in accordance with State laws and procedures specified in 23 U.S.C.106(g)(4) and 2 CFR 200.331.

- B. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between COMMISSION and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to COMMISSION for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT'S obligation to pay its subconsultant(s) is an independent obligation from COMMISSION'S obligation to make payments to the CONSULTANT.
- C. The CONSULTANT shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this AGREEMENT shall be subcontracted without prior written authorization by the COMMISSION'S Contract Manager, except that, which is expressly identified in the approved Cost Proposal (Exhibit X).
- D. CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.
- E. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal.
- F. All subcontracts entered into as a result of this AGREEMENT shall contain all the provisions stipulated in this AGREEMENT to be applicable to subconsultants.



- G. Any substitution of subconsultants must be approved in writing by the COMMISSION'S Contract Manager prior to the start of work by the subconsultant.
- H. The CONSULTANT hereby agrees that neither CONSULTANT, nor any firm affiliated with the CONSULTANT, will bid on or enter into any construction AGREEMENT, or on any AGREEMENT to provide construction inspection for any construction project resulting from this AGREEMENT. An affiliated firm is one which is subject to the control of the same persons through joint-ownership, or otherwise.
- I. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this AGREEMENT shall be eligible to bid on or enter into any construction contract, or on any contract to provide construction inspection for any construction project resulting from this AGREEMENT.

**34. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION.**

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks, or other unlawful consideration, either promised or paid to any COMMISSION employee. For breach or violation of this warranty, COMMISSION shall have the right in its discretion; to terminate the AGREEMENT without liability; to pay only for the value of the work actually performed; or to deduct from the AGREEMENT price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**35. CONTINGENT FEE.**

CONSULTANT warrants, by execution of this AGREEMENT, that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage or contingent, excepting bona fide employees or bona fide commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the COMMISSION shall have the right to annul this AGREEMENT without liability, or at its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**36. EQUIPMENT PURCHASE.**

- A. Prior authorization in writing, by COMMISSION'S Contract Manager shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT



services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

- B. For purchase of any item, service or consulting work not covered in CONSULTANT'S Cost Proposal (Exhibit X) and exceeding \$5,000, with prior authorization by COMMISSION'S Contract Manager, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- C. Any equipment purchased as a result of this AGREEMENT is subject to the following:
  - 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, COMMISSION shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit COMMISSION in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COMMISSION procedures; and credit COMMISSION in an amount equal to the sales price.
  - 2. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT'S expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by COMMISSION and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COMMISSION.

### **37. NOTIFICATION.**

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed or emailing with delivery receipt requested as follows:

CONSULTANT:

Firm  
Project Manager  
Address Line 1  
Address Line 2  
Email Address



COMMISSION:

Santa Cruz County Regional Transportation Commission  
Amin AbuAmara, Director of Capital Projects  
1101 Pacific Avenue, Suite 250, Santa Cruz, CA 95060  
[AAbuAmara@sccrtc.org](mailto:AAbuAmara@sccrtc.org)

**38. FORCE MAJEURE.**

Neither COMMISSION nor CONSULTANT will be liable for any breach or failure to perform under this AGREEMENT or any other documents incorporated by reference herein if such breach or failure to perform is due to acts beyond the reasonable control of such party, which include by way of illustration, but not limitation, acts of God or public enemy, acts of federal, state, or local government, either in its sovereign or contractual capacity, fire, floods, epidemics, pandemics, and quarantines, civil disobedience, strikes, lock-outs, freight embargoes, or severe weather provided, however, that party which has been so affected will promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) therefore. The party claiming force majeure shall promptly notify the other party of the termination of the event and shall resume its performance under this AGREEMENT immediately upon the cessation of such cause(s). During the period that the performance by one of the parties of its obligations under this AGREEMENT has been suspended because of an event of force majeure, the other party may likewise suspend the performance of its obligations under this AGREEMENT to the extent that the suspension is reasonable.

**39. COMPLETE AGREEMENT.**

- A. AGREEMENT: The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named COMMISSION, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.
- B. COMMISSION DESIGNEE: The Executive Director of COMMISSION, or his or her designee, shall have the authority to act for and exercise any of the rights of COMMISSION as set forth in this AGREEMENT subsequent to, and in accordance with the authorization granted by the COMMISSION.
- C. COMPLETE AGREEMENT, INCLUDING ATTACHMENTS. This AGREEMENT includes all exhibits, attachments, and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the AGREEMENT between



COMMISSION and CONSULTANT, and supersedes all prior representations, understandings and communications. The invalidity in whole or in part of any term or condition of this AGREEMENT shall not affect the validity of other terms or conditions. The COMMISSION'S waiver of CONSULTANT'S performance of any term(s) or condition(s) of this AGREEMENT shall not be construed as a waiver for any future performance of such term(s) or conditions(s).

D. Attachments

Exhibit A: Scope of Services

Exhibit B: Project Schedule

Exhibit C: Cost Proposal

Exhibit D: St. Paul & Pacific Railroad Right of Entry Guidelines for Document Submission

Exhibit E: Disclosure of Lobbying Activities, Standard Form (*LAPM Exhibit 10-Q*)

Exhibit F: Levine Act Statement

Each of the undersigned represents and warrants that they are each duly authorized to execute and deliver this AGREEMENT and that such execution is binding upon the entity for which they are executing this document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. <<TPXXXX>> to be executed on the date first written above.



**SIGNATURE PAGE**

**Agreement No. <<TPXXXX>>**

**1. CONSULTANT:**

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

Date \_\_\_\_\_

Company Name  
Address Line  
Address Line 2  
Telephone  
Email

**2. SANTA CRUZ COUNTY REGIONAL  
TRANSPORTATION COMMISSION:**

By \_\_\_\_\_  
*Sarah Christensen*  
Executive Director

Date \_\_\_\_\_

1101 Pacific Avenue, Suite 250  
Santa Cruz, CA 95060  
(831) 460-3200  
[info@sccrtc.org](mailto:info@sccrtc.org)

**3. APPROVED AS TO FORM:**

By \_\_\_\_\_  
*Steve Mattas*  
RTC Counsel

Date \_\_\_\_\_

**4. APPROVED AS TO INSURANCE:**

By \_\_\_\_\_  
*Yesenia Parra*  
RTC Administrative Services Officer

Date \_\_\_\_\_

Distribution:

RTC Contract Manager, RTC Contract Coordinator, CONSULTANT



## Attachment B: Sample RTC Work Plan

	Prime (DBE/Non-DBE)			Subconsultant 1 (DBE/Non-DBE)			Subconsultant 2 (DBE/Non-DBE)			Total Hours
	Title 1	Title 2	Total Hours	Title 1	Title 2	Total Hours	Title 1	Title 2	Total Hours	
Task A Task Name										
A.1 Sub-Task Name										
A.2 Sub-Task Name										
A.3 Sub-Task Name										
Subtotal Task A										
Task B Task Name										
B.1 Sub-Task Name										
B.2 Sub-Task Name										
B.3 Sub-Task Name										
Subtotal Task B										
Task C Task Name										
C.1 Sub-Task Name										
C.2 Sub-Task Name										
C.3 Sub-Task Name										
Subtotal Task C										
Task D Task Name										
D.1 Sub-Task Name										
D.2 Sub-Task Name										
D.3 Sub-Task Name										
Subtotal Task D										
<b>Total Hours</b>										

