

January 7, 2021

SUBJECT: REQUEST FOR PROPOSALS
SHARED AUTONOMOUS VEHICLE ENGINEERING SUPPORT SERVICES
#2021-01

The Livermore Amador Valley Transit Authority (LAVTA or Authority), operator of the Wheels bus system, is soliciting proposals from qualified firms to provide professional engineering support services for the Shared Autonomous Vehicle (SAV) Project as described in the Scope of Work attached as Attachment 1.

Please submit a contact email to ttran@lavta.org to be notified of any addenda issued for this procurement. All Questions and Requests for Clarification must be submitted in writing by **January 11, 2021 at 4:00 p.m. PST**, and indicate the email address(es) to which LAVTA will provide responses by **January 15, 2021**. There is no scheduled pre-proposal conference. Proposals must be received via email or at the LAVTA Administrative Offices by **January 22, 2021 at 2:00 p.m. PST**. **No proposals or amendments to proposals received will be accepted after this time and date.** Submission of a proposal shall constitute a firm offer to LAVTA. No Proposer may withdraw its proposal for a period of one hundred twenty (120) days after the opening of proposals. Each Proposer will be notified of award of contract, if award is made. LAVTA reserves the right to reject any and all proposals, or to waive any irregularities or informalities in any proposal or in the proposal procedure, or to postpone the proposal opening for good cause. LAVTA specifically reserves the right to not award a contract after the submittal of Proposals. More details regarding the solicitation process are contained in Attachment 2.

Following the initial review and screening of timely-submitted proposals, one or more firms may be invited to attend an interview and give a presentation of their proposal to LAVTA from January 25, 2021 (estimated date). LAVTA's request for an interview/presentation shall not constitute acceptance of a proposal. Contract will be awarded on January 29, 2021 (estimated date).

Proposers are directed to submit one (1) hard copy in a separate sealed envelope or one (1) electronic copy on a CD, USB drive, or via email of their Technical Proposal; and one (1) hard copy in a separate sealed envelope marked CONFIDENTIAL or one (1) electronic copy on a separate CD, USB drive, or via email of their Cost Proposal. Each Proposal shall be clearly marked indicating the Proposer's name and address, the solicitation name, and Proposal type (i.e., Technical or Cost).

Proposals shall be submitted to the following:

**Livermore Amador Valley Transit Authority
1362 Rutan Court, Suite 100
Livermore, CA 94551
Attention: Toan Tran**

OR to: ttran@lavta.org

LAVTA intends for this procurement to be primarily conducted electronically via distribution on the procurement page of www.wheelsbus.com; however, upon request, copies of the RFP may be obtained by contacting LAVTA at (925) 455-7562.



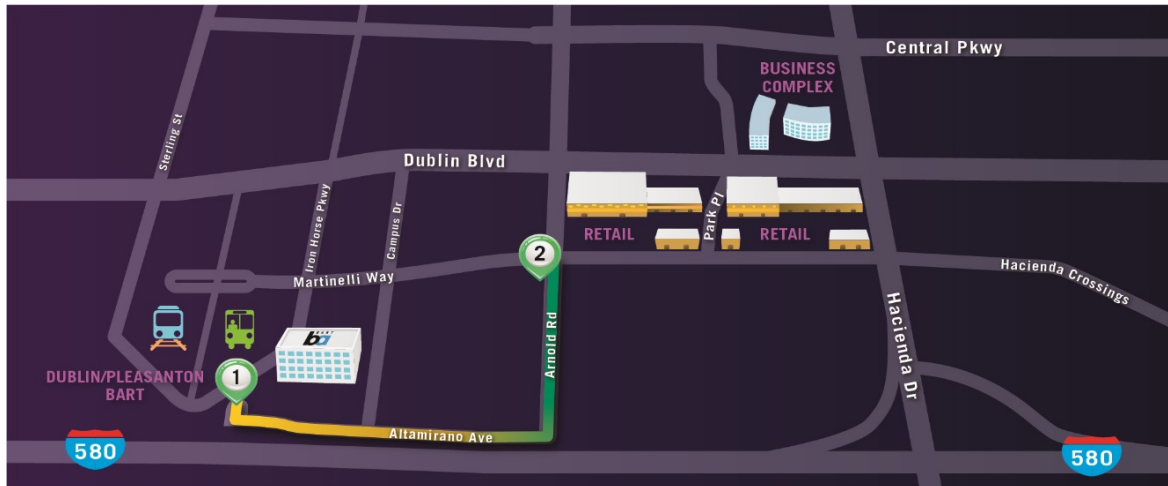
Toan Tran
Director of Operations and Innovation
Livermore Amador Valley Transit Authority

1/7/2021
Date

SCOPE OF WORK

Project Overview

Livermore Amador Valley Transit Authority (LAVTA) has been pursuing advanced technologies and programs to further the goal of providing a seamless first/last mile connection for its patrons to regional transit services, such as BART. As part of this effort, LAVTA has led the testing of the Shared Autonomous Vehicle (SAV) on public roadways near the East Dublin/Pleasanton BART Station in Dublin. The purpose of the testing work is to evaluate transit operations and safety for public use of SAVs either on a fixed route or as an on-demand service.



Phase I

The SAV testing project was divided into two phases. Phase I (see map above) was started in June 2020 and has been focused on the area around the BART Station. Phase II (see map below) was planned to follow Phase I by expanding the testing area to include business and employment centers near the East Dublin/Pleasanton BART Station including travelling along and/or crossing Dublin Boulevard in Dublin.



Phase II

The following are the key tasks for the Phase II SAV testing project feasibility study requested of the Contractor:

Evaluate SAV Transit Hub Location

Contractor will evaluate locating a Transit Hub inside the business complex area located north of Central Parkway as shown in the map of LAVTA'S Phase II proposed route. Contractor will address the required Transit Hub space area, location and hub accessibility, SAV turnarounds/stops, storage for SAV and supporting equipment, SAV charging facility, fare collection infrastructure, stop and shelter elements, and any other physical and technical features. Contractor will create a location ranking matrix that will be discussed and finalized with LAVTA's staff input.

It is assumed that locating a Transit Hub on private property would require more legal and institutional resources compared to establishing a Transit Hub in a public Right-of-Way. More resources may be needed because private property owners may have additional liability and security concerns for public shuttles accessing their property.

Contractor will assist LAVTA in securing access and circulation agreements with the private property owners. Contractor will also coordinate with the City of Dublin and assist LAVTA in securing any approvals needed for establishing an SAV Transit Hub at the proposed location. LAVTA also would like to establish a second SAV transit hub in the vicinity of East Dublin/Pleasanton BART Station. Since the second SAV transit hub location has not been determined, Contractor will assist LAVTA in evaluating the second hub location as part of the on-call services.

Evaluate Transit Hub Amenities

LAVTA would like to incorporate active transportation features into the SAV Transit Hub. These features may include ridesharing transportation network companies (TNCs) like Uber, Lyft, and yellow cab, and bike and scooter shares, etc. Bike and scooter parking and storage spaces will also be a key component in the evaluation of the site.

A crucial aspect of this evaluation will also be to connect active transportation options to bring employees and residents within a mile of the Transit Hub. This would require ensuring seamless connectivity to adequate bicycling and walking infrastructure like bike lanes and sidewalks. If there are any gaps in this infrastructure, Contractor will provide recommendations on eliminating or minimizing such gaps. Contractor will also evaluate various existing TNCs partnership models and provide LAVTA with a matrix of partnership options for consideration, such as trip subsidy levels based on distance ranges, as well as the standard partnership agreements required by each TNC. Should LAVTA decide to partner with a TNC, Contractor will assist LAVTA in finalizing any required agreements.

Deliverables

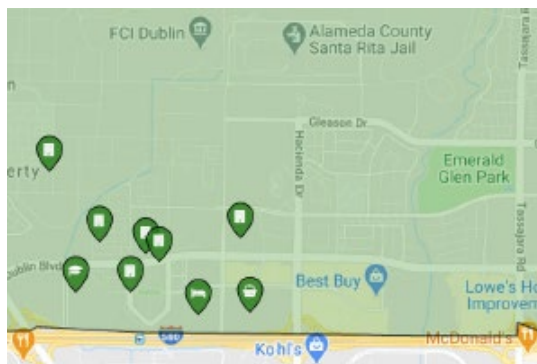
Contractor will prepare a draft SAV Phase II implementation feasibility report for LAVTA. Contractor will prepare and submit a final report addressing one set of non-conflicting comments from LAVTA staff. It is assumed that Contractor staff will continue to work closely with LAVTA staff and will ensure an on-going communication. Cost estimates should include budget for Contractor to have an on-going project check-in with LAVTA staff on a biweekly basis.

On-Call Services

In addition to the tasks above, Contractor will provide a separate budget for on-call services that will be billed at on a time and materials basis. Contractor will only use this budget after receiving authorization from LAVTA. The work may include attending meetings, providing expert advice on technical issues, coordinating with the City, MTC, SAV vehicle manufacturers, signal communication system vendors, etc., and any other SAV testing related work authorized by LAVTA. Below is an example of a few of the on-call tasks that might be needed to further the goals of the Phase II SAV testing project.

Evaluation of Dedicated Lanes

As shown in the map below of City of Dublin's Community Development Department's current development activity, a significant number of residential and commercial units are being built in the vicinity of the East Dublin/Pleasanton BART Station. It should also be noted that many of these new developments are located north of Dublin Boulevard. While this map shows the current development activity, a significant number of existing businesses and homes are already located in this area. It is expected that there would be more upcoming projects in the area surrounding the East Dublin/Pleasanton BART Station.



Considering the operating speed of the SAV, it is possible that a dedicated lane will be required for the SAV to safely traverse along the proposed route. This would require additional space along Arnold Road and Central Parkway. Contractor will evaluate the challenges and opportunities associated with operating an SAV service along the proposed route as shown in the Phase II map. Since the proposed route traverses along both public and private properties, Contractor will take the lead in coordinating with the City of Dublin and private property owners to obtain the necessary approvals and assist LAVTA with finalizing any pertinent access agreements.

Traffic Signal Communication Evaluation - Crossing or Travelling along Dublin Boulevard.

As discussed above, the SAV Transit Hub location on the north side of Dublin Boulevard will require the vehicle to cross Dublin Boulevard at Arnold Road. This aspect of the evaluation is most challenging since there has been limited testing done to fully integrate the two-way communication between an autonomous vehicle and a traffic signal controller on a public street. Most of the existing testing has been limited to one-way communication where the signal controller data is transmitted to the vehicle, but not the vehicle data/commands back to the controller.

The other challenge that an autonomous vehicle must contend with is to have the data communication be transmitted at a much faster rate than a normal application of Transit Signal Priority (TSP) type

application. The reason for that is the type of data/commands (safety-critical Signal Phase and Timing messages (SPaT)) that is required for an autonomous vehicle's operation at a traffic signal.

Phase I SAV testing work does not include communication of traffic signal operations between the SAV and the traffic signal controller. Generally, such communications are accomplished through Dedicated Short-Range Communication (DSRC) radios that are installed in the field near a traffic signal and are commonly referred to as Roadside Units (RSUs). The RSUs link traffic signal operational data to the SAV's on-board communication unit (OBU). However, due to recent changes to the Federal Communications Commission (FCC) rules on DSRC radio communication, this approach may not be viable anymore. There are other field communication approaches that are currently being tested in the USA. These include the Cellular to Vehicle-Everything or CV2X technology for existing 4-G cellular systems or newer 5-G networks for direct field communication similar to DSRC RSUs, and fiber optic linked communication between the traffic signal operation center and the transit operation center to provide seamless traffic signal messages to the SAV. Each of these approaches have their pros and cons and would require an evaluation of the factors discussed above.

Contractor will build upon the Phase I SAV testing work to review and evaluate communication between the SAV and the traffic signal controller. Contractor will also evaluate the feasibility of crossing a busy signalized intersection by applying TSP and/or transit queue-jump approaches. The City of Dublin has installed queue-jumps at several busy intersections along Dublin Boulevard. Contractor will work closely with City of Dublin's Transportation Division staff to evaluate and recommend a strategy for a safe approach and departure of SAV vehicles at a traffic signal to implement in Phase II of the testing project.

Ridership Forecast

It is anticipated that two scenarios will be developed: one without Valley Rail Link being operational and one with it being operational. While it is impossible to provide a definite forecast as there are many variables that can impact ridership including some that cannot be anticipated (e.g., external events that impact travel), more data translates to a better forecast. At a minimum, Contractor would be asked to complete research necessary to project employment and residential population within the walkshed of the shuttle for the forecast year(s). It is also important to have travel data – where employees are commuting from and where residents are commuting to. Since the focus is on future employees and residents, travel patterns of existing employees and residents in existing nearby comparable developments can serve as a proxy. The anticipated hours and days of operation will also impact the forecast. For example, if the shuttle is anticipated to only operate in typical commute hours; work trips will be the focus of the forecast. However, if intended to operate all day and possibly weekends then all other trip types will need to be considered.

The reason for two scenarios is that if Valley Rail Link is not operational, the forecast will focus on trips to and from the west of the Dublin area. If Valley Rail Link is operational, then trips to and from the east will also be factored. Any plans for expanded express bus service along the I-680 corridor serving the East Dublin/Pleasanton hub will also need to be known as that will impact potential shuttle customers.

Conceptual Layouts and Plans

It is expected that some work will be required of Contractor to produce SAV route mapping and similar overlays that could be used by LAVTA for public outreach or for pursuing grant/funding opportunities.

I. SOLICITATION PROCESS

A. Solicitation Timeline

The Authority intends to adhere to the timeline stated in the Invitation. However, the stated timeline may be amended at the Authority's sole discretion.

B. Submission of Questions and Requests for Clarification

All questions and/or requests for clarification must be submitted in writing. The Authority's written response to questions and/or requests for clarification will be provided by January 15, 2021 via email. Please refer to the solicitation timeline in the Invitation in this RFP for date and time deadlines.

C. Addenda to RFP

The Authority reserves the right to amend this RFP at any time. Any amendments to or interpretations of the RFP must be described in written addenda. Please submit a contact email to ttran@lavta.org to be notified of addenda.

Proposers that accessed any of the documents of the RFP will be notified of the issuance of any Addenda or response to requests for clarification. Only signed Addenda are binding. Proposers are required to acknowledge receipt of all Addenda, if any, during the submission of their proposals.

Failure of any prospective Proposer to receive the notification or addenda does not relieve the Proposer from any obligation under the RFP as clarified, interpreted or modified. All addenda issued must become part of the RFP. Proposers must acknowledge the receipt of each individual addendum in their proposals. Proposer's failure to acknowledge in its proposal receipt of addenda may, at the Authority's sole option, cause the proposal to be rejected.

If the Authority 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 Authority determines will allow Proposers sufficient time to revise their proposals. Any new due date will be included in the addenda.

D. Submission of Proposals

Proposals must be received via email to ttran@lavta.org or at the LAVTA Administrative Offices by 2:00 p.m. PST on January 22, 2021. No proposals or amendments to a proposal received will be accepted after this time and date.

E. Cost of Proposal Development

This RFP does not commit the Authority to enter into an Agreement, to pay any costs incurred in the preparation or presentation of a proposal, nor to procure or

contract for any services. The Proposer waives any claim against the Authority for costs incurred in preparing a Proposal and responding to this RFP.

F. Validity of Proposals

Submission of a proposal constitutes a firm offer to the Authority for 120 days from the submission deadline for proposals.

G. Withdrawal of Proposals

A Proposer may withdraw its proposal, without prejudice, by sending an email to tran@lavta.org prior to the proposal closing date and time. The withdrawal of a proposal does not prejudice the right of a Proposer to submit another proposal within the time set for receipt of proposals.

After the proposal due date, a proposal may be withdrawn only if Authority fails to award the Agreement within the proposal validity period prescribed above in Section F, Validity of Proposals, or any agreed-upon extension thereof.

H. Evaluation of Proposals and Selection Process

Proposals will be screened to ensure Proposer(s)' responsiveness to the requirements of the RFP and the responsibility of the proposing consultant. A proposal will be considered responsive only if it complies in all material respects to the requirements of the RFP. The Authority intends to award a contract to the highest ranked, most qualified, responsible Proposer that submits a responsive proposal.

The Authority may reject as non-responsive any proposal that does not include the required documents referenced herein. However, the Authority reserves the right to request additional information and clarifications during the evaluation and selection process from any or all Proposers regarding their proposals.

1) Selection Committee

A Selection Committee (Committee), which will include members of staff and possibly one or more outside experts, will review the technical proposals submitted and rank them according to the weighted criteria of each category as set forth in the process below. The Authority reserves the right to request additional information and clarifications during the evaluation and selection process from any or all Proposers regarding their proposals.

The Committee's composite scores for all steps of the evaluation process will comprise the official record for the proposal evaluation process; individual evaluation records will not be available for public inspection at any point during or after the evaluation process. By submitting a proposal, Proposers agree to be bound by these terms and will not later challenge said terms.

2) Proposal Evaluation Process

The Proposers' technical proposal will be evaluated utilizing the criteria identified below. In ranking proposals, the Authority will consider the proposal material submitted, oral interviews (if any are held) and any other relevant information about a given Proposer (i.e. references). The Authority will not assume that a Proposer possesses any capability unless such a capability is established by the submitted proposal.

Proposals will be evaluated using the Evaluation Criteria described below and assigned points per criteria as indicated:

Evaluation Criteria	Max Points
<p>Company Qualifications, Experience & References</p> <p>A. The professional, technical and managerial qualifications and experience of personnel named in the proposal, including the proposed Project Manager</p> <p>B. Previous relevant experience which demonstrates capability to successfully manage work</p> <p> 1) Years of experience</p> <p> 2) Extent of experience applicable to this work</p> <p>C. Proven experience in developing innovative or advanced techniques</p> <p>D. References from vendor partners and/or clients with similar completed projects</p>	30
<p>Qualifications and Experience of Key Personnel</p> <p>A. Size of firm and years in business</p> <p>B. Experience in providing similar relevant services; identifying how such services relate to this solicitation and the dollar value</p> <p>C. Experience in successfully managing work directives, work schedules and controlling costs</p> <p>D. Qualifications of principals and associates</p> <p>E. On-Call Team Organization</p>	35
<p>Project Understanding and Management Plan</p> <p>A. Approach to the scope of work as noted in Attachment 1, Scope of Work, including transit hub evaluation procedures, standards, and requirements, and deliverables</p> <p>B. Clear outline of what services will be provided within this contract and what will be provided on-call</p> <p>C. Rationale for proposed on-call team organization</p> <p>D. Work Directive management plan</p>	35

1) Negotiation of any subconsultant(s)' proposals prior to submittal to the Authority 2) Cost and schedule management E. Subconsultant Management Plan, if applicable	
Total =	100

I. Interviews

Following the initial review and screening of technical proposals, one or more Proposers may be invited to participate in the next step of the selection process. This step may include the submission of additional information, as described below, and/or participation in an oral interview. If the Authority conducts interviews, it will do so with those Proposers found to be within the “competitive range.” Attendees at an interview should be restricted to those individuals who will have direct involvement with provision of the Services. The Authority expects that, at a minimum, the proposed Project Manager will attend the oral interview; other key personnel may also attend.

J. Revised Proposals, Interviews and Negotiations

The Authority reserves the right to negotiate with any individual(s) or qualified firm(s), to request revised proposals, to visit the Proposer(s)' site(s), to interview or not, or to request best and final offers (BAFOs), if it is in the best interest of the Authority to do so. During this step, the Committee will evaluate information submitted by Proposers in the competitive range. Upon completion of this step in the selection process, the Committee will re-rank the firms remaining in the competitive range, in accordance with the evaluation criteria set forth above.

The Authority also reserves the right to further reduce the competitive range at any time during this step of the evaluation and selection process and the Authority may hold simultaneous discussions with those proposers that remain in the competitive range. Proposers who are no longer in the competitive range, and will therefore not continue to the final step of the selection and evaluation process, will be notified as soon as it is practicable.

The Authority will open the cost proposal from the top-ranked firm only and it may accept the proposal or negotiate the cost and exceptions taken to the Sample Agreement, if any. If negotiations are unsuccessful, the Authority will terminate the negotiations with that firm and may open negotiations with the next highest-ranked firm. If negotiations with this firm are also not successful, the Authority may repeat the negotiations process with the next-highest ranked firm or, at its sole discretion, the Authority may reject all remaining proposals. The Authority, however, may award an Agreement(s) without conducting interviews or negotiations.

K. Contract Award

The Selection Committee will make a recommendation of award of Agreement(s), if any, to the Authority's Board of Directors, or designee. All Proposers will be

notified of the recommended award in writing. No Agreement will be in force until a written authorization to proceed is issued by the Authority.

The successful Proposer(s), to whom award is made, must execute a written Agreement for Services on the Authority's provided form as set forth in Appendix 1 within 14 calendar days after Proposer(s) receive the form of Agreement for execution.

L. Protest Procedures

The Authority maintains written procedures that must be followed for all protests. Protests based upon restrictive specifications or alleged improprieties in the proposal procedure which are apparent or reasonably should have been discovered prior to receipt of proposals must be filed in writing with the Authority's Executive Director, at least **five (5) calendar days** prior to Proposal due date. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to submission date of the proposals, such as disputes over the staff recommendation for contract award, must be submitted in writing to the Executive Director, within **five (5) calendar days** from receipt of the notice from the Authority advising of staff's recommendation for award of contract. The protest must clearly specify in writing the grounds and evidence on which the protest is based. The Executive Director will respond to the protest in writing at least **three (3) calendar days** prior to the meeting at which staff's recommendation to the Authority's Board of Directors will be considered. Should Proposer decide to appeal the response of the Executive Director, and pursue its protest at the Board meeting, it will notify the Executive Director of its intention at least **two (2) calendar** days prior to the scheduled meeting(s).

Failure to comply with the rules set forth herein may result in rejection of the protest. Copies of the complete protest procedures are available from the Authority.

M. Ex-Parte Communications

Proposers and Proposers' representatives must communicate in the manner set forth in this RFP. All such communication must be directed to the Director of Operations and Innovation named in this RFP until after a Notice to Proceed has been issued by the Authority. There must be no communication with any officer, director, employee, or agent of the Authority, except as may be reasonably necessary to carry out the procedures specified in this RFP.

Proposers and Proposers' representatives may not communicate with the Authority's Board members except in writing and if the communication is made public. Nothing herein prohibits Proposers and their representatives from making

oral statements or presentations in public to one or more representatives of the Authority during a public meeting.

N. Confidentiality

1) Confidentiality and Waiver of Claims

a. The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) (CPRA) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of the proposal, as well as any other written communication between Authority and the Proposer, is a public record that must be made available to the public.

b. If the Proposer believes any communication contains information exempt from disclosure under the CPRA, including trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer must request that the Authority withhold from disclosure the exempt information by submitting:

(i) an unredacted copy of the proposal marking each page containing such exempt information as confidential; and

(ii) a redacted copy of the proposal that redacts the purportedly exempt information; and

(iii) a separate "confidentiality index" including all of the following information:
(a) The section and page number of the proposal where the information is located; and

(b) An explanation of why the information is exempt from disclosure under the CPRA.

c. By submitting a proposal, Proposer:

(i) consents to the release of the redacted version of the proposal; and

(ii) consents to the release of any portion of its proposal not included in the confidentiality index; and

(iii) waives all claims against the Authority, its directors, officers, employees and agents, for the disclosure of such information.

d. If the Proposer does not include a confidentiality index in its proposal, the Authority will have no obligation to withhold any information from disclosure and may release the information sought without liability to the Authority.

- e. In the event of conflicts between the redacted version, the confidentiality index, and confidentiality designations in the body of the proposal, the redacted version prevails.
- f. A Proposer may not designate its entire proposal as confidential. The Authority will not honor such designations and will disclose submittals so designated to the public without liability to the Authority.

2) Confidentiality Indemnity

Upon receipt of a request pursuant to the CPRA seeking proposal material relating to this RFP, the Authority may provide the redacted version of the proposal, or may withhold material designated in the confidentiality index that is exempt from disclosure. If the Authority determines that information in the confidentiality index is not exempt from disclosure, the Authority will give reasonable notice to the Proposer prior to releasing any material listed in the confidentiality index.

By submitting a proposal, Proposer agrees to indemnify, defend, and hold harmless the Authority, its directors, officers, employees and agents, from any and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all cost and expenses, including attorneys' fees, related to the withholding of the information included in the confidentiality index or in the redacted version of the proposal. If Proposer fails to accept a tender of a defense, the Authority reserves the right to resolve all claims at its sole discretion, without limiting any rights stated herein.

O. Waiver

By submitting a Proposal, the Proposer represents and warrants that it has sufficiently informed itself in all matters affecting the performance of the work or the furnishing of the labor, supplies, material, or equipment called for in the Agreement; that Proposer has checked its Proposal for errors and omissions; that the prices stated in its Proposal are correct and as intended by it and are a complete and correct statement of its prices for performing the work or furnishing the labor, supplies, materials, or equipment required by the Agreement.

P. Authority's Rights

The Authority reserves the right to cancel the procurement in whole or in part, at its sole discretion, at any time before the Agreement is fully executed and approved on behalf of the Authority. This RFP does not commit the Authority to award an Agreement(s), to pay any costs incurred in the preparation of the proposal for this request, or to procure or contract for services. The Authority reserves the right to modify or cancel in whole or in part this RFP, to reject any and all proposals, to accept the proposal it considers most favorable to the Authority's interest in its sole discretion, and to waive irregularities or informalities in any proposal or in the

proposal procedures. The Authority further reserves the right to reject all proposals and seek new proposals when the Authority considers such procedure to be in its best interest.

If there is any evidence indicating that two or more Proposers are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the proposals of all such Proposers must be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by the Authority.

II. CONTRACTUAL REQUIREMENTS

A. Agreement for Services

The selected Proposer(s) for the provision of the Services will each be required to execute an Agreement with the Authority describing the Scope of Work to be performed, compensation, insurance requirements and other pertinent provisions. This agreement must follow the Sample Agreement. **All Proposers are directed to review all of the terms and conditions set forth in the Sample Agreement, particularly the indemnification and insurance requirements.**

Submittal of a proposal must be deemed acceptance of all of the terms set forth in this RFP and the Sample Agreement unless the Proposer(s) includes with its proposal, in writing, any modifications requested to the RFP and/or Sample Agreement. All requests for exceptions must be in writing, separately identified, and delineated for each task, Technical Specification, or other item. The Authority reserves the right to request further clarification of any requested exception during negotiations and to exclude unacceptable exception(s). No exceptions may be requested after the deadline for the submittal of proposals.

Attachment 3

PROPOSED LAVTA AGREEMENT

THIS AGREEMENT, ("Agreement") made and entered into this ___ day of ___, 2021 by and between the **Livermore Amador Valley Transit Authority** (Authority), and _____ (Consultant).

WITNESSETH

WHEREAS, Authority desires to obtain **Engineering Support Services** (Project) and has issued an informal Request for Proposals dated _____, 2021 (which is attached hereto and incorporated as Attachment 1); and

WHEREAS, Consultant is qualified and willing to provide said On-Call Engineering Consulting Services and has submitted a proposal dated _____, 2021 (which is attached hereto and incorporated as Attachment 3).

NOW, THEREFORE, Authority and Consultant agree as follows:

1. RENDITION OF SERVICES

The Consultant agrees to perform services to Authority in accordance with the terms and conditions of this Agreement.

2. SCOPE OF SERVICES

Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services described in Attachment 1, as supplemented by Attachment 2, except when inconsistent with Attachment 1.

3. SCHEDULE AND TIME OF COMPLETION

A. Task Order Performance Period

The Consultant's performance of services for each Task Order shall commence upon receipt of written authority to proceed from LAVTA's Planning Director for the respective Task Order and the Consultant shall complete the services within the time frame specified in the Task Order.

B. Agreement Performance Period

Task Orders may be issued against this Agreement any during the three-year base term, from the effective date of this Agreement, with LAVTA's unilateral option to extend this period for up to two additional one-year terms. Terms of individual Task Orders may exceed the Agreement term. Task Orders will be issued on either a Firm-Fixed-Price (FFP) or Cost-Plus-Fixed-Fee (CPFF) with ceiling compensation basis. This Agreement will remain in full force and effect until all outstanding services under the Task Orders are completed or terminated.

It is further understood that the base term of the Agreement or any option term(s) granted thereto are subject to the LAVTA's right to terminate the Agreement in accordance with Section 12 of this Agreement.

4. COMPENSATION AND METHOD OF PAYMENT

Consultant agrees to perform the services to be specified in each Task Order in accordance with the terms and conditions of this Agreement. At the discretion of LAVTA, compensation for each Task Order performed under this Agreement will be either firm-fixed-price (FFP) or Cost-Plus-Fixed-Fee (CPFF) with ceiling. Each Task Order shall follow the process set forth in Attachment 1.

It is expressly understood and agreed that in no event shall Consultant commence work without a mutually agreed upon Task Order. Further, it is expressly understood and agreed that in no event shall Consultant be compensated in an amount greater than the amount specified in any individual Task Order for the services performed under such Task Order without issuance of a written Amendment to such Task Order by LAVTA's authorized representative.

If at any time, Consultant has reason to believe that the total compensation payable for the performance of services under this Agreement will exceed the maximum not-to-exceed amount as set for in the Task Order, Consultant shall notify LAVTA immediately in writing to that effect, indicating the estimated additional amount necessary to complete the services in the Task Order. Any cost incurred by Consultant in excess of the not-to-exceed amount as set forth in the Task Order shall be at Consultant's own risk.

Further, it is understood that execution of this Agreement does not guarantee any amount of services and/or dollar expenditure to be provided under the Agreement to Consultant.

A. Firm-Fixed-Price Compensation Basis

The firm fixed price for each Task Order shall include all labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs and all other costs and expenses incurred by the Consultant. Compensation for Firm-Fixed-Price Task Orders is negotiable.

B. Cost-Plus-Fixed-Fee with Ceiling Compensation Basis

Compensation will be allowable only to the extent that estimated costs and costs incurred are compliant with Federal cost principals contained in Title 48, Code of Federal Regulations, Part 31. Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under these Federal cost principals are subject to repayment by Consultant to LAVTA.

On an annual basis, 60 days before the start of the succeeding contract/Agreement year, Consultant shall submit proposed multipliers (as defined below) for Payroll Burden, Employee Benefits, Home Office, and Dedicated Field Office, to the Contract Officer for approval by LAVTA. Upon approval by LAVTA, the multipliers shall remain in effect for the contract/Agreement year.

Initial proposed rates shall be negotiated and shall be firm for the first year of the Agreement. LAVTA intends to negotiate direct and indirect (overhead) cost rates based on the agreed-upon previous-year contract rates, audited rate history and the maximum profit/fees as set forth below (Maximum Fees for Cost Plus Fixed-Fee (CPFF) with Ceiling Type Task Orders).

Negotiated hourly rates shall be fixed and used as the billing rate for the first year of the agreement. For the second or subsequent years of the Agreement term, increases in future negotiated Direct Labor Rates shall be limited to the equivalent of the Consumer Price Index (CPI) for the applicable year based on the percentage change as evidenced by the most recent Consumer Price Index (CPI) for LAVTA's geographic area available to LAVTA up to a maximum of 3.5 percent escalation, unless otherwise mutually agreed. The effective date of the CPI adjustment, if any, will commence on either (1) the first day of the second and/or subsequent year(s) of the contract, or (2) the date of the Consultant's request, whichever event is later.

Costs of Work and Fixed Fees

The cost of work shall be calculated as the sum of the direct labor times a multiplier for payroll burden, employee benefits, and overhead costs, plus other direct costs as set forth in this Section.

Direct Labor Cost

The individual direct labor costs are subject to salary administration as set forth in Title 48 Code of Federal Regulations Part 31.205-6.

Straight Time

Straight time payroll is to be the equivalent annual salary/wage divided by 2080 hours per annum for the employees whose names appear in an approved personnel list and who are directly assigned to and performing the services under this Agreement. Consultant shall be compensated through an agreed upon multiplier for overhead including all administrative, clerical, word processing, accounting and all other support staff utilized in performing services under this Agreement, which are not explicitly included on the approved personnel list. Charges by Consultant for an employee's straight time shall in no instance exceed the actual amount paid to such employee for time directly spent on services performed under this Agreement by such employee.

Ranges of Rates – Consultant shall provide ranges of current actual hourly rates by job titles/classifications. These ranges may be adjusted each contract year to reflect agreed-upon increases, as defined above.

Rates at Time of Award – At contract award, hourly rates, including administrative/clerical rates, shall be proposed for individuals who are

expected to be assigned to the Agreement. These proposed hourly rates shall be supported by current actual rates.

New Personnel after Award – For approved new personnel to be added after contract award, Consultant shall propose rates within the approved Ranges of Rates as indicated above. Hourly rates shall be supported by current actual rates.

Overtime

LAVTA will reimburse Consultant the straight time portion and premium time portion (if payable to the employee in accordance with the Consultant's employment policies) of its employee's actual overtime pay during performance of services under this Agreement, provided that the LAVTA has approved the overtime, in writing, prior to Consultant incurring said overtime.

Charges by Consultant for an employee's overtime shall in no instance exceed the actual amount paid to such employee for time directly spent on services performed under this Agreement by such employee.

Consultant Multipliers (Payroll Burden, Employee Benefits, and Overhead)

Consultant multipliers may be inclusive of the markups for payroll burden, employee benefits and office overhead for each office location as defined below. The multiplier is fixed and can be subject to change as indicated above.

LAVTA agreed-upon multipliers shall be used for Consultant's home office (main office) and dedicated field office, as appropriate to the assigned location of individuals working on the project. The multipliers shall be applied to direct labor costs only as defined above. LAVTA approved Consultant multipliers are included in Consultant's Cost Proposal.

Payroll Burden

Consultant and LAVTA agree that the following will be considered as Payroll Burdens and as such shall be paid to Consultant as compensation for said costs, as set forth below.

"Payroll Burden" for Consultant's employees is defined as: The cost of all employment taxes, Consultant's portion of social and retirement charges and contributions imposed by law, or labor contract contributions (if applicable), or regulations, with respect to or measured by Consultant's payroll, including but not limited to, the Consultant's cost of owner-required insurance.

Employee Benefits

“Employee Benefits” for Consultant’s employees defined as: The cost of all Consultant’s contractual and voluntary employee benefits, including but not limited to, holidays, vacations, sick leave, jury duty leave, group medical, life insurance, salary continuance insurance, bonus schemes (including Directors drawings of dividends), employee stock ownership plan, savings plan, retirement plan, relocation benefits and all other employee benefit plans.

Office Overhead (Indirect Costs)

LAVTA and Consultant agree that the following will be considered as office overhead categories and as such shall be paid to Consultant as compensation for said costs including all administrative, clerical, word processing, accounting and all other support staff utilized in the performance of services under this Agreement, which are not explicitly included on the approved personnel list.

Consultant’s Home Office Overhead shall apply to personnel assigned in Consultant’s Home Office in support of the performance of services under this Agreement

Allowable Other Direct Costs (ODCs)

Other Direct Costs shall be proposed at cost without markup. Examples of Other Direct Costs include, but are not limited to: travel expenses, parking, tolls, mail costs, film, photo developing, facsimiles, printing/copying, plan reproduction, blue print services and subconsultants directly associated with the project. Expenditures for allowable other direct costs in excess of \$500.00 and not included in the aforementioned list shall require advance approval by LAVTA. Supporting documentation is required for reimbursement of all other direct costs.

Limitations on Direct Costs

The following are limitations:

Travel Expenses - All travel and relocation related plans must be approved in writing by LAVTA prior to the commencement of the travel. If written approval is received for relocations, travel, temporary accommodations and or assistance, FAR 31.205-46(a) Sections 1 and 2 and Federal Travel Regulation (41 CFR 301-304) will apply. Lodging and per diem rates shall not exceed the U.S. General Services Administration (GSA) rate at the time of travel for the specific area. Costs incurred for travel, subsistence, and relocation of personnel engaged in the performance of services under this Agreement, if approved in advance by LAVTA will include the following:

- Relocation expenses, travel, temporary accommodations, and/or subsistence related to mobilization travel to the Consultant’s dedicated project office for Consultant and Subconsultant personnel permanently

assigned to the project. Such expenses shall be reduced by any amount received from others by Consultant or Subconsultant for demobilization from the prior project assignment.

- Relocation expenses, travel, temporary accommodations, and/or subsistence related to demobilization travel from the Consultant's dedicated project office for Consultant and Subconsultant personnel who have been permanently assigned to the project. Individuals assigned from domestic locations shall be eligible for up to the cost of returning to the original domestic location. Individuals assigned from international locations shall be eligible for the cost of relocating to the Consultant's or Subconsultant's domestic home office or to another domestic location, whichever is less.

- Travel, accommodations and subsistence (directly related to the Scope of Services) for business trips to and from the Project Site, to and from LAVTA's contractors and suppliers, or to and from other locations approved by the LAVTA. Such travel may originate at Consultant's or Subconsultant's home or branch office, or at the Consultant's dedicated field office, or at LAVTA's central or field offices.

Unallowable Other Direct Costs (ODCs)

The following ODCs are not allowable unless they are authorized by prior written approval of LAVTA's representative:

- Costs associated with registration for training, seminars, and technical association meetings.
- Costs associated with employee incentive compensation including cash bonuses, suggestion awards, safety awards and other forms of incentive compensation.
- Costs associated with leasing, maintaining, insuring and operating dedicated project vehicles at the dedicated office.
- Computer hardware and software support, software licenses, or cellular phone usage.
- Safety equipment such as steel toed boots, safety vests, and hard hats.
- Insurance
- Cost of any normal equipment, tools, or vehicles (unless approved) hired, leased or purchased for the performance of services, provided that the depreciated value of such items purchased by Consultant shall be credited to LAVTA at the completion of the work performed under this Agreement.
- Shipping
- Drafting supplies
- Surveying supplies
- Models and renderings
- Other expressly agreed ODC's.

Subcontracts (Subconsultants)

For costs for individual consultants, subconsultants and other outside services which are not directly contracted for by the Consultant, but where the Consultant is acting as LAVTA's agent for management of the work, there will be no added subconsultant mark-up.

The Subconsultant Fixed Fee for each Task Order shall be negotiated on an individual basis, plus a separately stated Subconsultant's fee based on an agreed-upon percentage of the agreed-upon fully burdened labor costs as defined above. The Consultant's mark-up shall be derived from a two (2) percent subconsultant fixed fee applied to agreed-upon subcontract costs.

The agreed upon subconsultant mark-up for "Subcontract Costs" shall apply throughout the entire term of the Agreement and shall not be subject to increase.

Maximum Fees for Cost-Plus-Fixed-Fee (CPFF) with Ceiling Task Orders

The Consultant fixed fee for each Task Order shall be negotiated on an individual basis. The agreed upon Consultant's fee shall apply throughout the entire term of the task orders.

The Consultant's maximum fee, as a percentage of fully burdened Direct Labor Cost, allowable by LAVTA shall not exceed 6%.

C. Manner of Payment

The Consultant shall submit separate invoices/billing statements on or as soon as practical after the first day of each calendar month. Consultant shall submit monthly invoices, detailing the services performed and allowable reimbursable expenses incurred during the previous calendar month for Services to be performed at LAVTA's request.

Each invoice must be segregated, computed and documented as follows

1. Firm-Fixed-Price Task Orders (FFP)

For Fixed Price Task Orders, Consultant shall reach agreement with LAVTA's Project Manager on the current percentage complete of the Task Order prior to submittal of invoice. Consultant shall provide a basis for percentage complete using a percent complete breakdown by Task Order task.

2. Cost-Plus-Fixed-Fee (CPFF) with Ceiling Task Orders

By Task

1. Direct Labor Costs
2. Payroll Burden, Employee Benefits and Office Overhead (Multipliers)
3. Other Direct Costs (used exclusively for a specific task)

Overall Project

4. Other Direct Costs (used in support of multiple tasks)
5. Fixed Fee Allocation (allocated to each payment cycle based on the portion of the current billing period cost of work to the total agreed upon not-to-exceed amount of the current Task Order)

Consultant shall provide supporting documentation for its invoices as required by LAVTA. LAVTA will endeavor to pay approved invoices/billing statements within 30 calendar days of their receipt. LAVTA reserves the right to withhold payment to the Consultant if LAVTA determines that the quantity or quality of the work performed is unacceptable. LAVTA shall provide written notice to the Consultant within 10 business days of LAVTA's decision not to pay and the reasons for non-payment.

Invoices shall be made in writing and delivered or mailed to LAVTA as follows:

Accounts Payable
Livermore/Amador Valley Transit Authority
1362 Rutan Court
Suite 100
Livermore, CA 94551

Consultant represents that Consultant's taxpayer identification number (TIN) is as evidenced by a completed Federal Form W-9.

5. CONSULTANT'S KEY PERSONNEL

It is understood and agreed by the parties that at all times during the term of this Agreement that _____ shall serve as the primary staff person of Consultant to undertake, render, and oversee all of the services under this Agreement. Upon written notice by the Consultant and approval by the Authority, which will not be unreasonably withheld, the Consultant may substitute this person with another person, who may possess similar qualifications and experience for this position.

6 CHANGES

Authority may, at any time, by written order, make changes within the Scope of Work and services described in this Agreement. If such changes cause an increase in the budgeted cost of or the time required for performance of the agreed upon work, an equitable adjustment as mutually agreed shall be made in the limit on compensation as set forth in Section 4. In the event that the Consultant encounters any unanticipated conditions or contingencies that may affect the scope of work or services, schedule or the amount of compensation specified herein, Consultant shall so advise Authority immediately upon notice of such condition or contingency. The written notice shall explain the circumstances giving rise to the unforeseen condition or contingency and shall set forth the proposed adjustment in schedule or compensation. This notice shall be given to the Authority prior to the time that Consultant performs work or services related to any proposed adjustment. The pertinent changes shall be

expressed in a written supplement to this Agreement prior to implementation of such changes.

7. CONSULTANT'S STATUS

Consultant is an independent consultant and not an employee or agent of Authority and has no Authority to contract or enter into any other agreement in the name of Authority. Consultant has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by Consultant who are assisting in the performance of services under this Agreement. Consultant shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Consultant shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

8. INDEMNIFICATION

To the maximum extent permitted by law, Consultant shall defend, indemnify and hold harmless Authority, its directors, officers, agents and employees from all claims, demands, suits, loss, damages, injury and liability, direct or indirect (including any and all costs and expenses in connection therewith) (collectively "Liability"), that arise out of, pertain to, or relate to the negligence, recklessness, or intentional misconduct of Consultant, its officers, agents, employees and subcontractors/subconsultants or any of them. This obligation shall not apply to Liability that arising from the sole negligence or willful misconduct of Authority. Except as provided above, Consultant will indemnify and defend Authority notwithstanding any alleged or actual passive negligence of Authority which may have contributed to the Liability. In the event any aspect of the foregoing provision is found to be void or unenforceable, a court shall interpret this provision to give the maximum protection available to the Authority under applicable law. This provision will survive termination or expiration of the Agreement.

9. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

All Consultant and subcontractors/subconsultants costs incurred in the performance of this Contract will be subject to audit. Consultant and its subcontractors/subconsultants shall permit LAVTA, or its authorized representatives to inspect, examine, make excerpts from, transcribe, and copy Consultant's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by the Consultant pursuant to this Agreement. The Consultant shall also provide such assistance as may be required in the course of such audit. Consultant shall retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by LAVTA's auditor or staff that reimbursement of any costs including profit or fee under this Contract was in excess of that represented and relied upon during price negotiations or

represented as a basis for payment, the Consultant agrees to reimburse LAVTA for those costs within sixty (60) days of written notification by LAVTA.

10. DATA TO BE FURNISHED BY AUTHORITY--CONFIDENTIALITY

All data, reports, surveys, studies, drawings and any other documents and materials made available to Consultant by Authority for use by Consultant in the performance of its services under this Agreement shall be made available for information only and shall be returned to Authority at the completion or termination of this Agreement.

Any LAVTA materials to which the Consultant has access or materials prepared by the Consultant during the course of this Agreement ("confidential information") shall be held in confidence by the Consultant, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Consultant as necessary to accomplish the rendition of services required by this Agreement.

Consultant shall not release any reports, information or promotional materials prepared in connection with this Agreement, whether deemed confidential or not, to any third party without the approval of the LAVTA.

11. OWNERSHIP OF WORK

- A. All communications and records originated, prepared, and in the process of being prepared, for the services to be performed by Consultant under this Agreement, including, but not limited to, findings, analyses, submittals, conclusions, opinions, engineering drawings, specifications, standards, process sheets, photographs, videos, manuals, technical reports and recommendations with respect to the subject matter of this Agreement and raw and underlying data of such materials, regardless of format or media, including software, reports and other documentation (all of the foregoing, collectively, the "Work Product"), shall be delivered to and become the property of LAVTA. LAVTA shall be entitled to access and to copy the Work Product during the progress of the Work. Any Work Product remaining in the hands of Consultant or in the hands of any subcontractor/subconsultant upon completion or termination of the work shall be immediately delivered to LAVTA and not later than within two (2) weeks of completion or termination of the Work. If any materials are lost, damaged or destroyed before final delivery to LAVTA, Consultant shall replace them at its own expense, and Consultant assumes all risk of loss, damage or destruction of or to such materials.
- B. Any specific knowledge of LAVTA proprietary information gained as a result of this Agreement shall be used exclusively to accomplish the Scope of Work outlined above and for no other purpose.
- C. Any and all rights of copyright to Work Product prepared under this Agreement are hereby assigned to LAVTA. Consultant agrees to execute any additional documents that may be necessary to evidence such assignment. Consultant agrees not to assert any rights at common law or

equity and not to establish any claim to statutory copyright in such Work Product. Except for its own internal use, Consultant shall not publish or reproduce such Work Product in whole or in part, or in any manner or form, nor authorize others to do so, without the written consent of LAVTA

D. Notwithstanding anything herein to the contrary, LAVTA acknowledges that as part of Consultant's provision of work hereunder, Consultant may utilize proprietary works of authorship including, without limitation, software, methodologies, tools, specifications, drawings, sketches, models, samples, records and documentation, as well as copyrights, trademarks, service marks, ideas, concepts, know-how, techniques, knowledge or data, that have been originated or developed by Consultant or by third parties under Agreement to, or which have been purchased by, Consultant (all of the foregoing, collectively, "Consultant's Information"). LAVTA agrees that Consultant's Information is and shall remain the sole property of Consultant or such third party. Consultant agrees that LAVTA shall be entitled to use Consultant's Information in connection with this Agreement, and shall grant to LAVTA a perpetual, royalty-free, irrevocable, worldwide, non-exclusive license to use all Consultant's Information and to create and use derivative works of Consultant's Information in connection with this Agreement.

E. Consultant represents and warrants that it has or will have all appropriate licenses, agreements and/or ownership pertaining to all intellectual property, including but not limited to patents and copyrights, used in connection with the performance of its obligations under this Agreement. Consultant further represents and warrants that it will have all necessary rights to patentable and copyrightable materials, equipment, devices or processes not furnished by LAVTA used on or incorporated in the work and assumes all risks arising from the use of such patentable and copyrightable materials, equipment, devices, or processes.

F. Consultant shall indemnify, defend and hold harmless LAVTA, its directors, officers, agents and employees to the maximum extent permitted by law from and against any and all claims, liabilities, losses, damages or expenses (including attorneys' fees and related costs, whether or not litigation has commenced), whether direct or indirect, arising out of, relating to, or in connection with the ownership, possession or use of any materials, equipment, devices, or processes that are protected by intellectual property rights, including patent, copyright and trade secret. In case such materials, equipment, devices or processes are held to constitute an infringement and their use enjoined, Consultant, at Consultant's sole cost and expense, shall: (a) secure for LAVTA the right to continue using the materials, equipment, devices or processes by suspension of the injunction or by procuring a royalty-free license or licenses, or (b) replace such materials, equipment, devices, or processes with non-infringing materials, equipment, devices or processes that perform the same functions as the infringing item, or (c) modify them so that they become non-infringing or remove the enjoined materials, equipment, devices or processes and refund the sums paid therefore, without prejudice to any other rights of LAVTA. If the amount of time necessary to proceed with one of these options is deemed excessive by

LAVTA, LAVTA may direct Consultant to select another option or risk default.

12. TERMINATION

LAVTA shall have the right to suspend or terminate this Agreement at any time by giving written notice to the Consultant. Upon receipt of such notice, the Consultant shall not commit itself to any further expenditure of time or resources.

If the Agreement is suspended or terminated for any reason other than a default by Consultant, LAVTA shall pay to Consultant all sums actually due and owing from LAVTA for all services performed and all expenses incurred up to the day written notice of effective date of suspension or termination is given, plus any costs LAVTA determines are reasonably and necessarily incurred by Consultant to effect such suspension or termination. If the Agreement is terminated for default, LAVTA shall remit final payment to Consultant in an amount to cover only those services performed and expenses incurred in full accordance with the terms and conditions of this Agreement up to the effective date of termination.

13. CLAIMS OR DISPUTES

The Consultant shall be solely responsible for providing timely written notice to LAVTA of any claims for additional compensation and/or time in accordance with the provisions of this Agreement. It is the LAVTA's intent to investigate and attempt to resolve any Consultant claims before the Consultant has performed any disputed work. Therefore, Consultant's failure to provide timely notice shall constitute a waiver of Consultant's claims for additional compensation and/or time.

The Consultant shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by the LAVTA, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given the LAVTA due written notice of a potential claim. The notice of a potential claim shall set forth the reasons for which the Consultant believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

If based on an act or failure to act by the LAVTA, such notice shall be given to the LAVTA prior to the time that the Consultant has started performance of the work giving rise to the potential claim for additional compensation. In all other cases, notice shall be given within 10 days after the happening of the event or occurrence giving rise to the potential claim.

If there is a dispute over any claim, the Consultant shall continue to work during the dispute resolution process in a diligent and timely manner as directed by the LAVTA, and shall be governed by all applicable provisions of this Agreement. The Consultant shall maintain cost records of all work which is the basis of any dispute.

If an agreement can be reached which resolves the Consultant's claim, the parties will execute a contract change to document the resolution of the claim. If the parties cannot reach an agreement with respect to the Consultant's claim, they may chose to pursue a dispute resolution process.

14. CONFLICT OF INTEREST

A. General

Depending on the nature of the work performed, a Consultant of LAVTA may be subject to the same conflict of interest prohibitions established by the Federal Transit Administration (FTA) and California law that govern LAVTA's employees and officials (Cal. Govt. Code Section 1090 et seq. and Cal. Govt. Code Section 87100 et seq.). During the proposal process or the term of the Agreement, Consultant and its employees may be required to disclose financial interests.

The Consultant warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code §1090 et seq. or §87100 et seq. during the performance of services under this Agreement. The Consultant further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable or subject to termination.

Depending on the nature of the work performed, Consultant may be required to publicly disclose financial interests under LAVTA's Conflict of Interest Code. Upon receipt, the Consultant agrees to promptly submit a Statement of Economic Interest on the form provided by LAVTA.

No person previously in the position of director, officer, employee or agent of LAVTA may act as an agent or attorney for, or otherwise represent the Consultant, by making any formal or informal appearance, or any oral or written communication, before LAVTA, or any officer or employee of LAVTA, for a period of twelve months after leaving office or employment with LAVTA if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant, or contract.

No officer or employee of LAVTA during his or her tenure or for one year after that tenure shall have any interest, direct or indirect, in this Agreement or the proceeds under this Agreement.

B. Organizational Conflicts of Interest

Consultant shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts: a firm or person is unable, or potentially unable, to render impartial assistance or

advice to LAVTA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

Consultant shall not engage the services of any Subconsultant or independent consultant on any work related to this Agreement if the Subconsultant or independent consultant, or any employee of the Subconsultant or independent consultant, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement Consultant becomes aware of an organizational conflict of interest in connection with the work performed hereunder, Consultant immediately shall provide LAVTA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. Consultant's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest.

If at any time during the term of this Agreement, LAVTA becomes aware of an organizational conflict of interest in connection with Consultant's performance of the work hereunder, LAVTA shall similarly notify Consultant.

In the event a conflict is presented, whether disclosed by Consultant or discovered by LAVTA, LAVTA will consider the conflict presented and any alternatives proposed and meet with the Consultant to determine an appropriate course of action. LAVTA's determination as to the manner in which to address the conflict shall be final.

During the term of this Agreement, Consultant must maintain lists of its employees, and the Subconsultants and independent consultants used and their employees. Consultant must provide this information to LAVTA upon request. However, submittal of such lists does not relieve the Consultant of its obligation to assure that no organizational conflicts of interest exist. Consultant shall retain this record for five (5) years after LAVTA makes final payment under this Agreement. Such lists may be published as part of future LAVTA solicitations.

Consultant shall maintain written policies prohibiting organizational conflicts of interest and shall ensure that its employees are fully familiar with these policies. Consultant shall monitor and enforce these policies and shall require any subconsultants and affiliates to maintain, monitor and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject the Consultant to damages incurred by LAVTA in addressing organizational conflicts that arise out of work performed by Consultant, or to termination of this Agreement for breach

15. PREVAILING WAGE

This Agreement may involve the provision of inspection and/or surveying work that may be subject to the California Labor Code. The Consultant shall comply with the following requirements of the California Labor Code to the extent applicable.

Consultant shall comply with California Labor Code Sections 1770 to 1780, inclusive. In accordance with said Section 1775, Consultant shall forfeit as a penalty to the Authority, an amount determined by the Labor Commissioner not to exceed Fifty Dollars (\$50.00), for each calendar day or portion thereof for each worker paid less than stipulated prevailing wage rates for such work or craft in which such worker is employed for any work done under the Agreement by it or by any subconsultant under it in violation of the provisions of the Labor Code and, in particular, Labor Code Sections 1770 to 1780, inclusive. In addition to said penalty and pursuant to said Section 1775, the difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by Consultant.

Pursuant to the provisions of Section 1773 of the Labor Code, Consultant shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work applicable to the work to be done from the Director of the Department of Industrial Relations. Copies of the prevailing rates will be on file at Consultant's Administrative Office and will be available to any interested party on request. To the extent possible, such wage rates will be prominently posted.

Pursuant to Labor Code 1810, eight hours labor constitutes a legal day's work. Consultant shall comply with the California Labor Code Sections 1810 to 1815, inclusive.

The Consultant shall sign and file with LAVTA the following certification prior to performing the work of the contract:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance."

16. WARRANTY OF SERVICES

- A. Consultant warrants that its professional services will be performed in accordance with the professional standards of practices of comparable Engineering Design firms at the time the services are rendered. In addition, Consultant shall provide such specific warranties as may be set forth in the individual Task Orders as agreed upon by the parties.
- B. In the event that any services provided by the Consultant hereunder are deficient because of Consultant's or subconsultants failure to perform said services in accordance with the warranty standards set forth above,

LAVTA shall report such deficiencies in writing to the Consultant within a reasonable time. LAVTA thereafter shall have:

1. The right to have the Consultant re-perform such services at the Consultant's expense; or
2. The right to have such services done by others and the costs thereof charged to and collected from the Consultant if within thirty days after written notice to the Consultant requiring such re-performance, Consultant fails to give satisfactory evidence to LAVTA that it has undertaken said re-performance.
3. The right to terminate the Agreement for default.

Consultant shall be responsible for all errors and omissions and is expected to pay for all redesign and re-construction work as a result of errors and omissions.

17. SUBCONTRACTS

Consultant shall not subcontract all or any portion of its services under this Agreement without the prior written approval of the Authority, and any attempt thereat shall be void and unenforceable. In the event that Consultant enters into one or more subcontracts pursuant to this article, it is understood and agreed that the participating subcontractors shall be solely and directly responsible to Consultant, and Authority shall have no obligation to them.

18. ASSIGNMENT OF AGREEMENT

Consultant shall not assign this Agreement or any part thereof without prior express written consent of Authority, and any attempt thereat shall be void and unenforceable.

19. FEDERAL CONTRACT PROVISIONS

This Contract may be subject to financial assistance from the U.S. Department of Transportation, Federal Transit Administration (FTA). The following provisions therefore apply.

A. Fly America Requirements

The Consultant agrees to comply with 49 U.S.C. § 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301.10, which provide that recipients and sub-recipients of Federal funds and their consultants are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property to the extent such service is available, unless travel by foreign air carrier is a matter of necessity as defined by the Fly America Act. The Consultant shall submit, if a foreign air carrier was used, an appropriate

certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Consultant agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

B. Energy Conservation

The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Federal Energy Policy and Conservation Act, 49 U.S.C. §§ 6321 et seq.

C. Clean Water and Air Requirements

The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq., and the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Consultant agrees to report each violation to the LAVTA and understands and agrees that LAVTA will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA regional office.

The Consultant also agrees to include these requirements in each subcontract exceeding \$150,000 financed in part or in whole with federal assistance provided by the FTA.

D. Lobbying

Consultant shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Consultant shall certify that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Contract, grant or any other award covered by 31 U.S.C. § 1352. Consultant shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Contract, grant or award covered by 31 U.S.C. § 1352. Such disclosures shall be forwarded to LAVTA. Consultant shall ensure that all of its subconsultants under this Agreement shall certify the same. Prior to execution of this Agreement, Consultant shall submit the "Certification for Federal Aid Contracts," included in the Contract Documents. LAVTA is responsible for keeping the certification of the Consultant who is, in turn, responsible for keeping the certification forms of subconsultants.

E. Certification Regarding Debarment and Suspension.

The Consultant shall submit, prior to execution of this Agreement, documentation showing that neither the Consultant nor its principals are presently debarred,

suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. For this purpose, the Consultant must complete and execute the form entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion," which is included in the Proposal Documents. Consultant also agrees to include this provision in any subcontract exceeding \$25,000 and to obtain a similar certification from any subconsultant seeking a subcontract exceeding \$25,000 and forward the certification to LAVTA.

F. Access to Records and Reports

Consultant shall provide all authorized representatives of LAVTA, the FTA, and the Comptroller General of the United States access to any books, documents, papers and records of the Consultant which are directly pertinent to this Agreement for the purposes of making audits, copies, examinations, excerpts and transcriptions. Consultant also agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Consultant agrees to maintain the same until LAVTA, the FTA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

G. Federal Changes

Consultant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (21) dated October, 2014) between LAVTA and the FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Consultant's failure to so comply shall constitute a material breach of this Agreement.

H. No Government Obligation to Third Parties

LAVTA and Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to LAVTA, Consultant, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

The Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subconsultant who will be subject to its provisions.

I. Program Fraud and False or Fraudulent Statements and Related Acts

The Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801, et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.

The Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under LAVTA of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Consultant, to the extent the Federal Government deems appropriate.

The Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

J. Disadvantaged Business Enterprises (DBE)

LAVTA, recipient of federal financial assistance from the Federal Transit Administration (FTA) is committed to and has adopted a Disadvantaged Business Enterprise Program for contracts in accordance with federal regulations 49 CFR Part 26, issued by the U. S. Department of Transportation (U.S. DOT).

It is the policy of LAVTA to ensure nondiscrimination in the award and administration of all contracts and to create a level playing field on which Disadvantaged Business Enterprises (DBEs) can compete fairly for contracts and subcontracts relating to LAVTA's construction, procurement and professional services activities. To this end, LAVTA has developed procedures to remove barriers to DBE participation in the bidding and award process and to assist DBEs to develop and compete successfully outside of the DBE Program. In connection with the performance of this contract, the Consultant will cooperate with LAVTA in meeting these commitments and objectives.

Pursuant to 49 CFR §26.13, and as a material term of any agreement with LAVTA, the Consultant hereby makes the following assurance and agrees to include this assurance in any agreements it makes with Subcontractors in the performance of this contract:

"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 shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the Consultant or Subconsultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as LAVTA deems appropriate."

K. Civil Rights Requirements

Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Consultant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity

The following equal employment opportunity requirements apply:

Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONSULTANT agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332,

the Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Consultant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

L. Davis-Bacon and Copeland Anti-Kickback Acts

This Agreement may involve the provision of inspection and/or surveying work that may be subject to Davis-Bacon Act requirements as follows:

(1) Minimum wages

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Consultant and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time

actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Consultant and its subconsultants at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the Consultant and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Consultant, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Consultant shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Consultant does not make payments to a trustee or other third person, the Consultant may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the Consultant, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Consultant to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v) (A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Consultant and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Consultant, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer

do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Consultant under this contract or any other Federal contract with the same prime Consultant, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Consultant, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Consultant or any subconsultant the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Authority may, after written notice to the, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and Basic Records

(i) Payrolls and basic records relating thereto shall be maintained by the Consultant during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Consultant shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan

or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Consultants employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Consultant shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Consultant is responsible for the submission of copies of payrolls by all subconsultants.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Consultant or subconsultant or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Consultant or subconsultant to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Consultant or subconsultant shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Consultant or subconsultant fails to submit the required records or to make them available, the Federal agency may, after written notice to the Consultant, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and Trainees

(i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Consultant as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Consultant is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Consultant's or subconsultant's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Consultant will no longer be permitted to utilize apprentices at less than the applicable

predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Consultant will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act Requirements

The Consultant shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts

The Consultant or subconsultant shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subconsultants to include these clauses in any lower tier subcontracts. The prime Consultant shall be responsible for the compliance by any subconsultant or lower tier subconsultant with all the contract clauses in 29 CFR 5.5.

(7) Contract Termination: Debarment

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a Consultant and a subconsultant as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act Requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes Concerning Labor Standards

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Consultant (or any of its subconsultants) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility

(i) By entering into this contract, the Consultant certifies that neither it (nor he or she) nor any person or firm who has an interest in the Consultant's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

M. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Consultant shall not perform any act, fail to perform any act, or refuse to comply with any LAVTA requests which would cause LAVTA to be in violation of the FTA terms and conditions.

20. NOTICES

Except for invoices submitted by Consultant pursuant to Article 4, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered or mailed to such party at their respective addresses as follows:

To Authority:	Executive Director Livermore/Amador Valley Transit Authority 1362 Rutan Court Suite 100 Livermore, CA 94551
---------------	---

To Consultant :

21. LAWS AND REGULATIONS

Consultant shall comply with its standard of care with regard to any and all laws, statutes, ordinances, rules, regulations and procedural requirements of any national, state or local government and of any agency of such government, including Authority, which relate to or in any manner affect the performance of this Agreement. This Agreement and any related documents supplied hereunder are subject to the California Public Records Act.

22. CHOICE OF LAW

All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the state.

23. FORCE MAJEURE

It is expressly agreed that if the Consultant shall be delayed or interrupted in the performance or completion of its work hereunder by any act, neglect or default of the Authority, or of any employee of the owner, or of any other consultant employed by the Authority, or by an embargo, war, fire, flood, earthquake, epidemic or other calamity, act of God or of the public enemy, governmental act (including, but not restricted to, any government priority, preference, requisition, allocation, interference, restraint or seizure, or the necessity of complying with any governmental order, directive, ruling or request) or by any strike or labor dispute involving the Authority, or any manufacturer, supplier or carrier of the machinery, materials or supplies required hereunder, then the time of completion specified herein shall be extended for a period equivalent to the time lost as a result thereof.

24. ENTIRE AGREEMENT

This Agreement is the entire agreement of the parties. Consultant represents that in entering into this Agreement, it has not relied on any previous representations, inducements or understandings of any kind or nature.

25. SEVERABILITY

If any provision, or any portion of any provision, of any contract resulting from this proposal shall be held invalid, illegal or unenforceable, the remaining provisions or portions of any provisions shall be valid and enforceable to the extent possible.

26. BENEFIT OF AGREEMENT

This Agreement shall bind and benefit the parties hereto and their heirs, successors and permitted assigns.

27. ATTORNEY'S FEES AND OTHER FEES

Should either party institute any action to enforce this Agreement, or any provision hereof, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorney's fees.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

**THE LIVERMORE AMADOR VALLEY
TRANSIT AUTHORITY**

Executive Director

Date: _____

By*

Title

By*

Title

Date: _____

APPROVED AS TO FORM:

By: _____
Attorney for the Authority

*If Consultant is a corporation, two corporate officers must sign on behalf of the corporation as follows: (1) Chairman of the Board, President, or Vice President; and (2) Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Financial Officer. In the alternative, this Contract may be executed by a single officer or a person other than an officer provided that evidence satisfactory to LAVTA is provided, demonstrating that such individual is authorized to bind the corporation (e.g., a copy of a certified resolution from the corporation's board or a copy of the corporation's by laws).

SAMPLE