



**Santa Cruz County  
Regional Transportation Commission  
Transportation Policy Workshop**

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**AGENDA**

**Thursday, March 17, 2022  
9:00 a.m.**

**REMOTE MEETING**

**Community TV Zoom**

**Web: <https://us02web.zoom.us/j/84006098188>**

**Dial-in: (669) 900-9128**

**Webinar ID: 840 0609 8188**

*Accessibility: See last page for details.*

*En Español: Para servicios de traducción al español, diríjase a la última página.*

*Agendas Online: Click below to receive notification via e-mail.*

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**COMMISSION MEMBERSHIP**

Caltrans (ex-officio)	Tim Gubbins
City of Capitola	Jacques Bertrand
City of Santa Cruz	Sandy Brown
City of Scotts Valley	Randy Johnson
City of Watsonville	Eduardo Montesino
County of Santa Cruz	Greg Caput
County of Santa Cruz	Ryan Coonerty
County of Santa Cruz	Zach Friend
County of Santa Cruz	Manu Koenig
County of Santa Cruz	Bruce McPherson
Santa Cruz Metropolitan Transit District	Kristen Petersen
Santa Cruz Metropolitan Transit District	Ari Parker
Santa Cruz Metropolitan Transit District	Mike Rotkin

*The majority of the Commission constitutes a quorum for the transaction of business.*

1. Roll call
2. Oral communications

*Any member of the public may address the Commission on any item within the jurisdiction of the Commission that is not already on the agenda. The Commission will listen to all communication, but in compliance with State law, it may not take action on items that are not on the agenda.*

*Speakers are requested to state their name clearly so that it can be accurately recorded in the minutes of the meeting.*

3. Additions or deletions to consent and regular agendas

### **CONSENT AGENDA**

*All items appearing on the consent agenda are considered to be minor or non-controversial and will be acted upon in one motion if no member of the RTC or public wishes an item be removed and discussed on the regular agenda. Members of the Commission may raise questions, seek clarification or add directions to consent agenda items without removing the item from the consent agenda as long as no other Commissioner objects to the change.*

### **ADMINISTRATION ITEMS**

4. Adopt Assembly Bill 361 Findings for Virtual and Hybrid Meetings

### **PROJECTS and PLANNING ITEMS**

5. Approve authorizing the Executive Director to enter into a professional engineering services agreement with Mark Thomas & Company, Inc. to prepare the San Lorenzo Valley (SLV) Schools Complex Circulation and Access Study and amending the FY2021-22 RTC Budget and Work Program and the FY2021-22 Measure D Budget and San Lorenzo Valley (SLV)/Highway 9 Corridor Measure D 5-year plan (**Resolution**)

### **REGULAR AGENDA**

6. Review of items to be discussed in closed session

**CLOSED SESSION**

7. Conference with Legal Counsel – Anticipated Litigation (pursuant to Government Code 54956.9(d)(2).)

Significant exposure to litigation: One case

**OPEN SESSION**

8. Next meetings

The next RTC meeting is scheduled for Thursday, April 07, 2022 at 9:00 a.m. See agenda for location.

The next Transportation Policy Workshop meeting is scheduled for Thursday, April 21, 2022 at 9:00 a.m. via Zoom.

**HOW TO REACH US**

Santa Cruz County Regional Transportation Commission  
1101 Pacific Avenue, Suite 250 Santa Cruz, CA 95060  
phone: (831) 460-3200 / email: [info@sccrtc.org](mailto:info@sccrtc.org)

**AGENDA PACKETS**

*Complete agenda packets and all documents relating to items on the open session are posted online at <https://sccrtc.org> at least 72 hours prior to the meeting. Sign up for E-News updates at [sccrtc.org/about/esubscriptions/](https://sccrtc.org/about/esubscriptions/)*

**COMMENTS FROM THE PUBLIC**

*Items on the agenda: Written comments received by 9:00 a.m. on Wednesday before the meeting will be posted to the RTC website by 2:00 p.m. that same afternoon to allow time for Commissioner review. The opportunity to make oral comments is offered prior to the discussion period of each item.*

*Items not on the agenda: Written comments on topics within the RTC's jurisdiction, but not on the agenda, that are received during the monthly correspondence period will be posted to a public document. The correspondence period cut-off is 12:00 p.m. on the second Monday prior to the RTC meeting. A link to that document is provided in the Correspondence Log of that month's meeting. The opportunity to make oral comments to the Commission on such topics is offered during Oral Communications.*

**COVID-19 REMOTE MEETING UPDATE**

*On September 16, 2021, Governor Newsom signed AB 361 into law, which allows the RTC to hold virtual and/or hybrid meetings so long as the RTC makes findings that the state of emergency continues to directly impact its ability to meet safely in person. Information needed to log into the virtual*

meeting is listed on the first page of the meeting's agenda. Download the Zoom app: <https://zoom.us/download>.

### **ACCESSIBILITY**

The Santa Cruz County Regional Transportation Commission does not discriminate on the basis of disability and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. This meeting location is an accessible facility. If you wish to attend this meeting and require special assistance in order to participate, please contact RTC staff at 460-3200 (CRS 800/735-2929) at least three working days in advance of this meeting to make arrangements. People with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those persons affected, please attend the meeting smoke and scent-free.

### **SERVICIOS DE TRADUCCIÓN/ TRANSLATION SERVICES**

Si gusta estar presente o participar en esta junta de la Comisión Regional de Transporte del Condado de Santa Cruz y necesita información o servicios de traducción al español por favor llame por lo menos con tres días laborables de anticipo al (831) 460-3200 para hacer los arreglos necesarios. (Spanish language translation is available on an as needed basis. Please call (831) 460-3200 at least three days in advance to make advance arrangements.

### **TITLE VI NOTICE TO BENEFICIARIES**

The RTC operates its programs and services without regard to race, color and national origin in accordance with Title VI of the Civil Rights Act. Any person believing to have been aggrieved by the RTC under Title VI may file a complaint by contacting the RTC at (831) 460-3200 or 1101 Pacific Avenue, Suite 250, Santa Cruz, CA 95060 or online at [www.sccrtc.org](http://www.sccrtc.org). A complaint may also be filed directly with the Federal Transit Administration to the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.

### **AVISO A BENEFICIARIOS SOBRE EL TITULO VI**

La RTC conduce sus programas y otorga sus servicios sin considerar raza, color u origen nacional de acuerdo al Titulo VI del Acta Sobre los Derechos Civiles. Cualquier persona que cree haber sido ofendida por la RTC bajo el Titulo VI puede entregar queja con la RTC comunicándose al (831) 460-3200 o 1101 Pacific Avenue, Suite 250, Santa Cruz, CA 95060 o en línea al [www.sccrtc.org](http://www.sccrtc.org). También se puede quejar directamente con la Administración Federal de Transporte en la Oficina de Derechos Civiles, Atención: Coordinador del Programa Titulo VI, East Building, 5th Floor-TCR, 1200 New Jersey Avenue, SE, Washington, DC 20590.

**AGENDA:** March 17, 2022

**TO:** Santa Cruz County Regional Transportation Commission-  
Transportation Policy Workshop

**FROM:** Luis Pavel Mendez, Deputy Director

**RE:** Assembly Bill 361 Findings for Virtual and Hybrid Meetings

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## **RECOMMENDATIONS**

Staff recommends that the Regional Transportation Commission (RTC) find that:

1. The RTC has reconsidered the circumstances of the current COVID-19 state of emergency; and
  2. The state of emergency continues to directly impact the ability of the members of the RTC, its committees, its staff and the public to meet safely in person; and
  3. State or local officials continue to impose and recommend measures to promote social distancing; and
  4. Therefore, meetings of the RTC will continue to be held in a hybrid or virtual format via Zoom and meetings of RTC committees will be held virtually via Zoom.
- 

## **BACKGROUND**

In March 2020, due to the COVID-19 pandemic, Governor Newsom declared a state of emergency which remains in effect. The Governor also issued executive orders suspending several provisions of the Brown Act to ensure that the work of government agencies could continue with virtual meetings to reduce the risk of spreading COVID-19. The executive orders suspending the Brown Act provisions expired on September 30, 2021. AB 361 was signed into law and took effect on October 1, 2021, which allows the continuation of virtual meetings as long as the declared state of emergency continues and required findings are made by local agencies.

## **DISCUSSION**

Unfortunately, the COVID-19 pandemic continues; therefore, the RTC has been making the necessary AB361 findings at its meetings since November 2021 to continue to hold virtual meetings. The goal of the RTC is to hold RTC

meetings in a hybrid format as long as the COVID-19 situation permits, and the facilities are available for hybrid meetings. For hybrid meetings, a limited number of Commissioners and members of the public may participate in person, as long as the County Board of Supervisors Chambers are available for the meeting. Everyone participating in person will need to abide by Santa Cruz County requirements that may be in place for wearing masks. All others will participate via Zoom. The RTC has not yet been able to hold any hybrid meetings. All of the meetings of RTC committees will continue to be virtual meetings via Zoom because conference rooms are not equipped for hybrid meetings.

To continue to hold virtual and/or hybrid meetings, the RTC must continue to make findings as required in Section 54953 of the Government Code, added by AB 361, which states:

“(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.
- (B) Any of the following circumstances exist:
  - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
  - (ii) State or local officials continue to impose or recommend measures to promote social distancing.”

**Therefore, staff recommends that the RTC find that RTC has reconsidered the circumstances of the current COVID-19 state of emergency; the state of emergency continues to directly impact the ability of the members of the RTC, its committees, its staff and the public to meet safely in person; and state and local officials continue to impose and recommend measures to promote social distancing; and meetings of the RTC will be hybrid while meetings of committees will be virtual.**

### **30-Day Requirement for AB 361 Findings**

State law requires that findings to continue virtual and/or hybrid meetings be made every 30 days. State law also allows special virtual meetings for

the sole purpose of making AB 361 findings to hold virtual and/or hybrid meetings. Therefore, it may be necessary for the RTC to hold special virtual meetings solely for the purposes of making AB 361 findings. A number of agencies around the state are working towards legislative modifications so such special meetings will not be required but such modifications are not anticipated soon.

### **FISCAL IMPACT**

The costs necessary to hold meetings of the RTC either as regular Brown Act meetings, virtual meetings or hybrid meetings are included in the approved RTC budget. The costs to hold Brown Act and virtual meetings of RTC committees are also included in the RTC budget. No additional fiscal impacts are anticipated for such meetings at this time. For hybrid meetings of RTC committees, it would likely be necessary to equip conference rooms accordingly, which would have additional fiscal impacts.

### **SUMMARY**

Due to the current COVID-19 pandemic, the Governor declared a state of emergency and issued executive orders to allow public agencies to hold meetings virtually. The executive orders allowing virtual meetings expired and AB 361 was signed into law to allow the continuation of virtual and/or hybrid meetings as long as the state of emergency still exists and public agencies make appropriate findings. Staff recommends that the RTC make such findings to allow virtual and/or hybrid meetings of itself and its committees.

*S:\TPW\TPW 2022\0322\Consent Agenda\AB361 Findings\AB361 findings 031722.docx*

**TO:** Regional Transportation Commission

**FROM:** Brianna Goodman, Transportation Planner

**RE:** SLV Schools Complex Circulation and Access Study Consultant Contract with Mark Thomas and Company, Inc.

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## **RECOMMENDATIONS**

Staff recommends that the Regional Transportation Commission (RTC) approve the attached resolution (Attachment 1):

1. Authorizing a professional engineering services agreement with Mark Thomas & Company, Inc. (TP2136) to prepare the San Lorenzo Valley (SLV) Schools Complex Circulation and Access Study for a maximum amount of \$293,990;
  2. Amending the FY2021-22 RTC Budget and Work Program (Exhibit A to Attachment 1); and
  3. Amending the FY2021-22 Measure D Budget (Exhibit A to Attachment 1) and San Lorenzo Valley (SLV)/Highway 9 Corridor Measure D 5-year Plan (Exhibit B to Attachment 1)
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## **BACKGROUND**

Highway 9 (State Route 9, SR9) is the primary travel corridor through San Lorenzo Valley. It serves as the “Main Street” and economic center for the towns of Felton, Ben Lomond, Brookdale, and Boulder Creek, and as an interregional arterial connecting Silicon Valley and Santa Cruz. San Lorenzo Valley community members, the County of Santa Cruz, Santa Cruz Metropolitan Transit District (METRO), Caltrans, the RTC, and other stakeholders have identified significant transportation deficiencies along the corridor.

In 2019 the RTC, in partnership with Caltrans, the County of Santa Cruz, and METRO, completed the Highway 9/San Lorenzo Valley Complete Streets Corridor Plan to help coordinate and prioritize transportation investments for this important corridor. The plan identified the SR 9 corridor adjacent to and the circulation within the San Lorenzo Valley Unified School District (SLVUSD) elementary, middle, and high schools combined campus (SLV

Schools Complex) as a top priority in need of active transportation facilities, improved access to transit, and optimized vehicle throughput. Implementing this improvements to this project area, consisting of projects 9, 10, and 11 of the SLV Plan, was defined as the SLV Schools Complex Circulation Project.

In January 2022, RTC authorized the Executive Director to enter into a Memorandum of Understanding with SLVUSD Caltrans, METRO, and the County of Santa Cruz to coordinate delivery of the SLV Schools Complex Circulation Project. RTC staff identified the need to carry out more thorough analysis for this project as the first step to implementing the SLV Schools Complex Circulation Project.

## **DISCUSSION**

In December 2021, the RTC issued a [Request for Proposals \(RFP\)](#) to procure an engineering consultant to prepare the preliminary engineering, traffic analysis, and feasibility and needs assessment for the SLV Schools Complex Circulation and Access Study on SR9 in Felton between Graham Hill Road and Glen Arbor Road, which includes improving multimodal system performance within the SLV Schools Complex as well as bicycle and walking facilities for students and other users on SR9.

Two proposals were received by qualified consultants that have experience delivering similar types of projects on the state highway system. The selection panel for this procurement was made up of 4 individuals, including the RTC Executive Director Guy Preston, RTC Transportation Planner Brianna Goodman, Director of Maintenance, Operations, and Transportation for the San Lorenzo Unified School District Dan Arndt, and Senior Transportation Engineer for Caltrans Claudia Espino, who also serves as the Engineering lead for the SLV Complete Streets PID effort funded by Measure D. The proposal review and ranking resulted in interviewing both firms.

Interviews of the consultants took place remotely via Zoom on February 18, 2021. The selection panel ranked Mark Thomas and Company, Inc. as the top firm, due to their data-driven approach to the traffic analysis, consideration of deliverability of improvements, and feasible and fundable solutions to advance this project as effectively and expeditiously as possible.

The draft contract, scope of services, schedule, and cost proposal are included as [Attachment 2](#). The contract value is \$293,990, and within the RTC's programmed and budgeted amount for this contract.

In December of 2021 the RTC programmed and budgeted \$105,000 of the competitive Regional Surface Transportation Program Exchange (RSTPX) funds secured for the SLV Schools Complex Circulation and Access Study.

SLVUSD has committed \$90,000 in funding toward the Study, and a cooperative agreement for the funding is pending and will be brought to RTC at a future meeting. It is necessary to approve the consultant contract in advance of finalizing this cooperative agreement due to schedule constraints, centering around the need to gather appropriate data and conduct outreach before SLVUSD schools end classes for summer break at the beginning of June.

**Staff recommends that the RTC approve the attached resolution (Attachment 1):**

- 1. Authorizing a professional engineering services agreement with Mark Thomas & Company, Inc. (TP2136) to prepare the San Lorenzo Valley (SLV) Schools Complex Circulation and Access Study for a maximum amount of \$293,990;**
- 2. Amending the FY2021-22 RTC Budget and Work Program (Exhibit A to Attachment 1); and**
- 3. Amending the FY2021-22 Measure D Budget (Exhibit A to Attachment 1) and San Lorenzo Valley (SLV)/Highway 9 Corridor Measure D 5-year Plan (Exhibit B to Attachment 1)**

**FISCAL IMPACT**

This contract will be funded by Measure D Highway 9 funds (\$98,990), RSTPX funds (\$105,000) and SLVUSD funds (\$90,000). The RTC programmed and budgeted \$105,000 of RSTPX funds in FY2021-22 as part of the December 2021 RTIP adoption. The approved Measure D-Highway 9 Program 5-year plan includes \$1 million of SLV/Highway 9 Corridor funding in FY2022-23 for preconstruction activities and grant matching for projects to increase safety and access for students of the SLV Schools Complex, \$130,000 of which will be needed to fully fund the proposed contract and project management.

A Cooperative Agreement with SLVUSD is pending which will be brought to the Commission for approval at a future meeting, to program and budget the remaining \$90,000 of SLVUSSD funds in FY2022-23 to fully fund the study.

Work for the study is expected to be split fairly evenly between FY2021-22 and FY2022-23. The proposed FY2021-22 Budget amendments would budget the \$105,000 in programmed RSTPX funds and \$45,000 in Measure D funds

to the "Professional and Special Services" budget line for expenditures on the proposed contract.

The FY2022-23 proposed budgets for the RTC and Measure D will be considered in April 2022 and will include the remaining work to be completed and contribution from SLVUSD.

## **SUMMARY**

The RTC staff recommends authorizing the Executive Director to execute the professional engineering services agreement to the top ranked firm, Mark Thomas & Company, Inc. (TP2136) to prepare the San Lorenzo Valley (SLV) Schools Complex Circulation and Access Study and amend the FY2021-22 RTC and Measure D budgets.

## **ATTACHMENTS**

1. Resolution – Consultant Contract Award, Amend the FY2021-22 RTC and Measure D budgets (Exhibit A), and Amend the San Lorenzo Valley (SLV)/Highway 9 Corridor Measure D 5-year Plan (Exhibit B)
2. Draft Contract, Scope of Services, Schedule, and Cost Proposal

**RESOLUTION NO. \_\_\_\_\_**

Adopted by the Santa Cruz County Regional Transportation Commission  
on the date of March 17, 2022  
on the motion of Commissioner \_\_\_\_\_  
duly seconded by Commissioner Alternate \_\_\_\_\_

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE A CONTRACT WITH MARK THOMAS & COMPANY, INC. FOR PROFESSIONAL ENGINEERING SERVICES TO PREPARE THE SAN LORENZO VALLEY SCHOOLS COMPLEX CIRCULATION AND ACCESS STUDY FOR A TOTAL NOT TO EXCEED AMOUNT OF \$293,990

WHEREAS, to address immense transportation needs and severe transportation funding shortfalls, Santa Cruz County voters approved Measure D in November 2016 by over a 2/3 majority; and

WHEREAS, the RTC is the agency responsible for delivering and distributing funds for regional and other projects in the voter-approved Measure D Expenditure Plan including Highway Corridors, Active Transportation (Coastal Rail Trail), Rail Corridor, San Lorenzo Valley Highway 9 Corridor Improvements, and the Highway 17 Wildlife Crossing; and

WHEREAS, the RTC worked with the community to prepare a complete streets corridor plan for Highway 9 and connecting county roads through San Lorenzo Valley (SLV) that identifies, prioritizes, and will facilitate implementation of some of the most critical and cost effective transportation projects in the corridor; and

WHEREAS, this Highway 9/SLV Complete Streets Corridor Plan found multimodal access to and past the SLV elementary, middle, and high schools combined campus in Felton, referred to as the SLV Schools Complex, to be the highest priority for the SLV community; and

WHEREAS, in 2022 RTC entered into a Memorandum of Understanding with the San Lorenzo Valley Unified School District, Caltrans District 5, Santa Cruz METRO, and the County of Santa Cruz to work together in cooperation to successfully deliver these multimodal improvements as the SLV Schools Complex Circulation Project; and

WHEREAS, the identified next step in delivering said Project is a preliminary engineering and traffic study, along with a feasibility and needs assessment; and

WHEREAS, use of Measure D funds for professional engineering services

to complete the SLV Schools Complex Circulation and Access Study is consistent with the Measure D Ordinance and Expenditure Plan and Highway 9/SLV Corridor Plan; and

WHEREAS, the Santa Cruz County Regional Transportation Commission (RTC) adopts and periodically amends a budget and work program for each fiscal year to guide its expenses and work; and

WHEREAS, the RTC is responsible for administering and implementing the Measure D Ordinance;

THEREFORE, BE IT RESOLVED BY THE SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION THAT:

The Executive Director is hereby authorized to execute a professional engineering services agreement (TP2136) with Mark Thomas & Company, Inc. with a total not to exceed value of \$293,990 to prepare the San Lorenzo Valley (SLV) Schools Complex Circulation and Access Study subject to final negotiation and legal counsel review as to form.

The FY 2021-22 Budget and Work Program for the Santa Cruz County Regional Transportation Commission (RTC) and FY2021-22 Budget for Measure D are hereby amended as shown in Exhibit A and San Lorenzo Valley (SLV)/Highway 9 Corridor Measure D 5-year Plan amended as shown in Exhibit B.

AYES: COMMISSIONERS \_\_\_\_\_

NOES: COMMISSIONERS

ABSTAIN: COMMISSIONERS

\_\_\_\_\_  
Manu Koenig, Chair

ATTEST:

\_\_\_\_\_  
Guy Preston, Secretary

*Distribution: RTC Fiscal, Consultant*

RTC BUDGET AMENDMENT FOR SLV SR9						
Highway 9 Improvements GL Key 721740		FY2021/22 Approved 2/3/22	FY2021/22 Proposed 3/17/22	Difference	Note	
	Object					
1	Measure D	40186	206,665	251,665	45,000	Move \$45k of \$1mil grant match in FY22/23 to FY21/22 Dec 2021 RTIP Amendment for SLV Schools Complex
2	RSTP Exchange/STBG	40761	105,000	105,000	-	
3	Total Revenues		311,665	356,665	45,000	
4						
5	Salaries, Benefits & Overhead					
6	Allocated Labor Costs	51070	52,010	52,010	-	
7	Allocated Overhead	62354	47,330	47,330	-	
8	Total Salaries, Benefits & Overhead		99,340	99,340	-	
9						
10	Services & Supplies					
11	Legal Fees	62359	9,225	9,225	-	
12	Professional & Special Serv	62381	-	150,000	150,000	SLV Schools Complex-Prelim Eng & Traffic Analysis
13	Contribution to Other Agency	75230	98,100	98,100	-	
14	Total Services & Supplies		107,325	257,325	150,000	
15						
16	Total Expenditures:		206,665	356,665	150,000	
17						
18	Excess of Revenues over Expenditures:		105,000	-		

  

MEASURE D BUDGET AMENDMENT FOR SLV SR9						
Measure D SLV SR9 Improvements GL Key 729202		FY2021/22 Approved 2/3/22	FY2021/22 Proposed 3/17/22	Difference	Note	
	Object					
1	Measure D	40186	333,333	333,333	-	
2	Interest	40430	7,000	7,000	-	
3	Total Revenues		340,333	340,333	-	
4						
5	Salaries, Benefits & Overhead					
6	Allocated Labor Costs	51070	52,010	52,010	-	
7	Allocated Overhead	62354	47,330	47,330	-	
8	Total Salaries, Benefits & Overhead		99,340	99,340	-	
9						
10	Services & Supplies					
11	Legal Fees	62359	9,225	9,225	-	
12	Professional & Special Service	62381	-	45,000	45,000	SLV Schools Complex-Prelim Eng & Traffic Analysis
13	To CalTrans for PID/pre-const	75230	98,100	98,100	-	
14	Total Services & Supplies		107,325	152,325	45,000	
15						
16	Total Expenditures:		206,665	251,665	45,000	
17						
18	To/(From) Reserves:		133,668	88,668	(45,000)	
19	Beginning Fund Balance (estimate):	1,299,592	1,299,592		-	
20	Ending Fund Balance (estimate):	1,433,260	1,388,260		(45,000)	

**Measure D: 5-Year Program of Projects (FY21/22-FY25/26)**

*Proposed 3/17/22*

*Previously updated 6/6/19, 11/7/19, 9/3/20, 10/7/21.*

**Category: Neighborhood Projects: San Lorenzo Valley (SLV)/Highway 9 Corridor (\$333,333/year; \$10 million over 30 years)**

	Name/Road/Limits	Description	Schedule	Prior Years	FY20/21 - estimated actuals <sup>2</sup>	Planned <sup>1</sup>					Total Measure D	3/17/22 Update
						FY21/22	FY22/23	FY23/24	FY24/25	FY25/26		
1	San Lorenzo Valley (SLV) Safe Routes to Schools -Preconstruction & grant match	Funding designated for potential match of future grant opportunities.	Begin work in FY21/22	\$0	\$0	\$45,000 \$0	\$955,000 \$1,000,000	\$0	\$0	\$0	\$1,000,000	Shift \$45k from FY22/23 to FY21/22 to fund SLV Schools Complex Circulation and Access Study (partially funded by RSTPX and SLVUSD). FY22/23 includes additional \$54k for study, with balance to be programmed to specific projects once a funding plan is developed.
2	Preliminary scope and engineering documents for near term projects	Develop engineers estimates, prelim. designs, initial screening and implementation documents needed to secure funds for priority projects; may include engineering needed to integrate complete streets components into SHOPP and local projects. Includes \$150k to Caltrans for complete streets Project Initiation Document (PID) for the corridor.	PID to be completed in 2021	\$25,152	\$56,748	\$98,100	\$30,000				\$210,000	
3	SLV/SR9 Corridor technical assistance, oversight, and community outreach	Includes legal, engineering review, grant preparation, funding agreements, RTC staff coordination with Caltrans, County, schools, and other stakeholders, public outreach, other other planning activities.	Ongoing	\$12,364	\$9,071	\$108,565					\$130,000	
<b>COMPLETED PROJECTS</b>												
4	Hwy 9/SLV Corridor Plan	Community-based comprehensive corridor plan, identifying priority transportation projects.	Completed 6/19	\$35,000							\$35,000	No change. Completed
5	Farmer St. Road Repair (alternate ped/bike route to Hwy 9)	Resurfacing Farmer Street, a pedestrian bypass to access SLV Schools Campus	Completed Fall 2019	\$15,000							\$15,000	No change. Completed
<b>Estimated 5-Year Measure D Expenditures</b>				<b>\$87,516</b>	<b>\$65,819</b>	<b>\$251,665</b>	<b>\$985,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,390,000</b>	
<b>Balance/Reserve for priorities in Highway 9-SLV Corridor Plan &amp; PID (Exact projects TBD. Expected to be used as match to leverage grants and other funds.)</b>											<b>\$1.7 million</b>	

1- Funds may be shifted between years based on actual expenditures/use rates when sufficient cash capacity exists.

2- FY20/21 actuals and carryover to FY21/22+ to be adjusted based on audited actuals. Shown here are preliminary estimates.

**CONTRACT No. TP2136**  
**ARCHITECTURAL & ENGINEERING SERVICES CONTRACT**

THIS AGREEMENT made and entered into on \_\_\_\_\_, by and between the SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, hereinafter called COMMISSION, and MARK THOMAS & COMPANY, INC. hereinafter called CONSULTANT for SLV Schools Campus Circulation and Access Study. The parties agree as follows:

**1. DUTIES.**

- A. CONSULTANT agrees to exercise special skill to accomplish the following results: SLV Schools Campus Circulation and Access Study, as specified in Exhibit A: Scope of Services, which by this reference is incorporated herein.
- B. CONSULTANT shall provide the personnel listed below to perform the above-specified services, which persons are hereby designated as key personnel under this Agreement.

<u>Name</u>	<u>Firm</u>	<u>Function</u>
Zach Siviglia	Mark Thomas & Company	Principal
Paul Martin	Mark Thomas & Company	Project Manager

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

## F. CONSULTANT'S PROGRESS REPORTS AND/OR MEETINGS

1. CONSULTANT shall perform the services in accordance with the Project Schedule attached hereto (Exhibit B) and incorporated by reference. The CONSULTANT shall submit written progress reports with each invoice. The report should be sufficiently detailed for the Contract Manager to determine if the CONSULTANT is performing to expectations or is on schedule; to provide communication of interim findings; and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
  2. The CONSULTANT's Project Manager shall meet with the COMMISSION's Contract Manager, as needed, to discuss progress on the CONTRACT.
- 2. COMPENSATION.** The method of payment for this contract will be based on lump sum. The total lump sum price paid to the CONSULTANT will include compensation for all work and deliverable, including travel and equipment described in Exhibit A: Scope of Services and Exhibit B: Project Schedule. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of work or the scope of the project. In the instance of change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and COMMISSION Adjustment in the total lump sum compensation will not be effective until authorized by contract amendment and approved by the COMMISSION. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Project Schedule (Exhibit B) or the Scope of Services (Exhibit A), unless mutually agreed upon by the Contract Manager, COMMISSION shall have the right to delay payment or terminate this CONTRACT in accordance with the provisions of Article 5 Termination.
- A. CONSULTANT shall not commence performance of work or services until this CONTRACT has been approved by COMMISSION and notification to proceed has been issued by COMMISSION. No payment will be made prior to approval of any work, or for any work performed prior to approval of this CONTRACT.
  - B. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit and according to California Code of

Regulations, as they currently exist or may be amended during the term of this CONTRACT upon receipt by COMMISSION's Contract Manager of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing or Task Order, if applicable. Invoices shall detail the work performed on each milestone, task order and/or each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal (Exhibit C) and shall reference this CONTRACT number and project title. Final invoice must contain the final cost and all credits due COMMISSION including any equipment purchased under the provisions of Article 34 Equipment Purchase of this CONTRACT. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work. Invoices shall be emailed to COMMISSION's Contract Manager at the following address: [accountspayable@sccrtc.org](mailto:accountspayable@sccrtc.org)

- C. The total amount payable by the COMMISSION shall not exceed \$293,990.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.
- E. Invoices shall follow the format stipulated for the approved Cost Proposal (Exhibit C) and shall reference this CONTRACT number, project title and Task Order number, if applicable.
- F. The invoices must include the following information:
  - a) Labor (staff name, hours charged, hourly billing rate, current charges and cumulative charges) performed during the billing period by task;
  - b) Itemized expenses incurred during the billing period;
  - c) Total invoice/payment requested, specifically noting the amount of retention, if any;
  - d) Total amount previously paid under this Agreement;
  - e) Report of expenditures by CONSULTANT and subconsultants for each task and subtask or milestone and estimated percentage completion by such divisions of work;
- G. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

**3. PROMPT PAYMENT FROM THE LOCAL AGENCY TO**

**CONSULTANT.** The Santa Cruz County Regional Transportation Commission (RTC) shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the Santa Cruz County Regional Transportation Commission (RTC) fails to pay promptly, the RTC shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the RTC shall act in accordance with both of the following:

- a) Each payment request shall be reviewed by the RTC as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- b) Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt.
- c) A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

**4. FUNDING REQUIREMENTS**

- A. It is mutually understood between the CONSULTANT and COMMISSION that this CONTRACT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the CONTRACT were executed after that determination was made.
- B. This CONTRACT is valid and enforceable only if sufficient funds are made available to COMMISSION for the purpose of this CONTRACT. In addition, this CONTRACT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, federal or state agency, or COMMISSION governing board that may affect the provisions, terms, or funding of this CONTRACT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this CONTRACT may be amended to reflect any reduction in funds.
- D. COMMISSION has the option to terminate the CONTRACT pursuant to Section 5: Termination, or by mutual agreement to amend the CONTRACT to reflect any reduction of funds.

## **5. RETENTION OF FUNDS.**

- A. No retainage will be held by the Commission from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the Commission's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to Page 14 of 32 September 2020 I Local Assistance Procedures Manual EXIHBIT 10-R A&E Boilerplate Agreement Language limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.
- B. No retainage will be held by the COMMISSION from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the COMMISSION'S prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

## **6. TERM.**

- A. This CONTRACT shall go into effect on (DATE); contingent upon prior approval by the COMMISSION governing board, and the CONSULTANT shall commence work after notification to proceed by the COMMISSION'S Contract Manager. The CONTRACT shall end on June 30, 2023, unless earlier terminated or extended by CONTRACT amendment.

- B. The CONSULTANT is advised that this CONTRACT is not binding and enforceable until it is approved by the COMMISSION's board and fully executed.

## **7. TERMINATION.**

- A. This CONTRACT may be terminated by COMMISSION, for cause or without cause provided that COMMISSION gives not less than ten (10) calendar days written notice of its intent to terminate in the event of termination for cause provides and the reasons for termination stated in the notice.
- B. COMMISSION may temporarily suspend this CONTRACT, at no additional cost to COMMISSION provided that CONSULTANT is given written notice of temporary suspension. If COMMISSION gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this CONTRACT. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this CONTRACT, CONSULTANT shall not be relieved of liability to the COMMISSION by termination of this CONTRACT for damages sustained by COMMISSION by virtue of any breach of this CONTRACT by CONSULTANT, and COMMISSION may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due to COMMISSION from CONSULTANT is determined.
- D. If COMMISSION terminates this CONTRACT with CONSULTANT, COMMISSION shall pay CONSULTANT the sum due to CONSULTANT under this CONTRACT for services satisfactorily performed prior to termination, unless the cost of completion to COMMISSION exceeds the funds remaining in the CONTRACT in which case the overage shall be deducted from any sum due CONSULTANT under this CONTRACT and the balance, if any, shall be paid to CONSULTANT upon demand.
- E. Upon termination, COMMISSION shall be entitled to all CONSULTANT's work produced under this CONTRACT, including, but not limited to, reports, investigations, appraisals, inventories, studies, analysis, drawing and data estimates performed to that date, whether or not complete.

**8. INDEMNIFICATION FOR DAMAGES, TAXES AND**

**CONTRIBUTIONS.** CONSULTANT shall exonerate, indemnify, defend, and hold harmless the COMMISSION its governing body, officers, officials, agents, employees and volunteers from and against:

- A. Any and all claims, demands, costs, or liability arising from or connected with the services provided under this CONTRACT due to willful misconduct or negligent acts, errors, or omissions of the CONSULTANT, its officers, subconsultants, employees, volunteers, or agents. The CONSULTANT will reimburse COMMISSION for any expenditure, including reasonable attorney's fees, incurred by COMMISSION in defending against claims ultimately determined to be due willful misconduct or to negligent acts, errors, or omissions of the CONSULTANT, its officers, subconsultants, employees, volunteers, or agents; an
- B. Any and all Federal, State and Local taxes, charges, fees, penalties, or contributions required to be paid with respect to CONSULTANT and CONSULTANT'S officers, subconsultants employees, volunteers, and agents engaged in the performance of this CONTRACT (including, without limitation, unemployment insurance, social security and payroll tax withholding).

**9. SAFETY.**

- A. The CONSULTANT shall comply with OSHA, Cal-OSHA, and all other regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. The CONSULTANT shall comply with safety instructions issued by the COMMISSION Safety Officer and other COMMISSION representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. If any work might be conducted on the rail line or within the rail line right-of-way: CONSULTANT personnel (officers, employees, volunteers, or agents) and any subcontractors must submit and comply with the "right-of-entry agreement" with COMMISSION and St. Paul & Pacific Railway, LLC (a subsidiary of Progressive Rail, Inc.) SC&MB, or its successor, as applicable, the terms and conditions of which are incorporated herein by this reference, and shall wear hard hats and safety vests at all times while working on the Santa Cruz Branch Rail Line or within the rail line right-of-way.

Pursuant to the authority contained in Section 591 of the Vehicle Code, COMMISSION has determined that such areas within the

limits of the project are open to public traffic unless otherwise identified as private property. The CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. The CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles

**10. INSURANCE.** CONSULTANT, at its sole cost and expense, for the full term of this CONTRACT, and any extensions thereof, shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects COMMISSION and any insurance or self-insurance maintained by COMMISSION shall be excess of CONSULTANT'S insurance coverage and shall not contribute to it. Insurance is to be placed with insurers reasonably acceptable to COMMISSION.

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

1. Workers' Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall not be required if the CONSULTANT has no employees and certifies to this fact by initialing here: \_\_\_\_/\_\_\_\_. Automobile Liability Insurance for each of CONSULTANT'S vehicles used in the performance of this CONTRACT, including owned, non-owned (e.g. owned by CONSULTANT'S employees), leased or hired vehicles, in the minimum amount of \$1,000,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by the CONSULTANT is not a material part of performance of this Agreement and CONSULTANT and COMMISSION both certify to this fact by initialing here: /\_\_\_\_.
2. Comprehensive or Commercial General Liability Insurance coverage at least as broad as ISO form CG 00 01, with a minimum limit of two million dollars (\$2,000,000) per occurrence, and \$4,000,000 in the aggregate, including coverage for: (a) products and completed operations, (b) bodily and personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability.
3. Professional Liability Insurance in the minimum amount of two million dollars (\$2,000,000)\_per occurrence and four million dollars (\$4,000,000) aggregate.

If CONSULTANT normally carries insurance in an amount greater than the minimum amount required by the COMMISSION for this CONTRACT, that greater amount shall become the minimum required amount of insurance for purposes of this CONTRACT. Therefore, CONSULTANT hereby acknowledges and agrees that any and all insurances carried by it shall be deemed liability coverage for any and all actions it performs in connection with this CONTRACT.

**B. Other Insurance Provisions**

1. If any insurance coverage required in this CONTRACT is provided on a "Claims Made" rather than "Occurrence" form, CONSULTANT agrees that the retroactive date thereof shall be no later than the effective date of this CONTRACT, and that it shall maintain the required coverage for a period of three (3) years after the expiration of this CONTRACT (hereinafter "POST CONTRACT COVERAGE") and any extensions thereof. CONSULTANT may maintain the required POST CONTRACT COVERAGE post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon POST CONTRACT COVERAGE being both available and reasonably affordable in relation to the coverage provided during the term of this CONTRACT. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this CONTRACT in order to purchase prior acts or tail coverage for POST CONTRACT COVERAGE shall be deemed to be reasonable. The COMMISSION will not be responsible for any premiums or assessments on the policy.
2. All policies of Commercial General Liability Insurance and Railroad Protective Liability Insurance, if required, shall be endorsed to cover the Santa Cruz County Regional Transportation Commission, its governing body, officials, employees, agents and volunteers, and St. Paul & Pacific Railway, LLC (a subsidiary of Progressive Rail, Inc.), or its successor,, and its officials, employees, agents and volunteers, if any work will be undertaken in the rail right-of-way or within fifty (50) feet from the track, as additional insureds with respect to liability arising out of the work or operations and activities performed by or on behalf of, the CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations.

Endorsements shall be at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01, covering ongoing operations and products and completed operations.

3. All required insurance policies shall be endorsed to contain the following clause:

“This insurance shall not be canceled until after thirty (30) days (10 days for nonpayment of premium) prior written notice has been given to:

**Santa Cruz County  
Regional Transportation Commission  
Attn: Yesenia Parra  
1101 Pacific Avenue, Suite 250  
Santa Cruz, CA 95060**

Should CONSULTANT fail to obtain such an endorsement to any policy required hereunder, CONSULTANT shall be responsible to provide at least thirty (30) days’ notice (10 days for non-payment of premium) of cancellation of such policy to the COMMISSION as a material term of this CONTRACT.

4. CONSULTANT agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide COMMISSION on or before the effective date of this CONTRACT with Certificates of Insurance and endorsements for all required coverages. The Certificates of Insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible. The certificates shall require the carrier to take reasonable action to notify COMMISSION in writing of any material change, cancellation, termination or non-renewal of the coverage at least ten (10) days in advance of the effective date of any such material change, cancellation, termination or non-renewal. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT’s obligation to provide them. All Certificates of Insurance and notices endorsements shall be delivered or sent to:

**Santa Cruz County  
Regional Transportation Commission  
Attn: Yesenia Parra  
1101 Pacific Avenue, Suite 250  
Santa Cruz, CA 95060**

5. The CONSULTANT agrees that the insurance herein provided for, shall be in effect at all times during the term of this CONTRACT. In the event said insurance coverage expires at any time or times during the term of this CONTRACT, the CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the CONTRACT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of the COMMISSION. In the event the CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, the COMMISSION may, in addition to any other remedies it may have, terminate this CONTRACT upon occurrence of such event.
6. If any insurance policy of CONSULTANT required by this CONTRACT includes language conditioning the insurer's legal obligation to defend or indemnify COMMISSION on the performance of any act(s) by the named insured, then said insurance policy, by endorsement, shall also name the COMMISSION as a named insured. Notwithstanding the foregoing, both the CONSULTANT and its insurers agree that by naming the COMMISSION as a named insured, the COMMISSION may at its sole direction, but is not obligated to, perform any act required by the named insured under said insurance policies.
7. CONSULTANT shall do all things required to be performed by it pursuant to its insurance policies including but not limited to paying within five (5) work days, all deductibles and self-insured retentions (SIR) required to be paid under any insurance policy that may provide defense or indemnity coverage to COMMISSION or any additional insured. If CONSULTANT's insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve

to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this CONTRACT so as to not prevent any of the parties to this CONTRACT from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability.

8. CONSULTANT hereby grants to COMMISSION a waiver of any right of subrogation which any insurer of said CONSULTANT may acquire against the COMMISSION by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COMMISSION has received a waiver of subrogation endorsement from the insurer.
9. CONSULTANT shall cause the foregoing provisions to be inserted in all subcontracts for any work covered under this CONTRACT, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

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

- A. CONSULTANT warrants that in the performance of this CONTRACT, it shall exercise usual and customary professional care in its efforts to comply with all applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and regulations promulgated thereunder. In the event of a conflict between the laws and lawful regulations of any government entities having jurisdiction over the project, the CONSULTANT shall notify COMMISSION of the nature and impact of such conflict. The COMMISSION agrees to cooperate and work with the CONSULTANT in an effort to resolve any conflict.
- B. Those laws, statutes, ordinances, rules, regulations and procedural requirements that are imposed on COMMISSION as a recipient of federal or state funds are imposed on CONSULTANT.

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

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gove Code 12990 and 2 CCR 8103. CONSULTANT and subconsultants shall ensure that the

evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. During the performance of this CONTRACT, the CONSULTANT and its subconsultants shall not deny the CONTRACT benefits to any person on the basis of race, color, sex, gender, religious creed, national origin, ancestry, physical disability (including HIV and AIDS status), mental disability, medical condition (e.g., cancer), genetic information, marital status, gender, gender identity, gender expression, age, sexual orientation, military or veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Such action shall include, but not be limited to, the following: recruitment; advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code §12990 et seq.) and the applicable regulations promulgated thereunder (.2 CCR 11000 et seq.), the provisions of Government Code section 11135 to 11139.5, and the regulations of standards adopted by the COMMISSION to implement such article.

- C. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other CONTRACT.
- D. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this contract.
- E. The CONSULTANT, with regard to the work performed under this CONTRACT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the

United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

- F. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of subconsultants.
  - G. CONSULTANT and its subconsultants shall permit access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by State to investigate compliance with this Article.
  - H. In the event of CONSULTANT's non-compliance with the non-discrimination clauses of this CONTRACT or with any of the said rules, regulations or orders the COMMISSION may cancel, terminate or suspend the CONTRACT in whole or in part. CONSULTANT may also be declared ineligible for further agreements with the COMMISSION.
  - I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the COMMISSION components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.
- 13. HARASSMENT.** The COMMISSION maintains a strict policy prohibiting unlawful harassment, including sexual harassment, in any form, including verbal, physical and visual harassment by any employee, supervisor, manager, officer or Board member, or agent of the employer. Vendors, contractors, and consultants shall not

engage in conduct that has an effect of unreasonably interfering with a COMMISSION employee's work performance or creates an intimidating, hostile or offensive work environment.

**14. FEDERAL CERTIFICATIONS AND ASSURANCES. Contracts subject to RTC- Caltrans MFT Only**

A. CONSULTANT and all subcontractors shall comply, as applicable, with the FHWA "Transportation Planning Process Certification" requirements in accordance with 23 CFR 450.334 and the federal transportation act and its successors thereto. It may include but is not limited to:

1. 23 U.S.C. 134, 49 U.S.C. 5303, and this subpart;
2. In nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
3. Title VI of the Civil Rights Act of 1964 and the Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794;
4. Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
5. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR parts 27, 37, and 38;
6. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
7. 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
8. The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
9. Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and
10. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

B. CONSULTANT shall also comply with "Certifications and Assurances for FTA Assistance", including "Certifications and Assurances Required of Each Applicant" and the "Lobbying

Certification” in compliance with 49 U.S.C. Chapter 53, published annually in the *Federal Register* and found online at [http://www.fta.dot.gov/grants/12825\\_93.html](http://www.fta.dot.gov/grants/12825_93.html).

The 2013 FTA Certifications includes the following areas under “Assurances Required of Each Applicant:”

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

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

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

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

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**16. CONFLICT OF INTEREST.**

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

- 17. LICENSES.** If a license of any kind is required of CONSULTANT, its employees, agents, or subcontractors by Federal or State law, CONSULTANT warrants that such license has been obtained, is valid and in good standing, that CONSULTANT shall keep it in effect at all times during the terms of this CONTRACT, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

**18. DEBARMENT AND SUSPENSION CERTIFICATION.**

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

**19. INDEPENDENT CONSULTANT STATUS.**

A. CONSULTANT and COMMISSION have reviewed and considered the principal test and secondary factors herein and agree that CONSULTANT is an independent CONSULTANT and not an employee of COMMISSION. CONSULTANT is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONSULTANT is not entitled to any employee benefits provided by the COMMISSION. COMMISSION agrees that CONSULTANT shall have the right to control the manner and means of accomplishing the result contracted for herein.

1. PRINCIPAL TEST: The CONSULTANT rather than COMMISSION has the right to control the manner and means of accomplishing the result contracted for.
2. SECONDARY FACTORS: (a) The extent of control which, by agreement, COMMISSION may exercise over the details of the work is slight rather than substantial; (b) CONSULTANT is engaged in a distinct occupation or business; (c) In the locality, the work to be done by CONSULTANT is usually done by a

specialist without supervision, rather than under the direction of an employer; (d) The skill required in the particular occupation is substantial rather than slight; (e) The CONSULTANT rather than the COMMISSION supplies the instrumentalities, tools and work place; (f) The length of time for which CONSULTANT is engaged is of limited duration rather than indefinite; (g) The method of payment of CONSULTANT is by the job rather than by the time; (h) The work is part of a special or permissive activity, program, or project, rather than part of the regular business of COMMISSION; (i) CONSULTANT and COMMISSION believe they are creating an independent CONSULTANT relationship rather than an employer-employee relationship; and (j) The COMMISSION conducts public business.

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

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

holds COMMISSION, its governing body, officers, employees, and agents, harmless from any and all claims that may be made against COMMISSION based upon any contention by any third part that an employer-employee relationship exists by reason of this CONTRACT.

- G. Except as expressly authorized herein, CONSULTANT's obligations under this CONTRACT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the COMMISSION. However, claims for money due or which become due to CONSULTANT from COMMISSION under this CONTRACT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the COMMISSION.

**20. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS.**

- A. CONSULTANT agrees that the CONTRACT Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Part 31 or 2 CFR Part 200 are subject to repayment by CONSULTANT to COMMISSION.
- D. When a CONSULTANT or subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.
- E. Contractor and subcontractors shall establish and maintain, an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item (i.e direct labor, other direct costs, subrecipients/subcontractor, etc) and enable the determination

of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

**21. RETENTION OF RECORDS/AUDIT.**

- A. For the purpose of determining compliance with Government Code section 8546.7, CONSULTANT, its subconsultants, and COMMISSION shall maintain and make available for inspection all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the CONTRACT, including but not limited to, the costs of administering the CONTRACT. All parties shall make such materials available at their respective offices at all reasonable times during the CONTRACT period and for three years from the date of final payment under the CONTRACT. If any action has occurred relative to the records, the records must be retained until completion of the action and resolution of all issues that arise from it.
- B. The state, State Auditor, and COMMISSION shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the CONTRACT and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. The Federal Highway Administration (FHWA) or other authorized representative of the federal government shall also have access to the records described in this paragraph, if federal funds are used in this CONTRACT.

**22. INSPECTION OF WORK.** The CONSULTANT and any subconsultant shall permit the COMMISSION, the STATE, and the FHWA or FTA if federal participating funds are used in this CONTRACT, to review and inspect the project activities and files at all reasonable times during the term of this CONTRACT including review and inspection on a daily basis.

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

**24. WORK PRODUCTS/OWNERSHIP OF DATA.** It is mutually agreed that all material, data, information, and written, graphic or other work produced under this CONTRACT is subject to the unqualified and unconditional right of the COMMISSION to use, reproduce, publish, display, and make derivative use of all such work, or any part of it, free of charge and in any manner and for

any purpose; and to authorize others to do so. CONSULTANT shall have no property right therein whatsoever.

- A. Upon completion of all work under this CONTRACT, the COMMISSION shall be entitled to and the CONSULTANT shall deliver to the COMMISSION reports, investigations, appraisals, inventories, studies, analysis, drawing and data estimated performed to that date, whether completed or not, and other such materials as may have been prepared by CONSULTANT in performing this CONTRACT which is not CONSULTANT's privileged information, as defined by law or CONSULTANT's personnel information along with all other property belonging exclusively to the COMMISSION which is in the CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this CONTRACT must be approved in writing by the COMMISSION.
- B. Additionally, it is agreed that the Parties intend this to be an CONTRACT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of COMMISSION without restriction or limitation upon its use or dissemination by COMMISSION.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this CONTRACT. Any reuse by COMMISSION for another project or project location shall be at COMMISSION's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the CONTRACT as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. The COMMISSION may permit copyrighting reports or other contract products, subject to its rights in Section E below. If copyrights are permitted, the agreement shall provide that the COMMISSION shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.
- F. If any of the work is subject to copyright, trademark, service mark, or patent, CONSULTANT now grants to the COMMISSION

a perpetual, royalty-free, nonexclusive and irrevocable license to use, reproduce, publish, use in the creation of derivative works, and display and perform the work, or any part of it, and to grant to any third party a comparable and coextensive sublicense.

**25. CONFIDENTIALITY OF DATA.**

- A. All financial, statistical, personal, technical, or other data and information relative to COMMISSION's operations, which are designated confidential by COMMISSION and made available to CONSULTANT in order to carry out this CONTRACT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by COMMISSION relating to the CONTRACT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the CONTRACT or COMMISSION's actions on the same, except to COMMISSION's staff, CONSULTANT's own personnel involved in the performance of this CONTRACT, at public hearings or in response to questions from a government entity.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this CONTRACT without prior review of the contents thereof by COMMISSION, and receipt of COMMISSION'S written permission.

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

**27. EVALUATION OF CONSULTANT.** CONSULTANT's performance will be evaluated by COMMISSION. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the CONTRACT record.

**28. DRUG-FREE WORKPLACE.** CONSULTANT shall comply with the provisions of Government Code § 8350 *et seq.*, regarding Drug-

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

**29. CHANGE IN TERMS.**

- A. This Agreement may be amended or modified only by mutual written agreement of the parties.
- B. No alteration or variation of the terms of this CONTRACT shall be valid unless made in writing and signed by the parties authorized to bind the parties; and nor oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- C. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the COMMISSION's Contract Manager.

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

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

- A. Any dispute, other than audit disputes, concerning a question of fact arising under this CONTRACT that is not disposed of by agreement shall be decided by a committee consisting of the COMMISSION's Contract Manager and Executive Director, who may consider written or verbal information submitted by the CONSULTANT. The committee's determination regarding such dispute shall be final unless the committee determines, in its sole discretion, that the dispute shall be determined by the Board of COMMISSION.
- B. Not later than 30 days after completion of all work under the CONTRACT, CONSULTANT may request review by COMMISSION Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse the CONSULTANT from full and timely performance in accordance with the terms of this CONTRACT.

**31. CLAIMS FILED BY COMMISSION'S CONSTRUCTION CONTRACTOR.**

- A. If claims are filed by COMMISSION's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with COMMISSION'S construction CONTRACT administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that COMMISSION considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from COMMISSION. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this CONTRACT.
- C. Services of CONSULTANT's personnel in connection with COMMISSION's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this CONTRACT in order to resolve the construction claims.

**32. AUDIT REVIEW PROCEDURES.**

- A. Any dispute concerning a question of fact arising under an interim or post-completion audit of this Agreement that is not disposed of by agreement, shall be reviewed by the COMMISSION'S Contract Manager and Executive Director
- B. Not later than 30 days after issuance of the final audit report, the CONSULTANT may request a review by the COMMISSION'S Executive Director of unresolved audit issues. The request for review will be submitted in writing. The Executive Director's determination regarding such dispute shall be final unless the Executive Director determines, in its sole discretion, that the dispute shall be determined by the RTC COMMISSION.
- C. Neither the pendency of a dispute nor its consideration by the COMMISSION will excuse the CONSULTANT from full and timely performance, in accordance with the terms of this CONTRACT.

- D. CONSULTANT and subconsultants' contracts, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a CONTRACT Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the CONTRACT, Cost Proposal (Exhibit C) and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's workpapers. The CONTRACT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by COMMISSION Contract Manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the CONTRACT by this reference if directed by COMMISSION at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA workpapers, will be considered a breach of CONTRACT terms and cause for termination of the CONTRACT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal (Exhibit C) may be subject to a CPA ICRA Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigation (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal (Exhibit C) shall be adjusted by the CONSULTANT and approved by the COMMISSION Contract Manager to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. The CONSULTANT must incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the CONTRACT terms and cause for termination of the CONTRACT and disallowance of prior reimbursed costs.
- 1) During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the

review and is unable to issue a cognizant approval letter, COMMISSION will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
  - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
  - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
  3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
  4. CONSULTANT may submit to COMMISSION final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has

been completed to the satisfaction of COMMISSION; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO COMMISSION no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between COMMISSION and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

### **33. SUBCONTRACTING.**

- A. The CONSULTANT is responsible for performing the work required under the CONTRACT in a manner acceptable to COMMISSION. The CONSULTANT's organization and all associated consultants and subconsultants must be identified in Article 1 of this CONTRACT or the Cost Proposal (Exhibit C). If the CONSULTANT wishes to use a subconsultant not specified in this CONTRACT or Exhibit C, prior written approval must be obtained from the local agency. The subcontract must contain all required provisions of this CONTRACT. All subawards must include adequate oversight, management, and administration of engineering and design related consultant services and be administered in accordance with State laws and procedures specified in 23 U.S.C.106(g)(4) and 2 CFR 200.331.
- B. Nothing contained in this CONTRACT or otherwise, shall create any contractual relation between COMMISSION and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to COMMISSION for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from COMMISSION'S obligation to make payments to the CONSULTANT.
- C. The CONSULTANT shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this CONTRACT shall be subcontracted without prior written authorization by the COMMISSION'S Contract Manager, except that, which is expressly identified in the approved Cost Proposal (Exhibit C).

- D. CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

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

**34. EQUIPMENT PURCHASE.**

- A. Prior authorization in writing, by COMMISSION's Contract Manager shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal (Exhibit C) and exceeding \$5,000 with prior authorization by COMMISSION's Contract Manager, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- C. Any equipment purchased as a result of this CONTRACT is subject to the following:
  - 1. "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, COMMISSION shall receive a proper refund or credit at the conclusion of the CONTRACT, or if the CONTRACT is terminated, CONSULTANT may either keep the equipment and credit COMMISSION in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COMMISSION procedures; and credit COMMISSION in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by COMMISSION and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COMMISSION."
  - 2. Regulation 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

**35. STATE PREVAILING WAGE RATES.**

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California

Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work, as may be amended.

- B. No CONSULTANT or subconsultant may be awarded a contract containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code 1725.5. Registration with DIR must be maintained throughout the entire term of the contract, including any subsequent amendments.
- C. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determination applicable to work under this CONTRACT are available and on file with the Department of Transportation' Regional/District Labor Compliance Officer. (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this CONTRACT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at COMMISSION construction sites, at COMMISSION facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve COMMISSION projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- D. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <https://www.dir.ca.gov/>.
- E. Payroll Records
1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
  - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by COMMISSION representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
- a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
  - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of COMMISSION, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations or other party given the right to inspect the payroll records under state law. Certified payrolls submitted to COMMISSION, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
  - c. The public shall not be given access to certified payroll records by the CONSULTANT, but shall be available upon request made through COMMISSION or the Department of Industrial Relations. The CONSULTANT is required to forward any requests for certified payrolls to the COMMISSION Contract Administrator by both email and U.S. mail no later than the business day following receipt of the request.

Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public

agency by COMMISSION shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.

5. The CONSULTANT shall inform COMMISSION of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. In the event the CONSULTANT or subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to COMMISSION, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by COMMISSION from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a subconsultant to comply with this section.

F. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the COMMISSION Contract Manager.

G. Penalty

1. The CONSULTANT and any of its subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any subconsultant shall forfeit to the COMMISSION a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the CONTRACT by the CONSULTANT or by its subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or

subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the CONTRACT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the 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 prevailing wage rate shall be paid to each worker by the CONSULTANT or subconsultant.

4. If a worker employed by a subconsultant on a public works project is not paid the general prevailing per diem wages by the subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:

- a. The CONTRACT executed between the CONSULTANT and the subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
- b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the subconsultant to the employees by periodic review of the certified payroll records of the subconsultant.
- c. Upon becoming aware of the subconsultant's failure to pay the specified prevailing rate of wages to the subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the subconsultant for work performed on the public works project.
- d. Prior to making final payment to the subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subconsultant that the

subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, COMMISSION shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a subconsultant has failed to pay workers the general prevailing rate of per diem wages.

6. If COMMISSION determines that employees of a subconsultant were not paid the general prevailing rate of per diem wages and if COMMISSION did not retain sufficient money under the CONTRACT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by COMMISSION.

H. Hours of Labor: Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the COMMISSION, twenty-five dollars (\$25) for each worker employed in the execution of the CONTRACT by the CONSULTANT or any of its subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

I. Employment of Apprentices

1. Where either the CONTRACT or the subcontract exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of

apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the CONTRACT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

- E. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <https://www.dir.ca.gov/>.

**Note:** The Federal "Payment of Predetermined Minimum Wage" applies only to federal-aid construction contracts.

**36. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION.**

- A. While there is no specific DBE goal for this CONTRACT, consultants are encouraged to obtain DBE participation for this CONTRACT. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds.

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

**38. BROKERAGE OR OTHER FEES.** CONSULTANT warrants that no person or selling agency has been employed or retained to solicit or secure this CONTRACT upon an agreement or understanding, for a commission, percentage, brokerage or contingent, excepting bona fide employees or bona fide commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. . For breach or violation of this warranty, the

COMMISSION shall have the right to annul this agreement without liability, or at its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.”

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

**CONSULTANT:**

Mark Thomas & Company, Inc.  
 Project Manager: Paul Martin  
 2833 Junction Avenue, Suite 110  
 San Jose, CA 95134  
[pmartin@markthomas.com](mailto:pmartin@markthomas.com)

**COMMISSION:**

Santa Cruz County Regional Transportation  
 Commission (SCCRTC)  
 Brianna Goodman, Contract Manager  
 1101 Pacific Avenue, Suite 250  
 Santa Cruz, CA 95060

**40. FORCE MAJEURE**

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

majeure, the other party may likewise suspend the performance of its obligations under this CONTRACT to the extent that the suspension is reasonable.

**41. COMPLETE CONTRACT.**

- A. CONTRACT: The two parties to this CONTRACT, who are the before named CONSULTANT and the before named COMMISSION, hereby agree that this CONTRACT constitutes the entire CONTRACT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this CONTRACT as evidenced by the signatures below.
- B. COMMISSION DESIGNEE: The Executive Director of COMMISSION, or his or her designee, shall have the authority to act for and exercise any of the rights of COMMISSION as set forth in this CONTRACT subsequent to, and in accordance with the authorization granted by the COMMISSION.
- C. COMPLETE AGREEMENT, INCLUDING ATTACHMENTS. This CONTRACT includes all exhibits, attachments, and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the CONTRACT between COMMISSION and CONSULTANT, and supersedes all prior representations, understandings and communications. The invalidity in whole or in part of any term or condition of this CONTRACT shall not affect the validity of other terms or conditions. The COMMISSION's waiver of CONSULTANT's performance of any term(s) or condition(s) of this CONTRACT shall not be construed as a waiver for any future performance of such term(s) or conditions(s).
- D. Attachments:
- Exhibit A: Scope of Services
  - Exhibit B: Project Schedule
  - Exhibit C: Cost Proposal (*Exhibit 10-H, LAPM*)
  - Exhibit D: Form 1 California Levine Act Statement  
Form 2 Exceptions to the Contract

Each of the undersigned represents and warrants that he or she is duly authorized to execute and deliver this Agreement and that such execution is binding upon the entity for which he or she is executing this document.

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

SIGNATURES

1. CONSULTANT:

2. SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION:

By \_\_\_\_\_  
*Zach Siviglia*  
President

By \_\_\_\_\_  
*Guy Preston*  
Executive Director

Date \_\_\_\_\_

Date \_\_\_\_\_

Mark Thomas & Company, Inc.  
2833 Junction Ave., Suite 110  
San Jose, CA 95134  
(916) 390-5131  
[zsiviglia@markthomas.com](mailto:zsiviglia@markthomas.com)

3. APPROVED AS TO FORM:

4. APPROVED AS TO INSURANCE:

By \_\_\_\_\_  
*Steve Mattas*  
RTC Council

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

Date \_\_\_\_\_

Date \_\_\_\_\_

Distribution: RTC Administrative Services Officer, RTC Accounting, RTC Contract Manager, CONSULTANT

## **Exhibit A: Scope of Services**

### **TASK 1. PROJECT MANAGEMENT AND COORDINATION**

#### **Task 1.1. Project Management**

The Mark Thomas Project Manager (PM), Paul Martin, will communicate directly with the RTC PM and manage the internal project team for project delivery. Project management will include delivery of monthly progress reports and invoices for review and approval by RTC.

The project schedule included in this proposal will be updated showing milestones by task and planned advisory group dates. The schedule will be reviewed regularly to ensure deliverables are on schedule for completion. We propose a project duration of nine (9) months with start in March or April 2022.

#### **Task 1.2. Project Manager Meetings**

Throughout the project duration, we will host twice-monthly PM status meetings via a Mark Thomas provided videoconference link. The videoconference is recommended to allow for a screenshare opportunity where meeting notes are recorded in real-time to document discussion and establish clear action items. The frequency of status meetings is intended to maintain a conversational approach to delivering the project and to quickly secure guidance and direction on project elements in order to deliver the Study consistent with the proposed schedule and accounting for the schools' summer break. The meetings will be concise and organized and will be led by the Mark Thomas Project Manager.

The first PM status meeting will function as the project kickoff meeting, and we will discuss the project background, goals, schedule, involved agencies, and key stakeholders for future involvement. The kickoff meeting provides an opportunity to hear the RTC project vision, goals, objectives, potential challenges, and key deadlines. We will identify key project outcomes to ensure that expectations and deliverables are well defined for project success. The Mark Thomas Team will listen to the discussion to determine how best to serve RTC.

Participation in the monthly PM status meetings is anticipated to include the RTC designated PM and the Mark Thomas PM. Additional team members will be invited to the status meetings as needed to review the status of deliverables and solicit Client direction.

#### **Task 1.3. Project Development Team Meetings**

We will host monthly Project Development Team (PDT) meetings with the key project stakeholders. The PDT meetings will be led in a concise and organized manner via a Mark Thomas provided videoconference link. The videoconferences recommended to allow for a screenshare opportunity where meeting notes are recorded in real-time to document discussion and establish clear action items. Tracking of actions and decisions will be conducted to advance the project and provide a written record that can be referenced later as needed.

Successful execution of this project requires collaboration with community members and key agency partners. Stakeholders will include local residents and business owners, school students, parents, and guardians, schools' staff, local and regional agency staff, elected officials, and Caltrans. Per the RTC staff item on January 13, 2022, key project stakeholders include representatives from the following organizations:

- RTC
- County of Santa Cruz (County)
- Caltrans
- San Lorenzo Valley Unified School District (SLVUSD)
- Santa Cruz Metropolitan Transit District (METRO)
- Consultant Team representatives (Mark Thomas and Fehr & Peers)

We will work with RTC staff to refine the list of potential PDT invitees and send invitations for attendance to the meetings. Ultimately, we aim to establish ownership of project outcomes through stakeholder participation. We anticipate a total of five (5) PDT meetings will be hosted for advancement of the project.

Per our proposed schedule, we expect the site observations (Task 2.3) with PDT members will occur in May in lieu of a PDT meeting.

### ***TASK 1 DELIVERABLES:***

- Project team management, schedule, monthly invoices, and progress reports.
- Twice-Monthly PM Meetings (agenda and notes)
- PDT Meetings (assume 5 meetings)

## **TASK 2. EXISTING CONDITIONS REVIEW**

### **Task 2.1. Background Documents Review**

The purpose of the existing conditions review is to establish an understanding of relevant agency documents regarding transportation planning and travel safety, compile and summarize key data, and evaluate crash data to inform the purpose and need as well as provide justification for potential study recommendations. Documents we anticipate reviewing include the following:

- County Capital Improvement Program
- County General Plan
- Highway 9 San Lorenzo Valley Complete Streets Corridor Plan (2019) (Highway 9/SLV Plan)
- Caltrans State Route 9 Transportation Concept Report
- Caltrans Project Initiation Documents (PID) for following:
  - 05-1M400 Caltrans State Route 9 Felton Safety Improvements (Anticipated Draft Environmental Document expected July 2022 and construction start in October 2024)
  - 05-1M550 Caltrans Complete Streets effort for all projects in Highway 9/SLV Plan
  - 05-1K890 Caltrans Capital Preventative Maintenance (CAPM)
- Caltrans As-Built Plans from Caltrans on State Route 9 from Postmile 6.46 to 8.11
- SLVUSD As-Built Plans for SLV Schools, as well as any planned capital projects that would modify circulation, constraints, or number of travelers
- SLVUSD schools data:
  - Faculty & student attendance by school by zip code
  - High School students driving/parking at school by zip code
  - Elementary School students utilizing school bus or METRO bus by zip code
- San Lorenzo Valley Trail Feasibility Study (2006)
- Felton and Ben Lomond Town Plans

- Draft Santa Cruz County Active Transportation Plan
- Draft Caltrans District 5 Active Transportation Plan
- Santa Cruz METRO Short Range Transit Plan (2014)
- Santa Cruz METRO Comprehensive Operational Analysis (2016)
- Santa Cruz METRO Unmet Transit and Paratransit Needs List (2021)

## Task 2.2. Speed and Crash Data Analysis

The project team will obtain the five most recent years of crash data from the California Statewide Integrated Traffic Records System (SWITRS) database and supplemented with fatal and injury crash data from the UC Berkeley Transportation Injury Mapping System (TIMS) involving vehicles, bicycles, and pedestrians and Caltrans Traffic Accident Surveillance and Analysis System (TASAS). These combined sources will be reviewed to create a comprehensive crash database for use in the analysis, supplementing the SWITRS database and removing double count crash events between sources. A consolidated, uniform set of reported crashes will be mapped in a GIS-based platform. Our team will request recent traffic counts and speed survey data collected by Caltrans or available data from RTC or the County.

## Task 2.3. Site Conditions Observations

We propose project site observations from PM 6.46 Graham Hill to PM 8.11 Glen Arbor with attendance by the PDT representatives during school drop-off and pick-up times. We recommend involvement in the site observations and subsequent discussions with the SLVUSD Director of Transportation and other interested SLVUSD staff.

The field observations with representatives can help identify multi-modal conflict points, pinch points, and areas of congestion and needs to occur during a typical school day. The proposed field review will evaluate existing study roadway/intersection characteristics such as the following:

- Observed travelers at study location (goods movement, passenger vehicles, transit, bicyclists, pedestrians, etc.)
- Layout of roadway travel lanes, median, shoulder, driveways, and intersection control
- Multi-modal conflicts
- Transit and school bus operations
- Traffic signal phasing and operations
- Presence of horizontal and vertical curves, grade changes, drainage, heritage trees, and other potential obstructions and constraints
- Potential sight distance constraints
- School curbside pick-up/drop-off activities and circulation patterns

We will provide aerial image mapping for use during site visits and prompt representatives to take notes directly upon the handouts for collection and use in the study.

## Task 2.4. Data Mapping

Project mapping will be provided identifying the project study area, congestion hotspots, observed conflict points, traffic volumes, and speed data. Where appropriate, data will be incorporated into Geographic Information Systems (GIS) for high-quality mapping such as crash history. The data mapping will be prepared for review by RTC, the PDT and refined as needed for presentation to the public during community engagement efforts.

## ***TASK 2 DELIVERABLES:***

- Background documents and data collection and evaluation
- Field observation notes and photographs

## **TASK 3. TRAFFIC ASSESSMENT**

### **Task 3.1. Traffic Count Data Collection**

We understand some existing traffic count data is available from Caltrans and other previous studies along the State Route 9 corridor. Some traffic counts may be several years old and may not fully reflect current traffic operations and multimodal issues on the corridor. As a result, we propose to collect new intersection turning movement counts at the three (3) primary intersections providing school access to/from State Route 9:

- State Route 9/SLV High School Entrance
- State Route 9/SLV Elementary School Entrance
- State Route 9/EI Solyo Heights (SLV Middle School access roadway)

We will collect traffic counts for a typical midweek school day during morning, after school and afternoon periods (7-9am and 2-6pm). Turning movements for the following travel modes will be collected, automobiles, buses, bicycles, and pedestrians. The traffic count data will inform the understanding of key transportation circulation issues and opportunities. Additional data collection needs, should they be identified as part of the existing conditions assessment, can be accommodated as an optional task.

### **Task 3.2. Needs Analysis**

We will summarize the background documents, data evaluation, crash analysis, site observations, and multi-modal traffic count data for review and discussion with the PDT. The evaluation of available background data and information will be utilized to document existing conditions and inform the project purpose and need.

The project focus on providing multimodal solutions at the SLV schools and along SR-9 aligns with the interests of Caltrans and the other project stakeholders; RTC; County; METRO, and SLVUSD and is well supported by the community and local elected officials such as Supervisor Bruce McPherson. Our team recognizes the needs and policies are supportive of multi-modal solutions and will work to balance feasible solutions with costs and difficulty of implementation.

The needs analysis will include a summary of current traffic operations, speeds, and crash history within the study area. Multimodal circulation needs will also be summarized based on existing data, field observations, stakeholder input and previously identified conditions. The project team will evaluate existing transportation needs to develop a range of possible multimodal solutions to address current issues and challenges. A focus of the needs analysis will be on the varying temporal and spatial circulation needs of the three schools. Maps will be developed to illustrate key transportation issues and needs.

Potential types of improvements will be summarized in a technical memorandum for discussion with project stakeholders. The project team will brainstorm a range of possible solutions that address key needs. Solutions will be compared against how well they meet the project purpose and need, as well as against existing Caltrans and RTC policy and planning documents. Traffic and bus congestion and queuing will be addressed at a

qualitative level as part of this assessment. If desired, the project team and conduct a more in-depth traffic operational assessment as part of an optional task.

We anticipate that some solutions may align with existing Caltrans SR-9 projects along the corridor (05-1K890 Felton CAPM and 05-1M400 Safety), while other opportunities may also be considered that involve alternate school access routes and circulation concepts. Solutions that best address project needs will be discussed and considered for more detailed preliminary engineering as part of Task 4.

### ***TASK 3 DELIVERABLES:***

- Existing Needs Analysis (technical memorandum with maps)

## **TASK 4. PRELIMINARY ENGINEERING**

### **Task 4.1. Conceptual Engineering**

Mark Thomas will prepare preliminary engineering Concept Exhibits. It is assumed that a three rounds of review will be required to develop the final selected conceptual design. The three phases of work are envisioned as follows:

- Circulation by Modes
- Preliminary Civil Concepts
- Refined Civil Concepts

Graphics will be prepared to illustrate traffic volume data and the engineering concepts will include basic controlling geometric features identified. The Concept Exhibits will be prepared at a scale of 1" = 100', and will identify lane, shoulder and bike lane widths, right of way requirements, conceptual intersection details, and other relevant information.

The Concept Exhibit will present the team's evaluation and recommended improvements for the following key items:

- SLV schools' campus circulation/parking at all three schools, nearby school bus stops and circulation
- SR-9 active transportation and traffic operational improvements from PM 6.46 to PM 8.11
- METRO transit stops and circulation of transit buses accessing campus

Our team has extensive experience working with Caltrans staff and recognize concepts for improvement on SR-9 need to be feasible for implementation by Caltrans, while recommendations on the SLV Schools need to be feasible for implementation by SLVUSD. The County, RTC, and METRO will all have a vested interest in ensuring the solutions balance traffic needs and align with the vision to deliver efficient and safe transportation options for school-related traffic as well as community members traveling along SR-9.

To aide in the preliminary screening of alternatives, our team will work to identify Caltrans non-standard design features within Caltrans Right of Way. Non-standard features will be shown on the Exhibit and summarized in a technical memorandum for PDT and Caltrans review. Draft preliminary engineering Concepts Exhibits will be submitted for PDT screening and shared during the Public Outreach process. The concepts will be refined following PDT and public input. Final Concept Exhibits will be included in the Final Report

### **Task 4.2. Engineering Cost Estimates**

Based on the conceptual engineering plans developed, quantities will be generated, and unit pricing applied to prepare a conceptual level cost estimate using Caltrans 11-page format. Unit costs will be determined through reviewing similar recent project bid summaries, collaboration with the PDT, the most current Caltrans Contract cost data, the California Highway Construction Cost Index information, and the Caltrans ESC site. The cost estimates will include preliminary cost estimates of major construction related items including traffic engineering modifications, drainage and landscaping modifications, and roadway design elements. It is assumed that some line items, such as drainage, will be percentage based as no drainage design is to be included in the conceptual plans.

### **Task 4.3. Optional – Stationary Scan**

A potential optional task for consideration by RTC is the stationary scan of the parking lots and vehicular site circulation areas at the schools. The Mark Thomas team can prepare this work in-house for a fee to be identified based on further discussion with RTC. The scan would enable the Mark Thomas team to produce preliminary engineering level planimetric and topographical surface that may be used in the next phases of the project.

#### ***TASK 4 DELIVERABLES:***

- Draft & Final Concept Exhibit
- Cost Estimates (Caltrans 11-Page Estimate format)
- Planimetric and surface scan of school site (Optional)

## **TASK 5. DELIVERY PLAN**

### **Task 5.1. Phasing Plan**

We will provide a well-defined set of implementation actions to advance the various project recommendations. The phasing plan will include a table and summary of Study recommended components, schedule, estimated total project costs, cost by phase of the project (Preliminary Engineering, Right of Way, or Construction), cost by year, and potential funding sources. Additionally, we'll consider where engineering solutions can be bundled with Caltrans SHOPP or County Capital Improvement Program (CIP) or maintenance projects.

#### ***TASK 5 DELIVERABLES:***

- Phasing Plan (technical memorandum)

## **TASK 6. PUBLIC OUTREACH**

### **Task 6.1. Community Engagement – Phase 1**

Our team proposes two phases of public engagement with initial engagement to help identify project needs and explore potential solutions. The first phase of engagement will reach a larger audience and occur before the school summer break begins, while the second phase of engagement will occur during summer break with a focused group of participants.

Phase 1 activities will include a multi-pronged effort to solicit input from students and parents at the SLV schools as well as community members living, working, and traveling the project study corridor. Our Phase 1 activities are planned for April and May 2022 before the school summer break begins.

### Task 6.1.1. Focus Meetings

We recommend facilitating focus meetings with the SLVUSD Director of Transportation and key SLVUSD staff following the site observations to have a deeper discussion and understanding of past efforts to improve school circulation, identify circulation issue areas, and explore potential solutions that align with the campus capital improvement plans.

### Task 6.1.2. Direct Youth Engagement

Similar to the PDT field conditions observations, we proposed to engage students at each of the local schools to provide input about travel patterns, needs, and ideas for solutions. We propose the following engagement methods for activities at each school pending further dialogue with RTC, SLVUSD, and representatives from each school:

- *San Lorenzo Valley Elementary School* – we propose a tabling activity for students to view large-scale printed boards (24"x36") for use in sticker voting. The prompts will ask students to add stickers to identify issue areas and consider their travel habits such as frequency of walking and riding at school and/or home.
- *San Lorenzo Valley Middle School* – we propose a tabling activity to solicit sticker voting by students similar to that identified for the elementary school or other concept based on discussion with the school staff.
- *San Lorenzo Valley High School* – we propose leading a mapping activity and/or walking audit with a class such as the Associated Student Body or a specific club to get input about conflict areas and potential solutions.

Our team has facilitated similar engagement activities with students for Active Transportation Planning and Safe Routes to Schools projects and are excited to engage with the youth at the SLV schools.

### Task 6.1.3. Community Survey

Our team will develop a survey that reviews key issues and data, while presenting key questions and preferences for completion by community members living and traveling along the study corridor. The survey can have a GIS mapping interface for the public to provide input on specific issues and solutions. We propose the survey will be promoted through the SLV schools contacts, with local community-based organizations, by elected/appointed officials, through local business and other groups as identified through discussion with the PDT. A flyer can be developed promoting the survey for distribution with a quick response (QR) code directing community members to the survey.

### Task 6.1.4. Community Workshop

We will organize and lead a virtual community workshop meeting or informational video reviewing the baseline data, identifying key areas of need for improvement, and summarizing potential project solutions.

Given the ongoing COVID-19 assembly restrictions, we plan to host the meeting remotely to limit exposure risk from the virus. A well-organized meeting can allow greater participation by the public and a recorded presentation can allow for review by the public subsequent to the meeting date. We propose the video be hosted on the RTC webpage focused on the Highway 9/San Lorenzo Valley Complete Streets topic given the volume of information currently provided on that page and consistent with posting of other prior videos.

Our team organized and hosted a series of workshop presentations for our transportation planning work in the Town of Paradise that was recorded via the Microsoft Teams Webinar feature. The Town of Paradise live presentations included a question-and-answer segment and were recorded for later viewing, then directed viewers to complete an online survey to solicit input. We can work with the PDT to determine the best structure for the virtual community workshop.

We will prepare a flyer in English and a second language to publicize the meeting and describe how the public will be invited to participate. RTC and partner stakeholders will be able to use this flyer to promote the meeting for greater public participation by residents, school-related families, property and business owners.

## **Task 6.2. Community Engagement – Phase 2**

As identified, our team proposes a second phase engagement focused on reviewing recommendations and ensuring the concepts have addressed major topics and issues with parents and students at the SLV schools. During Phase 1 activities, we will ask for interest from students and parents to participated in a focus meeting during the school summer break.

In the interest of finalizing the Study on an accelerated schedule, we will host a focus meeting during the summer once draft recommendations are ready for public introduction. During the focus meeting, we will recap the prior engagement, summarize identified needs, and review the recommendations for improvements. We will also seek input on possible improvements or elements that could be incorporated into the ongoing Caltrans efforts for more rapid implementation. Our team will facilitate the focus meeting to gain additional input and confirm the project has addressed major concerns.

### ***TASK 6 DELIVERABLES:***

- Focus Meetings with Schools/District Staff (assume 2 meetings)
- Youth Engagement Events (assume 2 tabling events, and 1 facilitated workshop with High School students)
- Community Survey with GIS mapping (assume 1 survey)
- Phase 2 Focus Meeting (assume 1 meeting)
- Engagement Activities Summary (technical memorandum)

## **TASK 7. SUMMARY REPORT**

### **Task 7.1. Draft Study**

We will compile a cohesive Draft Study for review by RTC and the PDT. The summary report will summarize PDT and community engagement, address the purpose and need of the project, summarizing existing conditions and deficiencies, document traffic conditions and operational focus areas, list recommendations and solutions, and document steps to advance implementation of project solutions. Graphics with recommended solutions at the SLV Schools and along SR-9 will be included within the Draft Study.

### **Task 7.2. Final Study**

Based on a consolidated set of comments from RTC and the PDT, we will update the summary report into a Final Study for review by RTC and the PDT. Based on comments received from the Draft Study, we will prepare a response matrix and revised report for

delivery to RTC. The final report will achieve the goal of providing realistic and implementable improvements that can continue the progress envisioned by RTC and collaborative partners.

***TASK 7 DELIVERABLES:***

- Draft Study
- Final Study and Response to Comments Matrix

## Exhibit B: Project Schedule

SLV SCHOOLS COMPLEX CIRCULATION AND ACCESS STUDY										
SCCRTC										
PROJECT SCHEDULE										
2022										
TASK	DESCRIPTION	MAR	APR	MAY	JUN	JUL	AUG	SEPT	NOV	DEC
<b>1</b>	<b>PROJECT MANAGEMENT AND COORDINATION</b>									
1.1	Project Management									
1.1	Project Manager Meetings									
1.2	Project Development Team Meetings			1	2	3	4	5		
<b>2</b>	<b>EXISTING CONDITIONS REVIEW</b>									
2.1	Background Documents Review									
2.2	Speed and Crash Data Analysis									
2.3	Site Conditions Observations									
2.4	Data Mapping									
<b>3</b>	<b>TRAFFIC ASSESSMENT</b>									
3.1	Traffic Data Collection									
3.2	Needs Analysis									
<b>4</b>	<b>PRELIMINARY ENGINEERING</b>									
4.1	Conceptual Engineering Concepts									
4.2	Engineering Cost Estimates									
4.2	Optional - Stationary Scan									
<b>5</b>	<b>DELIVERY PLAN</b>									
5.1	Phasing Plan									
<b>6</b>	<b>PUBLIC OUTREACH</b>									
6.1	Community Engagement - Phase 1									
6.1.1	Focus Meetings									
6.1.2	Direct Youth Engagement									
6.1.3	Community Survey									
6.1.4	Community Workshop									
6.2	Community Engagement - Phase 2									
<b>7</b>	<b>SUMMARY REPORT</b>									
7.1	Draft Study									
7.2	Final Study									

