

# REQUEST FOR PROPOSALS

## Financial Auditing Services #2024-01

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

<b>RFP Issued:</b>	<b>December 21, 2023</b>
<b>Pre-Proposal Conference: (Optional via Zoom)</b>	<b>January 5, 2024 at 10:00 <u>AM</u></b>
<b>Written Questions/Requests for Clarifications (RFCs) Due:</b>	<b>January 12, 2024 at 2:00 <u>PM</u></b>
<b>LAVTA's Response to Questions/RFCs Provided:</b>	<b>By January 19, 2024</b>
<b>Proposals Due:</b>	<b>February 2, 2024 at 2:00 <u>PM</u></b>

**Contact Info: Tamara Edwards  
Director of Finance  
procurements@lavta.org**

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**1. INVITATION**

The Livermore Amador Valley Transit Authority (LAVTA) is seeking proposals from a qualified firm, team, or individual (Proposers or Consultants) to provide financial auditing services primarily consisting of auditing, reporting, Annual Comprehensive Financial Report (ACFR) preparation, and completing independent audit requirements for fiscal years ending on June 30 of 2024, 2025, and 2026, as further described in Appendix A, Scope of Services (Services).

LAVTA, subject to Board of Directors' approval, intends to award a three-year base term contract, with up to four additional one-year options terms, for Services to one (1) successful Proposer. The successful Proposer will execute an Agreement for Services. Please refer to Appendix B.

LAVTA intends to adhere to the following solicitation timeline, which is subject to change at LAVTA's sole discretion:

**Solicitation Timeline**

<u>Activity</u>	<u>Date</u>
RFP Issued	<b>December 21, 2023</b>
Pre-Proposal Conference via zoom	<b>January 5, 2024 at 10:00 a.m.</b>
Questions and RFCs Due	<b>January 12, 2024 prior to 2:00 p.m.</b>
Agency's Response to Questions/RFCs	<b>January 19, 2024 by end of business day</b>
<b>Proposals Due</b>	<b>February 2, 2024 prior to 2:00 p.m.</b>
Interviews (if required)	<b>February 16, 2024, if needed</b>
Contract Award (tentative)	<b>March 4, 2024</b>
Notice to Proceed (tentative)	<b>March 18, 2024</b>

Proposals will be received via email to Tamara Edwards at [procurements@lavta.org](mailto:procurements@lavta.org) until 2:00 p.m. on February 2, 2024. Hard copy submissions will NOT be accepted. Hard copies received will be returned (unopened) to Proposers without consideration. Upon request, hard copies of the RFP may be obtained by contacting LAVTA at (925) 455-7555. For files too large to be transmitted as an e-mail attachment, the proposer may send a link to a shared file to the e-mail address above. All deadlines apply to either form of submission.

LAVTA hereby notifies all Proposers that it is the policy of LAVTA to ensure non-discrimination on the basis of race, color, sex, or national origin in the award and administration of contracts that it awards. It is the intention of LAVTA to create a level playing field on which Disadvantaged Business Enterprises (DBEs) can compete fairly for contracts and subcontracts relating to LAVTA's construction, procurement and professional services activities. LAVTA's Disadvantaged Business Enterprise (DBE) Program described in the RFP documents will be applied to all projects funded in whole or in part with federal funds.

For questions regarding this RFP, please contact Tamara Edwards at [procurements@lavta.org](mailto:procurements@lavta.org).

\_\_\_\_\_  
**Tamara Edwards**  
Director of Finance

\_\_\_\_\_  
Date

## 2. **INTRODUCTION**

### A. **Summary and Term**

The Livermore Amador Valley Transit Authority is requesting proposals for financial auditing services, including auditing, reporting, Annual Comprehensive Financial Report (ACFR) preparation, and completing independent audit requirements for fiscal years ending on June 30 of 2024, 2025, and 2026, as further described in Appendix A, Scope of Services.

These audits must be performed in accordance with the following standards: generally accepted auditing standards; Government Accountability Office's (GAO) Government Auditing Standards; the Federal Single Audit Act, as amended in 1996; and the U.S. Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. The audits may include a federal single audit. Financial statements must be prepared in accordance with the latest Governmental Accounting Standards Board (GASB) pronouncements, as required.

If approved by the LAVTA Board of Directors, the successful Proposer will execute an Agreement for a seven (7) year term, consisting of a three (3) year base term with up to four (4), one-year option terms.

### B. **Background Information**

LAVTA was established in 1985, under a Joint Powers Agreement to provide public transit in the cities of Dublin, Livermore, Pleasanton, and in unincorporated areas of Alameda County. LAVTA's mission is to provide equal access to a variety of safe, affordable and reliable public transportation choices, increasing the mobility and improving the quality of life of those who live or work in and visit the Tri-Valley area. These include bus connections to Bay Area Rapid Transit (BART), Altamont Commuter Express (ACE) and Central Contra County Transportation Authority (County Connection). Wheels, operated by LAVTA, plays a vital role in providing transportation and mobility options for those who do not drive, either by choice or necessity. Wheels connects people to work, school, medical appointments, and to recreational opportunities.

## 3. **PROPOSAL CONTENT**

### A. **Proposal Cover Form**

In order to facilitate Proposer's preparation of its proposal and LAVTA's review of same, all proposals must have a consistent font type and size of text; and must be limited to 50 or fewer letter-size pages (8.5 inch by 11 inch), single spaced, single column, excluding the Proposal Cover Form, Letter of Introduction, Table of Contents, two-page resumes of key nominated personnel, and other required appendices and forms. Type style and size for graphics is at Proposer's option, but the font must be clear and legible.

Submission of a proposal indicates acceptance by a firm of the conditions contained in this RFP unless clearly and specifically noted in the proposal submitted and confirmed in the Agreement between LAVTA and the firm selected.

In order to be accepted for evaluation, proposals should provide the requested information in a concise, well-organized manner and must follow the prescribed format as outlined below.

**B. Letter of Introduction**

The Letter of Introduction, which must be on company letterhead and signed by an authorized individual, must introduce the firm and summarize its qualifications; identify its proposed key personnel to be assigned to this Agreement, and summarize the main qualifications of the proposed team.

Proposers must also indicate that they are prepared to sign the Sample Agreement provided in Appendix B to this RFP (or should specifically identify any requested changes to the Agreement, using the form provided in Exception Form, Exhibit 2; and must clearly state that they are able to meet the insurance requirements as set forth in Appendix C, Insurance Requirements. Proposers must also state in writing that they agree to be bound by their proposal for 180 days from the proposal due date. Proposers must also confirm that they have no impermissible conflicts of interest.

If the Proposer is a joint venture, an executed copy of the Joint Venture Agreement must be included with the proposal. The specific areas of responsibility (including administrative, technical, and financial) for each member of the Joint Venture must be outlined.

**C. Table of Contents**

Include a Table of Contents displaying the organization of the proposal being submitted.

**D. Approach to Providing Services: Team Organization and Management Plan**

Identify the key personnel and staff, including subconsultants, if any, who will be directly engaged in the performance of the work under the Agreement; and outline the Proposer's team's capacity to successfully perform the desired services and include the following:

1. Organization chart showing the proposed team composition.
2. Identification of any and all of the services listed in Appendix A, Scope of Services for which Proposer intends to subcontract, including the intended subconsultant's name, location, key personnel, and their qualifications.
3. Describe understanding of, and rationale for, proposed intended approach to providing the work required under Appendix A

Additionally, Proposer must address the following aspects of these procedures in its proposal:

i. Identification of Subconsultants and Subconsultant Management Plan

A Consultant intending to use any subconsultants to perform Services must do so in accordance with the requirements of this RFP. Any and all subconsultants must be listed on the Designation of Subconsultants form, Exhibit 3, submitted with the proposal and approved by LAVTA prior to contract award. Proposals should include the Proposer's plan for managing subconsultants.

The Consultant must have prior written approval by LAVTA if it intends to use additional subconsultant(s) that were not approved prior to contract award. After contract award, the Consultant must obtain LAVTA's written approval of additional subconsultant(s).

ii. Quality Control Plan

Describe how Proposer will ensure that the quality of task management and work product, either from the firm or subconsultant, is within criteria set forth by LAVTA. Describe at a minimum the approach to quality, strategy development, data analysis, subconsultant management, quality control of deliverables, schedule, budget compliance, staff management, and invoice preparation.

**E. Company Qualifications, Experience & References**

In order to be considered for award of an Agreement, each Proposer must provide information about its company so that LAVTA can evaluate the firm's stability and ability to support the commitments set forth in response to the RFP. In addition, the Proposer must have expertise in the tasks specified in Appendix A. LAVTA, at its option, may require a Proposer to provide additional information and/or clarify submitted information. To be considered qualified for consideration of award of an Agreement, Proposers must:

1. Have (through themselves, their team members or their sub-consultants) at least eight (8) years of experience providing financial auditing services;
2. Be capable of providing the desired services as delineated in the Scope of Services, substantially with its own staff;
3. Be licensed to practice as a Certified Public Accountant in the State of California in accordance with generally accepted auditing standards prescribed by the American Institute of Certified Public Accountants;
4. Have general experience in auditing governmental accounting with specific knowledge of transit accounting;
5. Be thoroughly familiar with the federal, state, and local rules, regulations, codes, and guidelines governing the audits of public agencies in general and transit properties specifically. These rules and regulations include but are not limited to the following:
  - A. The uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly referred to as the "Super Circular") (2 CFR Part 200).
  - B. The *Generally Accepted Government Auditing Standards* for audit of governmental organizations, programs, activities, and functions, also known as "*The Yellow Book*" and International Professional Practices Framework's guidelines for financial compliance audits of federally assisted programs, also known as "*The Red Book*."
  - C. The single Audit Act of 1984, as amended, OMB Circular A-133, and OMB Compliance Supplements for single audits of State and Local Governments.
  - D. American Institute of Certified Public Accountants Audits of State and Local Governments Units.
  - E. The State of California Uniform System of Accounts for Public Transit Operator, and the Federal Transit Act of 1964, as amended.

6. Have knowledge and understanding of applicable local, state, and federal rules, regulations, codes, and guidelines of LAVTA's various funding sources, such as Transportation Development Act (TDA), Federal Transit Administration (FTA), Federal Highway Administration (FHWA), State Transit Assistance (STA), Regional Measure 2 (RM2), Federal Single Audit, Measure BB, Metropolitan Transportation Commission (MTC), Alameda County Transportation Authority (ACTC), Transit Funds for Clean Air (TFCA), and State of Good Repair (SGR) Program, and be familiar with local conditions relating to the project scope and work;
7. Have a quality assurance system in place that adequately addresses the checking of analyses and calculations, and other supporting documentation for work product delivered in-house and by subconsultants; and
8. Have adequate numbers of qualified professional employees of the accounting firm who are auditors by profession, and available for use on LAVTA's engagement to assure its timely completion.

Proposals should include a representative listing of client engagements. Additionally, Proposers must provide a minimum of three (3) and a maximum of five (5) references of clients for whom, within the past five (5) years, the Proposer has provided similar services as those called for in this RFP. Include transportation agencies, if any. For each submitted Reference Form, Exhibit 4, Proposers must supply a brief description of the services provided, the timeframe the services were provided, and current client contact information. Proposers must also provide the size and structure of their firm as evidenced by an organizational chart, relevant to its client base.

Do not list LAVTA as a reference. However, if Proposer has provided services to LAVTA, such experience will be considered by LAVTA in its evaluation.

If the Proposer is a joint-venture partner, describe the organizational arrangement and roles and responsibilities between the firms. Each Proposer must submit sufficient evidence satisfactory to LAVTA that the Proposer is in compliance with this section.

#### **F. Qualifications and Experience of Key Personnel**

"Key Personnel" is defined as those individuals who are essential to the successful completion and execution of the Services called for in this RFP. Key Personnel must be available for the duration of the engagement and may not be substituted by Consultant without prior written approval by LAVTA. Substitution of Key Personnel without prior written approval by LAVTA will constitute a breach of the Agreement. LAVTA reserves the right to direct the removal of any individual, including Key Personnel.

Each Proposer must submit resumes of Key Personnel and an organization chart that identifies the proposed team's structure and reporting responsibilities. If the Proposer is a multi-firm team, describe the organizational arrangement and roles and responsibilities between the firms. Work that subcontractors will perform, if any, should be indicated on a task basis.

Proposer must demonstrate that proposed Key Personnel have the skills, qualifications, and experience to successfully complete the Services as further described herein and in Appendix A, Scope of Services. Proposers must describe the depth and quality of previous experience, including number of years and extent of experience providing similar services, experience in key staff positions, and proven experience in developing innovative or advanced techniques, for all proposed Key Personnel.

**G. Financial Qualifications**

Each Proposer must possess sufficient financial strength, resources and capabilities to support and enable the work to be performed and to complete the Agreement in a satisfactory manner, as measured by Proposer's financial statements (Income Statements and Balance Sheets, only) for the previous three (3) years. Financial statements must be prepared in accordance with generally accepted accounting principles of the jurisdiction in which the Proposer is located, and audited by an independent certified public accountant. Proposer must state how the desired financial information will be provided for review by LAVTA.

In addition, Proposers must demonstrate their ability to obtain insurance coverage that meets the minimum requirements of this RFP, as evidenced by a letter, or a certificate, from an underwriter confirming that the Proposer can be insured for the required amounts. At LAVTA's discretion, Proposers who are involved in current or pending bankruptcy proceedings may be rejected.

**H. Cost Proposal**

Proposer must submit the Cost Proposal Form, Exhibit 5, by including the all-inclusive annual cost to perform audits for base years 1 through 3 and option years 1 through 4 of the Agreement, providing the total not-to-exceed amount and fully burdened hourly rates for additional services. Costs shall include, but not be limited to, labor, materials, supplies, taxes, overhead, insurance and profit.

**I. Levine Act**

The Levine Act (Government Code 84308) is part of the California Political Reform Act of 1974. The Levine Act prohibits any LAVTA Board Member from participating in or influencing the decision on awarding a contract with LAVTA to anyone who has contributed \$250.00 or more to the Board Member within the previous twelve months. The Levine Act also requires a member of the LAVTA Board who has received such a contribution to disclose the contribution on the record of the proceeding. In addition, LAVTA Board Members are prohibited from soliciting or accepting a contribution from a party applying for a contract while the matter of awarding the contract is pending before LAVTA or for twelve months following the date a final decision concerning the contract has been made.

Proposer must complete and submit with their proposal the California Levine Act Statement, Exhibit 6.

**J. Licenses and Certifications**

Proposer and proposed Key Personnel must hold, and maintain during the course of the contract including any option extensions, appropriate professional licenses to perform the work specified in this RFP. Proposers may list any relevant licenses and/or certifications and the name of the issuing entity with their proposal. Copies or proof of such licensure and/or certification may be requested by LAVTA.

**K. Conflicts of Interest**

The firm selected to serve as Consultant through this RFP will not be prohibited from working under separate contracts with LAVTA, unless such work creates a conflict of interest, real or apparent, that would render the Consultant ineligible to undertake such work during the term of the Agreement. Proposer must provide a list in its proposal of its current contracts that involve work with LAVTA, including its relationship to LAVTA and a brief description of its job under the contract. Proposer must identify any potential conflicts that may compromise its delivery of unbiased work product.

By submitting a proposal, the Proposer represents and warrants that no director, officer or employee of LAVTA is in any manner interested directly or indirectly in the proposal or in the Agreement that may be made under it or in any expected profits to arise therefrom, as set forth in Article 4, Division 4, Title I (commencing with Sec. 1090) of the Government Code of the State of California. The Proposer warrants and represents that it presently has no financial interest and agrees that it will not acquire any financial interest which would present a conflict of interest under California Government Code Sections 1090 *et seq.* or Sections 87100 *et seq.* during the performance of services under this Agreement. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

None of the selected consultant's principals or immediate family members should be employed by LAVTA.

#### 4. **SOLICITATION PROCESS**

##### A. **Pre-Proposal Conference**

A Pre-Proposal Conference will be held via Zoom. Staff will be available to answer Proposers' questions. Attendance at this meeting is optional, but is **highly recommended**. The meeting will consist of a review of the solicitation process, requested services and required proposal submittals. The meeting is anticipated to take up to one (1) hour. Please refer to the solicitation timeline in the Invitation for date and time. Meeting instructions are as follows:

- i. Go to <https://zoom.us/meeting> and click "Join" in upper right hand corner
- ii. Enter **Meeting Number:** 830 3255 9143
- iii. Enter **Meeting Passcode:** 774897748
- iv. Enter the required contact information
- v. Click the "Join" button after entering the above information

The RFP Documents are available for download on LAVTA's website, <https://www.wheelsbus.com/about/doing-business/>.

##### B. **Submission of Questions and Requests for Clarification**

All Questions and/or Requests for Clarification must be submitted in writing by email to Tamara Edwards at [procurements@lavta.org](mailto:procurements@lavta.org). LAVTA's written response to Questions and/or Requests for Clarification will be posted on the LAVTA website ([www.wheelsbus.com](http://www.wheelsbus.com)). Please refer to the solicitation timeline in the Invitation section of this RFP for date and time deadlines.

##### C. **Addenda to RFP**

**LAVTA reserves the right to amend this RFP at any time. Any amendments to or interpretations of the RFP must be described in written addenda.**

It is the Proposers' responsibility to monitor LAVTA's website on a regular basis. Only signed addenda, issued by LAVTA's authorized personnel are binding. Proposers are required to acknowledge receipt of all addenda, if any, during the submission of their proposals.

Failure of any prospective Proposer to receive the notification or addenda does not relieve the Proposer from any obligation under the RFP as clarified, interpreted or modified. All addenda issued must become part of the RFP. Proposers must acknowledge the receipt of each individual addendum in their proposals on the Proposal Cover Form, Exhibit 1. Proposer's failure to acknowledge in its proposal receipt of addenda may, at LAVTA's sole option, cause the proposal to be rejected.

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

**D. Submission of Proposals**

Proposals will be received via email to Tamara Edwards at [procurements@lavta.org](mailto:procurements@lavta.org) until 2:00 p.m. on February 2, 2024. For files too large to be transmitted as an e-mail attachment, the proposer may send a link to a shared file to the e-mail address above. All deadlines apply to either form of submission.

Hard copy submissions will NOT be accepted. Hard copies received will be returned (unopened) to Proposers without consideration. Upon request, hard copies of the RFP may be obtained by contacting LAVTA at (925) 455-7555.

**E. Cost of Proposal Development**

This RFP does not commit LAVTA to enter into an Agreement, to pay any costs incurred in the preparation or presentation of a proposal, nor to procure or contract for any services. The Proposer waives any claim against LAVTA for costs incurred in preparing a proposal and responding to this RFP.

**F. Validity of Proposals**

Submission of a proposal constitutes a firm offer to LAVTA for 180 days from the submission deadline for proposals.

**G. Withdrawal of Proposals**

A Proposer may withdraw its proposal, without prejudice, by emailing [procurements@lavta.org](mailto:procurements@lavta.org) prior to the proposal closing date and time. The withdrawal of a proposal does not prejudice the right of a Proposer to submit another proposal within the time set for receipt of proposals.

After the proposal due date, a proposal may be withdrawn only if LAVTA fails to award the Agreement within the proposal validity period prescribed above in Section 4.F., Validity of Proposals, or any agreed-upon extension thereof.

**H. Evaluation of Proposals and Selection Process**

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

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

**1. Selection Committee**

A Selection Committee (Committee), which will include members of staff and possibly one or more outside experts, will review the technical proposals

submitted and rank them according to the weighted criteria of each category as set forth in the process below.

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

**2. Proposal Evaluation Process**

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

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

Evaluation Criteria	Max Points
<p><b>Company Qualifications, Experience &amp; References</b></p> <p>Demonstrate that the firm meets all the requirements set forth in Section 3.E:</p> <ul style="list-style-type: none"> <li>A. Size of firm and requisite years of experience providing financial auditing services, including for government/transit agencies;</li> <li>B. Ability to provide the services outlined in the Scope of Services;</li> <li>C. Appropriate professional licenses;</li> <li>D. Familiarity and experience with applicable federal, state, and local rules, regulations, codes, and guidelines;</li> <li>E. Experience with reporting and auditing requirements for LAVTA’s various funding sources;</li> <li>F. Quality assurance system;</li> <li>G. Adequate staffing;</li> <li>H. References.</li> </ul>	<p>30</p>
<p><b>Qualifications and Experience of Key Personnel</b></p> <ul style="list-style-type: none"> <li>A. The professional, technical and managerial qualifications and experience of personnel named in the proposal, including the proposed Project Manager.</li> <li>B. Key Personnel’s previous relevant experience which demonstrates capability to successfully manage work: <ul style="list-style-type: none"> <li>1) Years of experience;</li> <li>2) Extent of experience applicable to this work;</li> <li>3) Experience in key staff positions;</li> <li>4) Proven experience in developing innovative or advanced techniques.</li> </ul> </li> </ul>	<p>30</p>

Evaluation Criteria	Max Points
<p><b>Approach to Providing Services, Team Organization and Management Plan</b></p> <p>A. Proposer's approach to the scope of services, including description of understanding of and rationale for the proposed intended approach;</p> <p>B. Organization chart;</p> <p>C. Subconsultant Management Plan, if applicable; and</p> <p>D. Quality Control Plan.</p>	25
<p><b>Reasonableness of Cost</b></p> <p>This portion of the proposal will be evaluated based on reasonableness of the proposed costs. Costs will be compared to costs LAVTA or other comparable public agencies have paid for similar services, and to what is considered to be the industry's standard and customary costs for the services. Proposed costs will also be compared to any independent cost estimates.</p> <p>Hourly rates will be compared to rates LAVTA or other comparable public agencies have paid for similar services, and in accordance with what is considered to be the industry's standard and customary costs for the services. Proposed costs will also be compared to any independent cost estimates.</p>	15
<b>Total =</b>	100

**I. Interviews**

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

**J. Revised Proposals, Interviews and Negotiations**

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

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

LAVTA may accept the proposal, or may negotiate with the highest-ranked firms, the terms and conditions of the Agreement and/or the firms' cost proposal including, but not limited to, the proposed hourly labor rates, overhead rates, profit, fees, and/or billing rates as applicable. At this time, LAVTA may elect to request revised and/or best and final offers (BAFOs) from all of the firms remaining in the competitive range. At its sole discretion, LAVTA may also reject all proposals. LAVTA also may award an Agreement without conducting interviews or negotiations.

**K. Contract Award**

The Committee will make a recommendation of award of Agreement, if any, to LAVTA's Board of Directors, or designee. All Proposers will be notified of the recommended award in writing. No Agreement will be in force until a written authorization to proceed is issued by LAVTA's authorized personnel.

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

**L. Protest Procedures**

Protests Based Upon the Specifications

Protests based upon restrictive specifications or alleged improprieties in this Request for Proposals, which are apparent or reasonably should have been discovered prior to the proposal due date, shall be filed in writing with LAVTA's Executive Director, within five (5) calendar days before proposals are due. The protest must clearly specify in writing the name and address of the protestor, this Request for Proposals, and the grounds and evidence on which the protest is based. If the protestor later raises new grounds or new evidence that reasonably could have been raised in the original protest submission, LAVTA will not consider such new grounds or evidence in the determination on the protest. LAVTA shall issue a written decision on the protest prior to the proposal due date. Where the determination could affect proposals, an appropriate extension of the proposal due date may be granted by LAVTA. If the protest is denied, the proposer may appeal the determination to the Board. The proposer must notify the Executive Director of its intent to resubmit the protest to the Board no later than five (5) calendar days after proposals are due. The notice must state the reasons for the protest and document that the protestor exhausted all administrative remedies at the staff level.

Protests Based Upon Contract Award

Protests based upon alleged improprieties that are not apparent or which could not reasonably have been discovered prior to the proposal due date, such as disputes over the staff recommendation for contract award, shall be submitted in writing to Executive Director within forty-eight (48) hours from receipt of the notice advising of the staff's recommendation for award of contract.

The protest must clearly specify in writing the name and address of the protestor, this Request for Proposals, and the grounds and evidence on which the protest is based. If the protestor later raises new grounds or new evidence not previously set forth in written submissions that reasonably could have been raised, LAVTA will not consider such new grounds or evidence in the determination on the protest. Staff shall analyze the protest and respond with a written determination. If the protest is denied, the proposer may pursue its protest to the Board. The proposer must notify the Executive Director of its intent to resubmit the protest to the Board no later than 24 hours from receipt of the notice advising of staff's determination. The notice must state the reasons for the protest and document that the protestor exhausted all administrative remedies at the staff level.

Proposers resubmitting a protest to the Board for appeal shall have an opportunity to appear and be heard before the Board prior to final award of the contract.

**Failure to comply with the rules set forth herein may result in rejection of the protest.**  
Copies of the complete protest procedures are available from LAVTA's Administrative Offices.

**M. Ex-Parte Communications**

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

Proposers and Proposers' representatives may not communicate with LAVTA's Board members except in writing and if the communication is made public. Nothing herein prohibits Proposers and their representatives from making oral statements or presentations in public to one or more representatives of LAVTA during a public meeting.

**N. Confidentiality**

1. Confidentiality and Waiver of Claims

- i. The California Public Records Act (Cal. Govt. Code Sections 7920.000 et seq.) (CPRA) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of the proposal, as well as any other written communication between LAVTA and the Proposer, is a public record that must be made available to the public.
- ii. If the Proposer believes any communication contains information exempt from disclosure under the CPRA, including trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer must request that LAVTA withhold from disclosure the exempt information by submitting:
  - (a) an unredacted copy of the proposal marking each page containing such exempt information as confidential; and
  - (b) a redacted copy of the proposal that redacts the purportedly exempt information; and
  - (c) a separate "confidentiality index" including all of the following information:
    - (i) The section and page number of the proposal where the information is located; and
    - (ii) An explanation of why the information is exempt from disclosure under the CPRA.
- iii. By submitting a proposal, Proposer:

- (a) consents to the release of the redacted version of the proposal; and (ii) consents to the release of any portion of its proposal not included in the confidentiality index; and
  - (b) waives all claims against LAVTA, its directors, officers, employees and agents, for the disclosure of such information.
- iv. If the Proposer does not include a confidentiality index in its proposal, LAVTA will have no obligation to withhold any information from disclosure and may release the information sought without liability to LAVTA.
- v. In the event of conflicts between the redacted version, the confidentiality index, and confidentiality designations in the body of the proposal, the redacted version prevails.
- vi. A Proposer may not designate its entire proposal as confidential. LAVTA will not honor such designations and will disclose submittals so designated to the public without liability to LAVTA.

## 2. Confidentiality Indemnity

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

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

### **O. Waiver**

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

### **P. LAVTA's Rights**

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

reserves the right to reject all proposals and seek new proposals when LAVTA considers such procedure to be in its best interest.

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

## 5. **CONTRACTUAL REQUIREMENTS**

### A. **Agreement for Services**

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

Submittal of a proposal must be deemed acceptance of all of the terms set forth in this RFP and the Sample Agreement unless the Proposer(s) includes with its proposal, in writing, any modifications requested to the RFP and/or Sample Agreement as set forth on the Exception Form, Exhibit 2. All requests for exceptions must be in writing, separately identified, and delineated for each task, or other item, and must be submitted on Exhibit 2. LAVTA reserves the right to request further clarification of any requested exception during negotiations and to exclude unacceptable exception(s). No exceptions may be requested after the deadline for the submittal of proposals.

### B. **Insurance and Indemnification Requirements**

Proposers are instructed to carefully review the insurance and indemnification provisions set forth in **Appendices B and C**, and provide evidence of Proposer's acceptance and ability to comply.

Proposers shall submit evidence of ability to provide insurance and meet the stated insurance requirements. Said evidence shall take the form of a current Certificate of Liability Insurance (COLI) or a letter from Proposer's insurance agent or broker certifying that such insurance requirements can be obtained.

If the certificate does not cover the insurance requirements as specified in **Appendix C**, verification of availability of required insurance must otherwise be provided.

### C. **Joint Venture Agreement, if applicable**

If the Proposer is a joint venture, an executed copy of the Joint Venture contract shall be included with the proposal. The specific areas of responsibility (including administrative, technical, and financial) for each member of the Joint Venture shall be outlined.

### D. **Other Governmental Agencies**

Proposers are directed to the Sample Agreement, which will apply in the event that one or more other governmental agencies wishes to utilize the awarded Agreement to purchase services in accordance with the terms and costs indicated therein.

**E. Ukraine/Russia Related Sanctions**

As a public agency with contracts with state and federal departments and agencies, LAVTA is required to avoid transactions with any persons or entities subject to economic sanctions. For the purpose of this section, "Economic Sanctions" are defined as those imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a proposal, Consultant represents that it is not a target of Economic Sanctions. Should LAVTA determine Consultant is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for rejection of the Consultant's proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by LAVTA.

**6. PROPOSAL CONTENT CHECKLIST**

**Note: Proposers must provide an unredacted version of their proposal. If Proposers are claiming that any portion of their proposal is confidential/proprietary, they must also provide a redacted version of proposal along with a confidentiality index. Reference Section 4.N.**

- Proposal Cover Form**  
Include the completed and signed Proposal Cover Form, Exhibit 1, including acknowledgement of addenda, if any.
- Letter of Introduction, Exceptions to the Agreement and Joint Venture Agreement, if applicable**  
Reference Section 3.B. Any exceptions must be set forth on Exception Form, Exhibit 2. Reference Section 5.C., joint venture agreement, if applicable.
- Table of Contents**  
Reference Section 3.C.
- Approach to Providing Services, Team Organization, and Management Plan**  
Outline services to be rendered under the Agreement. Discuss approach, methodology, team organization and management plan.
  - Team Organization**  
Reference Section 3.D.
  - Identification of Subconsultants and Subconsultant Management Plan**  
  
Reference Section 3.D.3.i. Proposers intending to use subconsultants must identify them on the Proposer's Designation of Subconsultants Form located in Exhibit 3, and provide a subconsultant management plan, and include this information with its proposal. Use of any and all subconsultants must be approved in writing by LAVTA's authorized representative.
  - Quality Control Plan**  
Reference Section 3.D.3.ii.
- Company Qualifications, Experience and References**  
Reference Section 3.E. Proposers must use the Reference Form located in Exhibit 4, for this purpose.
- Qualifications and Experience of Key Personnel**  
Reference Section 3.F.

- Financial Statements and Insurance Requirements**  
Reference Section 3.G. for financial statement submittal and Insurance Requirements, Appendix C. Proposers must submit evidence of ability to provide insurance and meet the insurance requirements stated in the RFP. Said evidence must take the form of a current Certificate of Liability Insurance (COLI) or a letter from Proposer's insurance agent or broker certifying that such insurance requirements can be obtained.  
  
If the certificate does not cover the requirements as specified in Insurance Requirements, Appendix C, verification of availability of required insurance must otherwise be provided.
- Cost Proposal**  
Reference Section 3.H. All pricing, cost and rate information must submitted using the Cost Proposal Form, Exhibit 5.
- Levine Act**  
Reference Section 3.I. and submit the California Levine Act Statement, Exhibit 6.
- Conflicts of Interest**  
Reference Section 3.K. Proposer must provide a list in its proposal of its current contracts that involve work with LAVTA, including a brief description of its job under the contract. Proposer must identify any potential conflicts that may compromise its delivery of unbiased work product.
- Confidentiality, if applicable**  
Reference Section 4.N.
- Other Required Forms and Information**  
Submit all other required forms provided in this solicitation.

## 7. **SUBMISSION INSTRUCTIONS**

To expedite the release of proposal documents to reviewers, you are instructed to submit the required documents in Adobe PDF format (unless otherwise noted) as follows.

1. Proposal (unredacted)  
(RFP, Section 3. A through K, Proposal Content)  
Exhibit 1: Proposal Cover Form
2. Exhibit 2: Exception Form  
Exhibit 4: Reference Form  
Exhibit 6: California Levine Act
3. Financial Statement, Income Statement and Balance Sheets for previous 3 years  
(RFP Section 3.G.)
4. Exhibit 5: Cost Proposal
5. Insurance  
Certificate of Insurance or Letter from Insurance Broker  
(RFP, Section 5.B. and Appendix C)
6. Exhibit 3  
Exhibit 3: Designation of Subconsultants

7. Redacted Copy of Proposal (only required if requesting sections be treated as confidential)  
(See RFP, Section 4.N., Confidentiality)

**8. EXHIBITS**

- Exhibit 1 – Proposal Cover Form
- Exhibit 2 – Exception Form
- Exhibit 3 – Designation of Subconsultants
- Exhibit 4 – Reference Form
- Exhibit 5 – Cost Proposal Form
- Exhibit 6 – California Levine Act

**EXHIBIT 1: PROPOSAL COVER FORM**

**PROPOSAL COVER FORM  
for  
FINANCIAL AUDITING SERVICES  
RFP # 2024-01**

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

**A. GENERAL INFORMATION**

DATE SUBMITTED: \_\_\_\_\_

NAME OF FIRM UNDER WHICH BUSINESS IS CONDUCTED:

\_\_\_\_\_

**B. PROPOSAL CONTACT PERSON INFORMATION**

NAME AND TITLE: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MAILING ADDRESS, IF DIFFERENT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

OFFICE PHONE NUMBER: \_\_\_\_\_

CELL PHONE NUMBER: \_\_\_\_\_

**C. CONDITIONS:**

1. The Request for Proposals, required Forms, and Addenda, if any, are made a part of this proposal.
2. The undersigned acknowledges receipt of the following Addenda (e.g. 1, 2, 3, 4, etc.), if any:  
\_\_\_\_\_
3. The undersigned understands and agrees to be bound to the proposed Scope of Services and Cost Proposal for 180 days from the date of proposal submittal.
4. The undersigned is prepared to sign the Sample Agreement for Services without alterations or exceptions or if it is requesting modifications to the Sample Agreement and/or any requirements

of this RFP, shall include such requested modifications in its proposal. Exceptions, or modifications, if any, should be clearly identified and submitted on Exhibit 2.

**SIGNED:**

The undersigned certify that I/we submit this proposal and sign this Proposal Cover Form with full and proper authorization to do so and have read, understood, and will comply with all the terms and conditions set forth in the RFP documents. \*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**\*Note:**

If a sole owner, it shall be signed by the owner of the company.

If a corporation, it shall be signed by a Corporate Officer who has full and proper authorization to bind the corporation to the proposal.

If a joint venture, it shall be signed on behalf of each participating company by officers or other individuals who have the full and proper authorization to bind each company to the proposal.

If a partnership, it shall be signed under the partnership name by a partner of the firm and the name of each partner shall be provided.

If a limited liability company (LLC), it shall be signed by an officer or member who has the full and proper authorization to bind the LLC. The officer or member must provide evidence satisfactory to LAVTA indicating the individual's authority to bind the LLC, such as a certified copy of a resolution authorizing the individual to execute written contracts or a copy of the LLC operating agreement.

**EXHIBIT 2: EXCEPTION FORM**

Submittal of a proposal shall be deemed acceptance of all the terms set forth in this RFP, including the Sample Agreement for Services, unless the Proposer includes with its proposal, in writing, any exceptions or modifications requested by the Proposer.

COMPANY NAME: \_\_\_\_\_

EXCEPTIONS: \_\_\_\_ NO; \_\_\_\_ YES.

If YES, list below all exceptions to the solicitation documents and requirements, including exceptions to the Sample Agreement for Services and Insurance Requirements. Number each exception and attach additional copied pages of this form as necessary.

#	Document (i.e. RFP, Sample Agreement)	Section of Document	Exception/Issue/Suggested Revisions to Language	LAVTA's Response
1				
2				
3				
4				
5				

**EXHIBIT 3: DESIGNATION OF SUBCONSULTANTS**

Proposer's Name: \_\_\_\_\_ Is your firm a Disadvantaged Business Enterprise: Yes \_\_\_\_\_ No \_\_\_\_\_  
 Address: \_\_\_\_\_ Firm's Annual Gross Receipts: \_\_\_\_\_ Age of Firm: \_\_\_\_\_  
 Phone: \_\_\_\_\_ ( ) \_\_\_\_\_

**Instructions:** Proposer **MUST** provide information below for **ALL** subcontractors/subconsultants/suppliers ("sub-bidders") that provided proposer a bid, quote, or proposal for work, services or supplies associated with this contract. This information shall be provided for all sub-bidders regardless of tier for both DBEs and non-DBEs alike. Include all bid acceptance(s) AND rejection(s). Please state "None" if there are no sub-bids.

Subcontractor/Subconsultant/Supplier Firm Name/Address/Phone/Contact Person	DBE (Yes/No)	Please indicate system name, description of Work, Services, or Supplies.	Dollar Amount or Percentage of Work, Services, or Supplies	Bid/Quote Accepted? (Yes/No)
1				
2				
3				

Note: Do not indicate more than one "Yes" in the column "Bid/Quote Accepted" for alternative subcontractors for the same work. Use additional sheets if necessary.

**By submitting a proposal, the Consultant certifies that it will enter into a formal agreement with the subcontractor(s), subconsultant(s) and/or supplier(s) whose bid/quote was accepted conditioned upon execution of a contract with LAVTA. The Consultant certifies that any DBE listed whose quote was accepted will be performing a commercially useful function on the contract.**

**EXHIBIT 4: REFERENCE FORM**

Proposers shall list the company name and contact information as well as the status of contract(s) where the firm has either provided services as a prime contractor or as a subcontractor during the past five (5) years. A separate form must be provided for each contract the Proposer held/holds with the same company. A **minimum of three (3) and a maximum of five (5) different references must be provided** for whom similar products and/or services were provided. DO NOT USE THE LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY AS A REFERENCE.

If contract was terminated, Proposer shall list the reason for termination. Proposer also must identify and state the status of any litigation, claims or settlement agreements related to any of the identified contracts.

_____ Company	_____ Project Description
_____ Address	_____ Project / Contract Value
_____ City, State, Zip	_____ Award Date / End Date
_____ Contact Name	( ) Telephone
_____ Contact Title	_____ Email

**Scope and Status of Contract:** \_\_\_\_\_

**Other:** \_\_\_\_\_

_____ Name	( ) Telephone Number
_____ Title	_____ Email Address

**Note: Please complete this form for each reference provided**

**EXHIBIT 5: COST PROPOSAL FORM**

**Cost Proposal Form  
Request for Proposal #2024-01**

The following lump sum proposal prices include all costs for labor, materials, taxes, insurance, overhead, profits, and all other costs necessary to perform the work in accordance with the contract documents.

**All-Inclusive Annual Costs for  
Financial Auditing Services:**

Year 1 (Fiscal Year Ending June 30, 2024): \$ \_\_\_\_\_

Year 2 (Fiscal Year Ending June 30, 2025): \$ \_\_\_\_\_

Year 3 (Fiscal Year Ending June 30, 2026): \$ \_\_\_\_\_

Option Year 1 (Fiscal Year Ending June 30, 2027): \$ \_\_\_\_\_

Option Year 2 (Fiscal Year Ending June 30, 2028): \$ \_\_\_\_\_

Option Year 3 (Fiscal Year Ending June 30, 2029): \$ \_\_\_\_\_

Option Year 4 (Fiscal Year Ending June 30, 2030): \$ \_\_\_\_\_

TOTAL AMOUNT NOT-TO-EXCEED AMOUNT: \$ \_\_\_\_\_

**Fully Burdened Hourly Rates for Additional Services:**

Professional Staff Title	Units of Measure	Hourly Rates
Partners	Hourly	\$ _____
Managers	Hourly	\$ _____
Supervisors	Hourly	\$ _____
Support Staff	Hourly	\$ _____
Other: _____	Hourly	\$ _____
Other: _____	Hourly	\$ _____
Other: _____	Hourly	\$ _____

SIGNED:

The undersigned certify that I/we sign this Cost Proposal Form with full and proper authorization to do so.

---

Company Name

---

Signature, Printed Name, and Title

---

Signature, Printed Name, and Title

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

**EXHIBIT 6: CALIFORNIA LEVINE ACT**

California Government Code Section 84308 (commonly referred to as the “Levine Act”) prohibits any LAVTA Board Member from participating in any action related to a contract, if he or she receives any political contributions totaling more than \$250 from the person or company awarded the contract for 12 months before or after the date a final decision concerning the contract has been made. The Levine Act also requires a member of LAVTA Board who has received such a contribution to disclose the contribution on the record of the proceeding.

Proposers also are required to disclose such contributions, if any; and are responsible for accessing the link below to review the names of Board members prior to answering the below questions:

LAVTA Board Members: <https://wheelsbus.com/about-lavta/>

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any LAVTA Board Member in the 12 months preceding the date of the submission of your proposal(s) or the anticipated date of any Board action related to this contract?

YES  NO. If yes, please identify the Board Member(s):

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Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any LAVTA Board Member in the 12 months following any Board action related to this contract?

YES  NO. If yes, please identify the Board Member(s):

Answering yes to either of the two questions above does not preclude LAVTA from awarding a contract to your firm or taking any subsequent action related to the contract. It does, however, preclude the identified Board Member(s) from participating in any actions related to this solicitation and resulting contract(s).

**9. APPENDICES**

APPENDIX A, Scope of Services  
APPENDIX B, Sample Agreement for Services  
APPENDIX C, Insurance Requirements

## APPENDIX A SCOPE OF SERVICES

### 1. INTRODUCTION AND BACKGROUND

#### 1.1. INTRODUCTION

The Livermore Amador Valley Transit Authority (LAVTA) is seeking a qualified firm, team, or individual (Consultant) to perform financial auditing services, including auditing, reporting, Annual Comprehensive Financial Report (ACFR) preparation, and completing LAVTA's Independent Audit requirements for fiscal years ending on June 30, 2024, June 30, 2025, and June 30, 2026. The Agreement will include an option for four (4) one (1) year extensions.

#### 1.2. BACKGROUND

##### Livermore Amador Valley Transit Authority

LAVTA, also known as Wheels, was formed in 1985 under the provisions of the California Joint Exercise of Powers Act, Government Code Sections 6500 et. seq. and represents the Cities of Livermore, Pleasanton and Dublin as well as the unincorporated portions of eastern Alameda County. LAVTA is responsible for providing public transit fixed route and paratransit service within an approximate 40 square mile service area with a population of approximately 252,774.

##### Funding Sources

LAVTA receives grants for operating and capital purchases from various local, state, and federal sources, including the State Transportation Development Act (TDA), Federal Transit Administration (FTA), State Transit Assistance (STA), Regional Measure 2 (RM2), State of Good Repair (SGR), Measure BB, Transit Funds for Clean Air (TFCA), and a number of other funding sources.

##### Accounting Systems

The financial activities of LAVTA are accounted for under the accrual basis of accounting. There are three categories in one general ledger: Fixed Route, Paratransit, and Wheels on Demand. However, the fiscal year-end Single Report is based on LAVTA's consolidated financial statements.

LAVTA is currently using Multiple Operations Manager (MOM) accounting software, a product of Corbin Willits Systems, Incorporated. It includes General Ledger (GL), Accounts Payables and Payroll. Fixed Assets are maintained in an Excel spreadsheet. Any Accounts Receivables are manually performed and entered into the GL as a journal entry.

## 2. SCOPE OF SERVICES

**2.1 Annual Services.** The Auditor will annually prepare:

- Audits of LAVTA's financial statements;
- Issuance of annual Independent Auditor's report on financial statements, supplemental information and single audit report;
- Independent Auditor's report on Transportation Development Act compliance;
- Independent Auditor's report on Regional Measure BB compliance;
- Report on internal control over financial reporting and on compliance and other matters performed in accordance with Government Auditing Standards;
- Report on compliance with requirements applicable to each major program on internal control over compliance in accordance with Circular A-133;
- Preparation of a management letter report on LAVTA's internal accounting controls and other matters affecting its financial condition;
- Submission of the independent auditor's position to the Federal Clearinghouse website;
- Assistance with the preparation of the Annual Comprehensive Financial Report (ACFR).

Additionally, the Auditor may be consulted occasionally throughout the year as an information resource.

LAVTA may also ask the Auditor to provide guidance on implementation of Governmental Accounting Standards Board (GASB) requirements and specifics of Federal and State regulations as they may affect local government accounting.

**2.2 Audit Requirements.** The Auditor will perform a financial and compliance audit to determine:

- a) whether the combined financial statements of LAVTA present fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles; and
- b) whether LAVTA's financial statements, transactions, contracts, and records, are in compliance with applicable Federal, State, and local laws and regulations.

Compliance requirements include, but are not limited to those promulgated by the:

- Federal Transit Administration (FTA)
- Federal Highway Administration (FHWA)
- State Transit Assistance (STA)
- Transportation Development Act (TDA)
- Metropolitan Transportation Commission (MTC)
- Alameda County Transportation Authority (ACTC)
- Other Local/State/Federal agencies LAVTA has received money from

Audits must be performed in accordance with U.S. generally accepted auditing standards, Government Accountability Office's (GAO) Government Auditing Standards, the Federal Single Audit Act, as amended, and the U.S. Office of Management and

Budget (OMB) Circular A-133, Audits of State and Local Governments and Non-Profit Organizations. The services will include a federal single audit. Financial statements must be prepared in accordance with the latest Governmental Accounting Standards Board (GASB) pronouncements, as required.

**2.3 GASB Statements and Journal Entries.** The Auditor will be required to assist with the implementation of GASB statements, as applicable, and with preparation of GASB 68 and 75 journal entries.

**2.4 Examination of Internal Accounting Controls/Procedures.** The Auditor will examine LAVTA's internal accounting controls and accounting procedures and render a written report of their findings and recommendations.

The Auditor will present their findings and recommendations to the LAVTA Board of Directors at a regularly scheduled Board meeting, and to the LAVTA Finance and Administration Committee at their meeting prior to the Board meeting.

**2.5 GFOA Assistance.** LAVTA participates in the Government Finance Officers Association (GFOA) Excellence in Financial Reporting Program. The Auditor must prepare the general-purpose financial statements and compilation of ACFR sections to prepare for submittal. The Auditor will provide assistance in meeting the requirements of the Excellence in Financial Reporting Program. LAVTA will be responsible for preparing the introductory and statistical sections.

**2.6 Opinion on Government-Wide Financial Statements & Fund Financial Statements.** The Auditor will prepare an audit and opinion on the basic financial statements which include both Government-Wide Financial Statements and Fund Financial Statements. Certain audit procedures should be applied to the Management Discussion and Analysis, Notes, Supplementary Information and the Required Supplementary Information. The Auditor is not required to audit the Statistical Section of the report.

**2.7 Services Beyond Scope.** If the Auditor finds indications of defalcation or other circumstances requiring additional audit time beyond the ordinary scope of examination, the Auditor will provide LAVTA with all readily ascertainable facts relative to such extraordinary circumstances together with an estimate for the additional cost of investigating same. Fees relating to such additional services are not contemplated as being within the scope of services and will be subject to approval by LAVTA.

**2.8 Reports.** Following completion of the audit and preparation of the fiscal year's ACFR and special purpose audits, the Auditor will issue the following reports:

1. Independent Auditor's Report - Reports on the fair presentation of the financial statements of LAVTA in accordance with auditing standards generally accepted in the United States of America.

2. Single Audit Report, when required, on compliance with requirements applicable to each major program and internal control over compliance in accordance with OMB Circular A-133.
3. Alameda County Transportation Authority compliance audit reports and/or other special audit reports when required in compliance with applicable statutes, rules and regulations.
4. A report based on the Auditor's understanding of the internal control structure and assessment of control risk. In this report, the Auditor will also communicate any reportable conditions found during the audit and indicate whether they are also material weaknesses. The Auditor is required to make immediate, written notification to LAVTA's Director of Finance of all irregularities and illegal acts or indications of illegal acts of which they become aware. As required by auditing standards, a report shall be issued to those charged with LAVTA's governance.
5. A separate report, when requested by LAVTA, on the Auditor's analysis of the internal control structure used in the administration of LAVTA's investment policies and procedures.
6. A report on LAVTA's compliance with laws and regulations related to "major" federal awards, including an opinion on compliance with specific requirements applicable to "major" federal awards programs. The report on compliance shall include all instances of non-compliance.
7. A Management Letter addressed to the Board of Directors of the Livermore Amador Valley Transit Authority setting forth recommendations (as applicable) for improvements in LAVTA's accounting systems.
8. The Auditor shall communicate, in a letter to the Board of Directors and Executive Staff, any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. "Nonreportable conditions" discovered by the Auditor may be communicated in the "Management Letter."
9. A separate report on the Auditor's analysis of the internal control structure used in the administration of federal financial assistance programs.

**2.9 Other Communications.** The Auditor shall make all communications to the LAVTA Finance and Administration Committee required by the audit standards under which the engagement is performed. Those communications include, but are not limited to:

1. The Auditor's responsibility under generally accepted auditing standards.
2. Significant accounting policies.
3. Management judgment and accounting estimates.

4. Significant audit adjustments.
5. Other information in documents containing audited financial statements.
6. Disagreements with management.
7. Management consultation with other accountants.
8. Major issues discussed with management prior to retention.
9. Difficulties encountered in performing the audit.
10. Errors, irregularities, and illegal acts.

The Auditor must be available to communicate the audit plan prior to beginning any field work. In addition, the Auditor must be available to present all final reports to LAVTA management and the Finance and Administration Committee as requested.

**2.10 Working Paper Retention and Access to Working Papers.** All work papers and reports must be retained, at the Auditor's expense, for seven years minimum (or the retention timeframe established by professional standards, whichever is longer) unless the Auditor is notified in writing by LAVTA of the need to extend the retention period. The work papers are subject to review by federal and state agencies and other individuals designated by LAVTA. Accordingly, the work papers shall be made available upon request.

In addition, the Auditor shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review work papers.

**2.11 Journal Entries.** All adjusting journal entries made by the Auditor must be discussed and explained to the designated Finance Department personnel prior to recording. They should be in a format that shows the lowest level of posting detail needed for data entry in the general ledger systems.

### 3. AUDIT SCHEDULE AND ASSISTANCE

Pre-close or interim work is permitted and may be scheduled at the mutual convenience of the auditors and LAVTA. LAVTA's fiscal year closes June 30th and preliminary statements are available by the end of August.

LAVTA's Director of Finance and Accounting Analyst will be available to the Auditor to assist as needed.

Due to the on-going workload of LAVTA's staff, LAVTA requires that a timeline be submitted to the Finance Department after the interim audit. This timeline should list schedules of reports to be completed by LAVTA's accounting staff, requested date of completion as well as dates of audit fieldwork and completion of the draft report. A draft copy of each audit report shall be reviewed with the Director of Finance at least one week prior to its due date.

Any penalties assessed against LAVTA as result of the untimely receipt of the above-listed opinions and reports will be deducted from payments to the Auditor.

Maze and Associates, 3478 Buskirk Ave #217, Pleasant Hill, California, performed a financial audit as of June 30, 2023. Previous years' working papers will be available for inspection by the selected auditing firm only.

AGREEMENT BETWEEN  
THE LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY (AUTHORITY)  
AND  
\_\_\_\_\_ (CONSULTANT)

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SAMPLE

This AGREEMENT for FINANCIAL AUDITING SERVICES (Agreement) is entered into by and between the Livermore Amador Valley Transit Authority (AUTHORITY) located at 1362 Rutan Court, Suite 100, Livermore, CA 94551 and [REDACTED] (CONSULTANT), a [STATE] Corporation located at [REDACTED] [INSERT ADDRESS] ("the Parties").

## 1. SCOPE OF SERVICES

This is an Agreement to provide Financial Auditing Services. The CONSULTANT agrees to provide these services to the AUTHORITY in accordance with the terms and conditions of this Agreement. In the performance of its work, the CONSULTANT represents that it (1) has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing financial auditing services; (2) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (3) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

The scope of the CONSULTANT's services will consist of the services set forth in the Request for Proposals dated [REDACTED], which is attached hereto and incorporated herein as Exhibit A, as supplemented by the CONSULTANT's written proposal dated [REDACTED], attached hereto and incorporated herein as Exhibit B.

## 2. AGREEMENT DOCUMENTS

This Agreement consists of the following documents:

- (1) This Agreement, including Attachment A, Insurance Requirements;
- (2) Exhibit A, Request for Proposals;
- (3) Exhibit B, CONSULTANT's Proposal including costs/labor rates.

In the event of conflict between or among the terms of the Agreement documents, the order of precedence will be the order of documents listed above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence.

## 3. TERM OF AGREEMENT

The term of this Agreement will be for a three-year base term commencing upon [REDACTED] (Effective Date) and ending on [INSERT DATE]. The CONSULTANT will furnish the AUTHORITY with all the materials, equipment and services called for under this Agreement, and perform all other work, if any, described in the solicitation documents.

The AUTHORITY reserves the right, in its sole discretion, to exercise up to four one-year option term(s) to extend the Agreement, pursuant to the terms of this Agreement. If the AUTHORITY determines to exercise the option term(s), the AUTHORITY will give the CONSULTANT at least 30 days' written notice of its determination.

It is understood that the term of the Agreement and any option term(s) granted thereto as specified herein are subject to the AUTHORITY's right to terminate the Agreement in accordance with Section 23 of this Agreement.

#### **4. CONSULTANT'S REPRESENTATIVE**

At all times during the term of this Agreement [REDACTED] will serve as the primary staff person of the CONSULTANT to undertake, render, and oversee all of the services under this Agreement. Upon written notice by the CONSULTANT and approval by the AUTHORITY, which will not be unreasonably withheld, the CONSULTANT may substitute this person with another person, who will possess similar qualifications and experience for this position.

#### **5. COMPENSATION**

The CONSULTANT agrees to perform all of the base services included in Section 1 for a total not-to-exceed amount of [REDACTED] (\$ [REDACTED]), in accordance with Exhibits A and B. The total amount will include all labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs and all other costs and expenses incurred by the CONSULTANT. The hourly rate by personnel category will be as set forth in Exhibit B [and/or below if inserting payment schedule] [or Attachment if attaching the payment schedule to this Agreement]. The AUTHORITY will pay the CONSULTANT in accordance with Section 6.

In the event that the AUTHORITY exercises its right to extend this Agreement, the CONSULTANT agrees to perform all of the optional services for a total not-to-exceed amount of [REDACTED] (\$ [REDACTED]), in accordance with Exhibits A and B. The total amount will include all labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs and all other costs and expenses incurred by the CONSULTANT. The hourly rate by personnel category will be as set forth in Exhibit B [and/or below if inserting payment schedule] [or Attachment if attaching the payment schedule to this Agreement]. The AUTHORITY will pay the CONSULTANT in accordance with Section 6.

#### **6. MANNER OF PAYMENT**

The CONSULTANT must submit monthly invoices/billing statements detailing the services performed during the billing period. Each invoice/billing statement must provide a description of the work performed during the invoice period, the contract number [insert contract #], Purchase order #, and the AUTHORITY's Finance Director's name. The AUTHORITY will endeavor to pay approved invoices/billing statements within 30 calendar days of their receipt. The AUTHORITY reserves the right to withhold payment to the CONSULTANT if the AUTHORITY determines that the quantity or quality of the work performed is unacceptable. The AUTHORITY will provide written notice to the CONSULTANT within 10 calendar days of the AUTHORITY's decision not to pay and the reasons for non-payment. If the CONSULTANT disagrees with the AUTHORITY's decision not to pay and the reasons for non-payment, it must provide written notice detailing the reasons why it disputes the AUTHORITY's decision to the AUTHORITY within 30 calendar days of the AUTHORITY's notice. If the CONSULTANT does not provide written notice in accordance with this section, it waives all rights to challenge the AUTHORITY's decision. Final payment will be withheld until the CONSULTANT performs all required Agreement expiration or termination obligations.

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

Accounts Payable

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

The CONSULTANT represents that the CONSULTANT's taxpayer identification number (TIN) is [REDACTED] as evidenced by a completed Federal Form W-9.

**7. NOTICES**

Except for invoices submitted pursuant to Section 6, all notices or other communications relating to the day-to-day activities of the provided services will be exchanged between the AUTHORITY's [REDACTED] or designee, and the CONSULTANT's [REDACTED].

Notices informing the CONSULTANT of the AUTHORITY's decision to exercise Agreement options (that were exercisable in the AUTHORITY's sole discretion) will be exchanged between the AUTHORITY's [REDACTED] or designee, and the CONSULTANT's [REDACTED] via electronic mail to: [REDACTED].

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party will be in writing and may be given by personal delivery to a representative of the Parties, by mailing the same postage prepaid, or by email, addressed as follows:

If to the AUTHORITY: Executive Director  
Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551  
Email: [REDACTED]

If to the CONSULTANT: [REDACTED]  
Attn: [REDACTED]  
[REDACTED]  
[REDACTED]  
Email: [REDACTED]

The address to which mailings may be made may be changed from time to time by notice mailed or emailed as described above. Any notice given by mail will be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

**8. OWNERSHIP OF WORK**

All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared for the services to be performed by the CONSULTANT will be and are the property of the AUTHORITY. The AUTHORITY will be entitled to copies and access to these materials during the progress of the work. Any such

materials remaining in the hands of the CONSULTANT or in the hands of any subconsultant upon completion or termination of the work will be immediately delivered to the AUTHORITY. If any materials are lost, damaged, or destroyed before final delivery to the AUTHORITY, the CONSULTANT will replace them at its own expense and the CONSULTANT assumes all risks of loss, damage, or destruction of or to such materials. The CONSULTANT may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including without limitation copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement are hereby assigned to the AUTHORITY. The CONSULTANT agrees to execute any additional documents that may be necessary to evidence such assignment.

The CONSULTANT represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual property or proprietary right of any third party.

## **9. CONFIDENTIALITY**

Any AUTHORITY materials that the CONSULTANT has access or materials prepared by the CONSULTANT during the course of this Agreement (“confidential information”) will be held in confidence by the CONSULTANT, which will exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the CONSULTANT as necessary to accomplish the rendition of services set forth in Section 1 of this Agreement.

The CONSULTANT, its employees, subcontractors, subconsultants and agents, will not release any reports, information, or other materials prepared in connection with this Agreement, whether deemed confidential or not, without the approval of the AUTHORITY’s Executive Director or designee.

## **10. USE OF SUBCONSULTANTS**

The CONSULTANT must not subcontract any services to be performed by it under this Agreement without the prior written approval of the AUTHORITY, except for service firms engaged in drawing, reprographics, typing, and printing.

Any subcontractors/subconsultants must be engaged under written contract with the CONSULTANT with provisions allowing the CONSULTANT to comply with all requirements of this Agreement, including without limitation the “Ownership of Work” provisions in Section 8. The CONSULTANT will be solely responsible for reimbursing any subcontractors/subconsultants and the AUTHORITY will have no obligation to them.

## **11. CHANGES**

The AUTHORITY may at any time, by written order, make changes within the scope of work and services described in this Agreement. If such changes cause an increase or decrease in the budgeted cost of or the time required for performance of the agreed-upon work, an equitable adjustment as mutually agreed will be made in the limit on compensation as set forth in Section 5 or in the time of required performance as set forth in Section 3, or both. In the

event that the CONSULTANT encounters any unanticipated conditions or contingencies that may affect the scope of work or services and result in an adjustment in the amount of compensation specified herein, or identifies any AUTHORITY conduct (including actions, inaction, and written or oral communications other than a formal contract modification) that the CONSULTANT regards as a change to the contract terms and conditions, the CONSULTANT will so advise the AUTHORITY immediately upon notice of such condition or contingency. The written notice will explain the circumstances giving rise to the unforeseen condition or contingency and will set forth the proposed adjustment in compensation. This notice will be given to the AUTHORITY prior to the time that the CONSULTANT performs work or services related to the proposed adjustment in compensation. The pertinent changes will be expressed in a written supplement to this Agreement issued by the Contracts and Procurement Department prior to implementation of such changes. Failure to provide written notice and receive AUTHORITY approval for extra work prior to performing extra work may, at the AUTHORITY's sole discretion, result in non-payment of the invoices reflecting such work.

## **12. RESPONSIBILITY: INDEMNIFICATION**

The CONSULTANT will indemnify, keep and save harmless the AUTHORITY and its directors, officers, agents and employees against any and all suits, claims or actions arising out of any of the following:

**A.** Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the CONSULTANT caused by a negligent act or omission or wilful misconduct of the CONSULTANT or its employees, subcontractors, subconsultants or agents; and

**B.** Any allegation that materials or services provided by the CONSULTANT under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

The CONSULTANT further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defense as they are incurred. If any judgment is rendered against the AUTHORITY or any of the other individuals enumerated above in any such action, the CONSULTANT will, at its expense, satisfy and discharge the same. This indemnification will survive termination or expiration of the Agreement.

## **13. INSURANCE**

Refer to Attachment A, appended hereto, for the Insurance Requirements.

## **14. CONSULTANT'S STATUS**

Neither the CONSULTANT nor any party contracting with the CONSULTANT will be deemed to be an agent or employee of the AUTHORITY. The CONSULTANT is and will be an independent consultant and the legal relationship of any person performing services for the CONSULTANT will be one solely between that person and the CONSULTANT.

## **15. ASSIGNMENT**

The CONSULTANT must not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of the AUTHORITY.

**16. OTHER GOVERNMENTAL AGENCIES**

In the event that one or more other governmental agencies may wish to utilize this Agreement to purchase services in accordance with the terms and costs indicated herein, the following provisions apply. Each public agency must formulate a separate contract with the CONSULTANT, incorporating the terms and conditions of this Agreement with the AUTHORITY. The CONSULTANT shall invoice such public agencies as separate entities. The AUTHORITY will incur no liability in connection with such contracts or purchases by other public agencies thereunder. The CONSULTANT will release, defend (with counsel reasonably satisfactory to AUTHORITY) and indemnify AUTHORITY and its directors, officers, employees and agents (collectively, "Indemnitees"), from and against all liability, cost, and expense for loss of or damage to property and for injuries to any person when arising or resulting from acts or omissions of the CONSULTANT in connection with such contracts or purchases by other public agencies.

**17. LITIGATION SUPPORT**

The CONSULTANT must be willing to provide litigation support related to the performance of this Agreement, including serving as an expert witness if required by the AUTHORITY. In the event that litigation relating to the performance of this Agreement arises, the CONSULTANT will ensure that at least one individual has the appropriate expertise to act as an expert witness and will make that individual or individuals available to consult on issues related to litigation. The CONSULTANT may additionally be required to form expert opinions, draft expert witness reports, and provide expert witness testimony for depositions and other legal proceedings, including mediation, arbitration, and trials.

**18. AUTHORITY WARRANTIES**

The AUTHORITY makes no warranties, representations, or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

**19. AUTHORITY REPRESENTATIVE**

Except when approval or other action is required to be given or taken by the Board of Directors of the AUTHORITY, the AUTHORITY's Executive Director, or such person or persons the Executive Director may designate in writing from time to time, will represent and act for the AUTHORITY.

**20. WARRANTY OF SERVICES**

**A.** The CONSULTANT warrants that its professional services will be performed in accordance with the professional standards of practices of comparable [redacted] firms at the time the services are rendered. In the event that any services provided by the CONSULTANT hereunder are deficient because of the CONSULTANT's or subconsultant's failure to perform said services in accordance with the warranty standards set forth above, the AUTHORITY will report such deficiencies in writing to the CONSULTANT within a reasonable time. The AUTHORITY thereafter will have:

**i.** The right to have the CONSULTANT re-perform such services at the CONSULTANT's expense; or

ii. The right to have such services done by others and the costs thereof charged to and collected from the CONSULTANT if, within 30 days after written notice to the CONSULTANT requiring such re-performance, the CONSULTANT fails to give satisfactory evidence to the AUTHORITY that it has undertaken said re-performance; or

iii. The right to terminate the Agreement for default.

B. The CONSULTANT will be responsible for all errors and omissions and is expected to pay for all work as a result of errors and omissions.

## **21. CLAIMS OR DISPUTES**

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

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

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

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

If an agreement can be reached that resolves the CONSULTANT claim, the Parties will execute an Agreement modification to document the resolution of the claim. If the Parties cannot reach an agreement with respect to the CONSULTANT claim, they may choose to pursue a dispute resolution process or termination of the Agreement.

## **22. REMEDIES**

In the event the CONSULTANT fails to comply with the requirements of this Agreement in any way, the AUTHORITY reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

### **23. TEMPORARY SUSPENSION OF WORK**

The AUTHORITY, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as the AUTHORITY may deem necessary. The suspension may be due to the failure on the part of the CONSULTANT to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of the CONSULTANT. The CONSULTANT will comply immediately with the written order of the AUTHORITY to suspend the work wholly or in part. The suspended work will be resumed when the CONSULTANT is provided with written direction from the AUTHORITY to resume the work.

If the suspension is due to the CONSULTANT's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of the CONSULTANT, all costs will be at CONSULTANT's expense and no schedule extensions will be provided by the AUTHORITY.

In the event of a suspension of the work, the CONSULTANT will not be relieved of the CONSULTANT's responsibilities under this Agreement, except the obligations to perform the work that the AUTHORITY has specifically directed the CONSULTANT to suspend under this section.

If the suspension is not the responsibility of the CONSULTANT, suspension of all or any portion of the work under this Section may entitle the CONSULTANT to compensation and/or schedule extensions subject to the Agreement requirements.

### **24. TERMINATION**

**A. Termination for Convenience.** The AUTHORITY may terminate this Agreement for convenience at any time by giving sixty days written notice to the CONSULTANT. Upon receipt of such notice, the CONSULTANT may not commit itself to any further expenditure of time or resources, except for costs reasonably necessary to effect the termination. If the AUTHORITY terminates the Agreement for convenience, the AUTHORITY agrees to pay the CONSULTANT, in accordance with the provisions of Sections 5 and 6, all sums actually due and owing from the AUTHORITY upon the effective date of termination, plus any costs reasonably necessary to effect the termination. The CONSULTANT is not entitled to any payments for lost profit on work to be performed after the date of termination, including, without limitation, work not yet performed, and milestones not yet achieved. All finished or unfinished documents and any material procured for or produced pursuant to this Agreement as of the date of termination are the property of the AUTHORITY upon the effective date of the termination for convenience. The CONSULTANT and its subcontractors must cooperate in good faith in any transition to other vendors or consultants as the AUTHORITY deems necessary. Failure to so cooperate is a breach of the Agreement and grounds for the termination for convenience to be treated as a termination for default.

**B. Termination for Default.** If the CONSULTANT fails to perform any of the provisions of this Agreement, the AUTHORITY may find the CONSULTANT to be in default. After delivery of a written notice of default, the AUTHORITY may terminate the Agreement for default if the CONSULTANT 1) does not cure such breach within 7 calendar days; or 2) if the nature of the breach is such that it will reasonably require more than 7 days to commence curing, as determined in the AUTHORITY's discretion, provide a plan to cure such breach which is acceptable to the AUTHORITY within 7 calendar days. If the CONSULTANT cures the default within the cure period but subsequently defaults again, the AUTHORITY may

immediately terminate the Agreement without further notice or right to cure. In the event of the filing a petition for bankruptcy by or against the CONSULTANT or for appointment of a receiver for CONSULTANT's property, the AUTHORITY may terminate this Agreement immediately without the thirty-day cure period.

Upon receipt of a notice of termination for default, the CONSULTANT may not commit itself to any further expenditure of time or resources. The AUTHORITY agrees to remit final payment to the CONSULTANT in an amount to cover only those sums actually due and owing from the AUTHORITY for work performed in full accordance with the terms of the Agreement as of the effective date of termination. The AUTHORITY is not in any manner liable for the CONSULTANT's actual or projected lost profits had the CONSULTANT completed the services required by this Agreement, including, without limitation, services not yet performed, expenses not yet incurred, and milestones not yet achieved. All finished or unfinished documents, and any equipment or materials procured for or produced pursuant to this Agreement become the property of the AUTHORITY upon the effective date of the termination for default.

**C.** The rights and remedies of the AUTHORITY provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **25. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS**

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

If, as a result of the audit, it is determined by the AUTHORITY's auditor or staff that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the CONSULTANT agrees to reimburse the AUTHORITY for those costs within sixty (60) days of written notification by the AUTHORITY.

## **26. NON-DISCRIMINATION ASSURANCE - TITLE VI OF THE CIVIL RIGHTS ACT**

The CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted contracts. Further, the CONSULTANT agrees to comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. The CONSULTANT shall obtain the same assurances from its joint venture partners, subcontractors, and subconsultants

by including this assurance in all subcontracts entered into under this Agreement. Failure by the CONSULTANT to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the AUTHORITY deems appropriate.

## **27. EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

In connection with the performance of this Agreement, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, citizenship, political activity or affiliation, national origin, ancestry, physical or mental disability, marital status, age, medical condition (as defined under California law), veteran status, sexual orientation, gender identity, gender expression, sex or gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), taking or requesting statutorily protected leave, or any other characteristics protected under federal, state, or local laws. The CONSULTANT shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability, national origin, or any other characteristic protected under state, federal, or local laws. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause. The CONSULTANT further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

The CONSULTANT will, in all solicitations or advancements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The CONSULTANT will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONSULTANT's legal duty to furnish information.

The CONSULTANT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the AUTHORITY's Procurement Officer, advising the labor union or workers' representative of the CONSULTANT's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The CONSULTANT will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of

Labor. The CONSULTANT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the AUTHORITY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the CONSULTANT's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the CONSULTANT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The CONSULTANT will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

## **28. CONFLICT OF INTEREST**

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

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

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

No person previously in the position of director, officer, employee or agent of the AUTHORITY during his or her tenure or for one (1) year after that tenure will have any interest, direct or indirect, in this Agreement or the proceeds under this Agreement, nor may any such person act as an agent or attorney for, or otherwise represent the CONSULTANT by making any formal or informal appearance, or any oral or written communication, before the

AUTHORITY, or any officer or employee of the AUTHORITY, for a period of one (1) year after leaving office or employment with the AUTHORITY if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant, or contract.

**B. Organizational Conflicts of Interest.** The CONSULTANT will take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the AUTHORITY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

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

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

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

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

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

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

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

**29. CALIFORNIA PUBLIC RECORD ACT REQUESTS (CPRA)**

The CONSULTANT consents to the release of this Agreement, the redacted version of its proposal, and the release of any portion of its proposal not included in its confidentiality index, and waives all claims against the AUTHORITY, its directors, officers, employees, and agents, for the disclosure of such information. If the CONSULTANT did not include a confidentiality index in its proposal, the AUTHORITY will have no obligation to withhold any information from disclosure and may release the information sought without liability to the AUTHORITY.

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

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

**30. ATTORNEYS' FEES**

If any legal proceeding should be instituted by either of the Parties to enforce the terms of this Agreement or to determine the rights of the Parties under this Agreement, the prevailing party in said proceeding will recover reasonable attorneys' fees, in addition to all court costs.

**31. WAIVER**

Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the Parties of a breach or covenant of this Agreement will not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

**32. SEVERABILITY**

If any provision of this Agreement is deemed invalid or unenforceable, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event, the remaining provisions of this Agreement will remain in full force and effect.

**33. NO THIRD PARTY BENEFICIARIES**

This Agreement is not for the benefit of any person or entity other than the Parties.

**34. APPLICABLE LAW**

This Agreement, its interpretation, and all work performed under it will be governed by the laws of the State of California. The CONSULTANT must comply with all Federal, State, and Local Laws, rules, and regulations applicable to the Agreement and to the work to be done hereunder, including all rules and regulations of the AUTHORITY.

**35. RIGHTS AND REMEDIES OF THE AUTHORITY**

The rights and remedies of the AUTHORITY provided herein will not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

**36. BINDING ON SUCCESSORS**

All of the terms, provisions, and conditions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors, assigns, and legal representatives.

**37. ENTIRE AGREEMENT; MODIFICATION**

This Agreement, including any attachments, constitutes the complete Agreement between the Parties and supersedes any prior written or oral communications. This Agreement may be modified or amended only by written instrument signed by both the CONSULTANT and the AUTHORITY. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the Effective Date.

**LIVERMORE AMADOR VALLEY TRANSIT  
AUTHORITY:**

**CONSULTANT: (See footnote below)\***

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

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

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: Executive Director

Title: \_\_\_\_\_

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

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

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

Print: \_\_\_\_\_

Title: \_\_\_\_\_

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

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Attorney for the AUTHORITY

\* Note: If Consultant is a Corporation, this Agreement must be executed by two officers of the corporation, consisting of one officer from each of the two separate categories:

- (1) the President, Vice President, or Chair of the Board; and
- (2) the Secretary, Assistant Secretary, Treasurer or Chief Financial Officer.

In the alternative, this Agreement may be executed by a single Officer or a person other than an Officer provided demonstrating that such individual is authorized to bind the Corporation (e.g. – a copy of a certified resolution from the Corporation's bylaws).

If the Consultant is a limited liability company (LLC), the Agreement must be executed by an officer or member who has the full and proper authorization to bind the LLC. The Officer or member must provide evidence satisfactory to the AUTHORITY indicating the individual's authority to bind the LLC, such as a certified copy of a resolution authorizing the individual to execute written contracts or a copy of the LLC operating agreement.

The insurance requirements specified in this section shall apply to Consultant and any subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms, or corporations that Consultant authorizes to work under this Agreement (hereinafter collectively referred to as "Agents"). Consultant and all Agents are required to procure and maintain at their sole cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this Agreement. To the extent that any Agent does not procure and maintain such insurance coverage, Consultant shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling Consultant's indemnity obligation as to itself or any of its Agents in the absence of coverage. In the event Consultant or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that the Consultant's insurance be primary without any right of contribution from the Authority. Prior to beginning work under this contract, Consultant shall provide the Authority with satisfactory evidence of compliance with the insurance requirements of this section.

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

##### **1.) Workers' Compensation and Employers' Liability Insurance**

- a. Workers' Compensation with Statutory Limits, as required by Section 3700 et seq of the California Labor Code, or any subsequent amendments or successor acts thereto governing the liability of employers to their employees.
- b. Employers' Liability coverage with minimum limits of \$1 million.
- c. Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:
  - Waiver of Subrogation.

##### **2.) Commercial General Liability Insurance**

Commercial General Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$1 million per occurrence or claim and a general aggregate limit of at least \$2 million. Such insurance shall cover all of Consultant's operations both at and away from the project site.

- a. This insurance shall include coverage for, but not be limited to:
  - Premises and operations.

- Products and completed operations.
- Contractual liability.
- Personal injury.
- Advertising injury.
- Explosion, collapse, and underground coverage (xcu).
- Broad form property damage.

b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- Additional Insured.
- Cross Liability or Severability of Interests Clause.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

### **3.) Business Automobile Liability Insurance**

Business Automobile Liability insurance providing bodily injury and property damage with a combined single limit of at least \$1 million per occurrence.

a. This insurance shall include coverage for, but not be limited to:

- All Owned vehicles.
- Non-owned vehicles.
- Hired or rental vehicles.

b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- Additional Insured.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

### **4.) Professional Liability Insurance**

A Professional Liability insurance policy covering errors and omissions and the resulting damages including, but not limited to, economic loss to the Livermore Amador Valley Transit Authority and having minimum limits of liability of \$1 million per claim or occurrence and \$1 million annual aggregate. The policy shall include coverage for all services and work performed under this Agreement.

**5.) Property Insurance.**

Property insurance with Special Form coverage including theft, but excluding earthquake, with limits at least equal to the replacement of the property described below:

a. This insurance shall include coverage for, but not be limited to:

- Consultant's own business personal property and equipment to be used in the performance of this Agreement.
- Materials or property to be purchased and/or installed on behalf of the Livermore Amador Valley Transit Authority, if any.
- Builders risk for property in the course of construction.

b. Such insurance shall include the following endorsement as further detailed in the Endorsements section below:

- Waiver of Subrogation

**B. ENDORSEMENTS**

**1.) Additional Insured**

The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the Livermore Amador Valley Transit Authority and its directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

**2.) Waiver of Subrogation**

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the Livermore Amador Valley Transit Authority and its officers, directors, employees, volunteers and agents while acting in such capacity, and their successors and assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

**3.) Primary Insurance**

The referenced policies and any Excess and Umbrella policies shall indicate that they are primary to any other insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by the Livermore Amador Valley Transit Authority.

**4.) Severability of Interests or Cross Liability**

The referenced policies and any Excess or Umbrella policies shall contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the Livermore Amador Valley Transit Authority as an Additional Insured shall not in any way affect Authority's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the Consultant. Said policy shall protect Consultant and the Livermore Amador Valley Transit Authority in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

**C. EVIDENCE OF INSURANCE**

**All Coverages**

Prior to commencing work or entering onto the Property, Consultant shall provide the Director, Contracts and Procurement of the Authority with a certificate evidencing coverage, and upon request, a certified duplicate original of the policy. The certificate shall also show that the Consultant's policy(ies) will not be cancelled or coverage altered without 30 days prior written notice to the Authority's Executive Director.

**D. GENERAL PROVISIONS**

**1.) Notice of Cancellation**

The policies shall provide that the Consultant's policies will not be cancelled or have limits reduced or coverage altered without 30 days prior written notice to the Authority's Executive Director.

**2.) Acceptable Insurers**

All policies will be issued by insurers acceptable to the Authority (generally with a Best's Rating of A-10 or better).

**3.) Self-insurance**

Upon evidence of financial capacity satisfactory to the Authority and Consultant's agreement to waive subrogation against the Authority respecting any and all claims that may arise, Consultant's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

**4.) Failure to Maintain Insurance**

All insurance specified above shall remain in force until all work to be performed is satisfactorily completed, all of Consultant's personnel and equipment have been removed from the Authority

property, and the work has been formally accepted. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

**5.) Claims Made Coverage**

If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Consultant shall make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all named insureds.
- c. If insurance is terminated for any reason, Consultant agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed in connection with this Agreement.
- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

**6.) Deductibles and Retentions**

Consultant shall be responsible for payment of any deductible or retention on Consultant's policies without right of contribution from the Authority.

In the event that the policy of the Consultant or any subcontractor contains a deductible or self-insured retention, and in the event that LAVTA seeks coverage under such policy as an additional insured, Consultant shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of Consultant, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if Consultant or subcontractor is not a named defendant in the lawsuit.