

**CONSULTING SERVICES AGREEMENT BETWEEN
THE VENTURA COUNTY TRANSPORTATION COMMISSION AND
KRUGER BENSEN ZIEMER ARCHITECTS, INC.**

THIS AGREEMENT for consulting services is made by and between the Ventura County Transportation Commission ("VCTC") and Kruger Bensen Ziemer Architects, Inc. ("Consultant") (together sometimes referred to as the "Parties") as of May 4, 2015 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to VCTC the services described in the Scope of Work attached hereto and incorporated herein as Exhibit A, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 1, 2017, and Consultant shall complete the work described in Exhibit A on or before this date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect VCTC's right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all work required by this Agreement in a substantial, professional manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that VCTC, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from VCTC of such desire of VCTC, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Sections 1.1 and 1.2 above and to satisfy Consultant's obligations hereunder.
- 1.5 **Public Works Requirements.** Because the services described in Exhibit A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions set forth in Exhibit D, which is attached hereto and incorporated herein.

Section 2. COMPENSATION. VCTC hereby agrees to pay Consultant a sum not to exceed four hundred and six thousand eight hundred forty dollars and no cents, (\$406,840.00) notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and the Consultant's proposal regarding the amount of compensation, this Agreement shall prevail. VCTC shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein and in Exhibit B. The payments specified below shall be the only payments from VCTC to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to VCTC in the manner specified herein. Except as specifically authorized by VCTC in writing, Consultant shall not bill VCTC for duplicate services performed by more than one person.

Consultant and VCTC acknowledge and agree that compensation paid by VCTC to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. VCTC therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once per month during the term of this Agreement, based on the cost for all services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain all the following information:

- Serial identifications of progress bills (i.e., Progress Bill No. 1 for the first invoice, etc.);
- The beginning and ending dates of the billing period;
- A task summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At VCTC's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by each employee, agent, and subcontractor of Consultant performing services hereunder;
- Consultant shall give separate notice to VCTC when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds eight hundred (800) hours within a twelve (12)-month period under this Agreement and any other agreement between Consultant and VCTC. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and VCTC, if applicable.
- The amount and purpose of actual expenditures for which reimbursement is sought;

- The Consultant's signature.

Consultant shall submit all request for payment to:

Public Works Agency
County of Ventura L#1670
800 South Victoria Avenue,
Ventura, CA 93009-1670
Attn: Brian D'Anna

Consultant may submit request for payment in pdf format and submit by email to:

Brian.D'Anna@ventura.org

- 2.2 **Monthly Payment.** VCTC shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. VCTC shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant. Each invoice shall include all expenses and actives performed during the invoice period for which Consultant expects to receive payment.
- 2.3 **Final Payment.** VCTC shall pay the five percent (5%) of the total sum due pursuant to this Agreement within sixty (60) days after completion of the services and submittal to VCTC of a final invoice, if all services required have been satisfactorily performed.
- 2.4 **Total Payment.** VCTC shall pay for the services to be rendered by Consultant pursuant to this Agreement. VCTC shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. VCTC shall make no payment for any extra, further, or additional service pursuant to this Agreement. In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto and incorporated herein as Exhibit B.
- 2.6 **Reimbursable Expenses.** Reimbursable expenses, as specified in Exhibit C, attached hereto and incorporated herein, shall not exceed six thousand seven hundred dollars and no cents (**\$6,700.00**). Expenses not listed in Exhibit C are not chargeable to VCTC. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Consultant represents and warrants that Consultant is a resident of the State of California in accordance with California Revenue & Taxation Code Section 18662, as it may be amended, and is exempt from withholding. Consultant accepts sole responsible for verifying the residency status of any subcontractors and withhold taxes from non-California subcontractors.
- 2.8 **Payment upon Termination.** In the event that VCTC or Consultant terminates this Agreement pursuant to Section 8, VCTC shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.
- 2.10 **False Claims Act.** Presenting a false or fraudulent claim for payment, including a change order, is a violation of the California False Claims Act and may result in treble damages and a fine of five thousand (\$5,000) to ten thousand dollars (\$10,000) per violation.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. VCTC shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

VCTC shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with VCTC employees and reviewing records and the information in possession of VCTC. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of VCTC. In no event shall VCTC be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to VCTC of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to VCTC. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance

required herein for the subcontractor(s). Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **\$1,000,000** per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator, as defined in Section 10.9. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against VCTC and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than **\$1,000,000** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 or GL 0002 (most recent editions) covering comprehensive General Liability Insurance and Services Office form number GL 0404 covering Broad Form Comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

- b. Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to VCTC and its officers, employees, agents, and volunteers.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than **\$1,000,000** covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed one hundred fifty thousand dollars (\$150,000) per claim.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of five (5) years after completion of work under this Agreement or the work. VCTC shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to VCTC for review prior to the commencement of any work under this Agreement.

4.3.3 Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy

4.4 All Policies Requirements.

4.4.1 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall furnish VCTC with complete copies of all policies delivered to

Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If VCTC does not receive the required insurance documents prior to the Consultant beginning work, this shall not waive the Consultant's obligation to provide them. VCTC reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 Notice of Reduction in or Cancellation of Coverage. A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to VCTC. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Consultant shall provide written notice to VCTC at Consultant's earliest possible opportunity and in no case later than ten (10) working days after Consultant is notified of the change in coverage.

4.4.4 Additional insured; primary insurance. With respect to the coverage provided pursuant to 4.2 above, VCTC and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including VCTC's general supervision of Consultant; products and completed operations of Consultant, as applicable; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to VCTC or its officers, employees, agents, or volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to VCTC and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by VCTC shall be called upon to contribute to a loss under the coverage.

All insurance policies shall also name the following as additional insureds:

- City of Camarillo and its elected and appointed offices, officials, employees, agents, contractors and consultants
- County of Ventura and its elected and appointed offices, officials, employees, agents, contractors and consultants

4.4.5 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. Further, if the Consultant's insurance policy includes a self-insured retention that

must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to VCTC, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

4.4.6 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4.7 **Wasting Policy.** Except with respect to professional liability insurance, no insurance policy required by Section 4 shall include a "wasting" policy limit.

4.4.8 **Variation.** VCTC may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that VCTC's interests are otherwise fully protected.

4.5 **Remedies.** In addition to any other remedies VCTC may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, VCTC may, at its sole option exercise any of the following remedies, which are alternatives to other remedies VCTC may have and are not the exclusive remedy for Consultant's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

- c. Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Consultant shall, to the fullest extent allowed by law, with respect to all Services performed in connection with this Agreement, indemnify, defend, and hold harmless VCTC and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance ("Claims"), to the extent caused, directly or indirectly, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the gross negligence or willful misconduct of VCTC or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

- 5.1 **Insurance Not in Place of Indemnity.** Acceptance by VCTC of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 **PERS Liability.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of VCTC, Consultant shall indemnify, defend, and hold harmless VCTC for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of VCTC.
- 5.3 **Third Party Claims.** With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type of express or implied indemnity against the Indemnitees.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of VCTC. VCTC shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise VCTC shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other VCTC, state, or federal policy, rule, regulation, law, or ordinance to the contrary,

Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by VCTC, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of VCTC and entitlement to any contribution to be paid by VCTC for employer contributions and/or employee contributions for PERS benefits.

- 6.2 **Consultant Not an Agent.** Except as VCTC may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of VCTC in any capacity whatsoever as an agent to bind VCTC to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all federal, state and local laws and regulations applicable to the performance of the work hereunder. Consultant's failure to comply with such law(s) or regulation(s) shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which VCTC is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to VCTC that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals, including from VCTC, of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to VCTC that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from VCTC.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

- 7.6 **Consultant's Residency and Tax Withholding.** Consultant declares that Consultant is a resident of the State of California in accordance with the California Franchise Tax Board form 590 ("Form 590"), as may be amended. Unless provided with valid, written evidence of an exemption or waiver from withholding, VCTC may withhold California taxes from payments to Consultant as required by law. Consultant shall obtain, and maintain on file for three (3) years after the termination of the Contract, Form 590s from all sub-consultants. Consultant accepts sole responsibility for withholding taxes from any non-California resident sub-consultant and shall submit written documentation of compliance with Consultant's withholding duty to VCTC.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** VCTC may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement for cause upon thirty (30) days' written notice to VCTC and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of notice of termination; VCTC, however, may condition payment of such compensation upon Consultant delivering to VCTC all materials described in Section 9.1.

- 8.2 **Extension.** VCTC may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require Consultant to execute a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if VCTC grants such an extension, VCTC shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, VCTC shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 **Assignment and Subcontracting.** VCTC and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to VCTC for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written

approval of the Contract Administrator. Consultant shall not assign or subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between VCTC and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, VCTC's remedies shall include, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that VCTC would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of VCTC. Consultant hereby agrees to deliver those documents to VCTC upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for VCTC and are not necessarily suitable for any future or other use. VCTC and Consultant agree that, until final approval by VCTC, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties except as required by law.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to VCTC under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of VCTC. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of VCTC or as part of any audit of VCTC, for a period of three (3) years after final payment under the Agreement.

9.4 **Records Submitted in Response to an Invitation to Bid or Request for Proposals.** All responses to a Request for Proposals (RFP) or invitation to bid issued by VCTC become the exclusive property of VCTC. At such time as VCTC selects a bid, all proposals received become a matter of public record, and shall be regarded as public records, with the exception of those elements in each proposal that are defined by Consultant and plainly marked as "Confidential," "Business Secret" or "Trade Secret."

VCTC shall not be liable or in any way responsible for the disclosure of any such proposal or portions thereof, if Consultant has not plainly marked it as a "Trade Secret" or "Business Secret," or if disclosure is required under the Public Records Act.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, VCTC may not be in a position to establish that the information that a prospective bidder submits is a trade secret. If a request is made for information marked "Trade Secret" or "Business Secret," and the requester takes legal action seeking release of the materials it believes does not constitute trade secret information, by submitting a proposal, Consultant agrees to indemnify, defend and hold harmless VCTC, its agents and employees, from any judgment, fines, penalties, and award of attorneys fees awarded against VCTC in favor of the party requesting the information, and any and all costs connected with that defense. This obligation to indemnify survives VCTC's award of the contract. Consultant agrees that this indemnification survives as long as the trade secret information is in VCTC's possession, which includes a minimum retention period for such documents.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a Party to this Agreement brings any action, including arbitration or an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the

state courts of California in the County of Ventura or in the United States District Court for the Central District of California.

- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of VCTC or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000, *et seq.*

Consultant shall not employ any VCTC official in the work performed pursuant to this Agreement. No officer or employee of VCTC shall have any financial interest in this Agreement that would violate California Government Code Sections 1090, *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of VCTC. If Consultant was an employee, agent, appointee, or official of VCTC in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090, *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse VCTC for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **Contract Administration.** This Agreement shall be administered by Darren Kettle ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 **Notices.** All notices and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (i) when received if personally delivered; (ii) when received if transmitted by telecopy, if received during normal business hours on a business day (or if not, the next business day after delivery) provided that such facsimile is legible and that at the time such facsimile is sent the sending Party receives written confirmation of receipt; (iii) if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and (iv) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows:

Consultant

Todd Jespersen, AIA, LEED AP
Principal Architect
Kruger Bensen Ziemer Architects, Inc.
199 Figueroa St, Suite 100A
Ventura, CA 93001

PWA-ESD

Brian D'Anna
Project Manager
County of Ventura Public Works Agency
800 S. Victoria Avenue
Ventura, CA 93003-1670

VCTC

Darren Kettle
Executive Director
Ventura County Transportation Commission
950 County Square Drive, Suite 207
Ventura, CA 93003

10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.

Seal and Signature of Registered Professional with report/design responsibility.

10.12 **Integration.** This Agreement, including the Exhibits A, B, C and D attached hereto and incorporated herein, represents the entire and integrated agreement between VCTC and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral pertaining to the matters herein.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule
<u>Exhibit C</u>	Reimbursable Expenses
<u>Exhibit D</u>	Public Works Requirements

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction.** The headings in this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms of this Agreement. The parties have had an equal opportunity to participate in the drafting of this Agreement; therefore any construction as against the drafting party shall not apply to this Agreement.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the Parties hereto with no intent to benefit any non-signatory third parties.

The Parties have executed this Agreement as of the Effective Date.

VCTC

CONSULTANT

Peter Foy, Chair

Todd Jespersen, Principal Architect

Approved as to Form:

Steven T. Mattas, General Counsel

EXHIBIT A

SCOPE OF SERVICES

VCTC intends to renovate the existing building at 2220 Ventura Blvd. in Camarillo to create a LEED accredited office space to serve as their headquarters. The 12,000 square foot area of existing interior improvements will be demolished to complete the new interior renovation construction.

Consultant will assist VCTC in preparing planning, design, and construction documents and providing construction support services.

The following services shall be performed by Consultant:

1. **Programming & Conceptual/Schematic Design (30% completion)**
 - a. Review Site/Buildings/Available drawings & provide field confirmation of existing conditions.
 - b. Conduct (4) Programming meetings with VCTC, including (1) meeting to review final programming document. Final programming document will include preparation of "Owner's Program Requirements" (OPR) as required by CalGreen Building Code and LEED. The initial programming meeting is to take place at the existing VCTC offices for review of current spaces/work environment. It is not anticipated that all VCTC staff will be involved in each meeting, but that it may take (3) meetings to speak with all required parties. KBZ will distribute programming meeting minutes for approval by Owner.
 - c. Convert existing drawings or create new as necessary for CAD documentation.
 - d. Develop Initial conceptual floor plan showing space plan, adjacencies, and circulation patterns.
 - e. Attend (1) Review meeting for discussion & input regarding concept floor plan & site/entry improvements.
 - f. Perform structural analysis of existing structure to evaluate potential new window and roof penetrations for daylighting and views.
 - g. Register project with USGBC.*
 - h. Prepare and document the "Basis of Design" (BOD) as required by CalGreen and LEED, which essentially responds to the Owners Program Requirements. Initial LEED scorecard and slate of Energy Efficiency Measures (EEM's) will also be produced for review. Commissioning agent to review OPR and BOD and provide feedback.
 - i. Meet with City of Camarillo Planning Department for Pre-Submittal Conference to present the conceptual project and gather Planning Department requirements.
 - j. Submit for Architectural Review Committee as required, including attendance/presentation at (2) hearings. Distribute "preview" plans to VCTC for review/comment prior to hearings.
 - k. Develop concept floor plan into Schematic Design, including ceiling plan, site plan (including parking lot/landscape) and exterior elevations or 3D depictions showing new entry element and/or exterior building enhancements. Schematic development of mechanical and

lighting/control systems will be included.

- l. Attend (1) Review meeting for discussion & input regarding schematic design plans.
- m. Distribute final schematic design plans for input and approval.**
- n. Revise schematic design plans as necessary based on comments from VCTC.
- o. Attend (1) meeting/hearing presentation with City of Camarillo to give project update.
- p. Complete and organize applications for the required permit adjustment or minor modification.
- q. Process documents for permit approval from public agency

2. Design Development (60% completion)

- a. Distribute approved schematic plans to consulting engineers for further development of civil, landscape, structural, mechanical, plumbing, and electrical systems. KBZ will coordinate consultant efforts.
- b. Conduct consulting engineer coordination meetings with VCTC: (1) with civil and landscape; (1) with structural; (1) with mechanical and electrical/comm. Final selection of EEM's will be incorporated into the design along with other LEED credit items.
- c. Refine the energy model based on EEM selection.
- d. Develop the approved schematic plan into plan/section/elevation drawings to further describe the proposed work, including interior elevations of primary spaces, select interior and exterior details unique to the project, and initial color & materials options.
- e. Attend (2) meetings with VCTC to review and finalize space plan, furniture selection, colors and materials options for selection.
- f. Distribute final furniture selection and furniture estimate for input and approval. If estimate exceeds budget, KBZ will also provide initial ideas on prioritization and value engineering.
- g. Attend (1) meeting with City of Camarillo Planning Department regarding project submittals/approvals required prior to building department permit submittals.
- h. Attend (1) Architectural Review Committee hearing if required for "final" approval, with requisite drawings and color/material samples.
- i. Commissioning Agent review of early DD plans as required by CalGreen and LEED.
- j. Attend (1) DD mid-process review meeting for discussion and input regarding the in-progress design development plans and updated LEED scorecard.
- k. Prepare DD submittal that will include the following:**
 - site plan, floor plan, roof plan, reflected ceiling plan, building sections, exterior elevations
 - overall project outline specifications
 - preliminary plans for the following: code analysis, landscape and irrigation, rough grading, foundation and framing, wet plumbing and HVAC, electrical system
 - cut sheets of all proposed fixtures and equipment

- preliminary Title 24 energy code design and documentation
- l. Submit DD package to VCTC for approval. Revise drawings and specifications as necessary based on comments from VCTC.
- m. Coordinate with local utility companies for requirements
- n. Prepare construction cost estimate (to follow DD Submittal by approximately 2 weeks)
- o. Prepare and submit draft color and material board
- p. Coordinate with City of Camarillo for acceptable revisions and design considerations of existing parking lot

3. Construction Documents (90% completion)

- a. Finalize application, plans, details, calculations, specifications, and cut-sheets required for building department permit submittal and LEED Design Phase submittal.
- b. Notify VCTC of plan-check fee required 2 weeks in advance of anticipated submittal date, so that VCTC can arrange for payment.
- c. Attend (1) review meeting when the CD's are approximately 75% complete.
- d. Attend (1) meeting/hearing presentation with City of Camarillo to give project update, prior to submittal for building permits.
- e. Submittal of LEED Design Phase documents to USGBC.*
- f. Respond to USGBC evaluation and report results to VCTC.
- g. Provide updated final cost estimate based on 90% plans submitted to Building & Safety.
- h. Provide final furniture specification package for purchase off of existing GSA contract
- i. Submit final color and materials board for approval
- j. Prepare CD submittal that will include the following:**
 - site plan, floor plan, roof plan, reflected ceiling plan, building sections, exterior elevations, architectural details, finish schedules, parking lot design
 - Precise grading and drainage plan, wet utility plan, erosion control plan, details and specifications, NOI, SWPCP, parking lot revisions
 - Foundation and framing plans, details, and calculations
 - Complete plumbing and HVAC systems
 - Complete electrical system
 - Title 24 energy calculations for building envelope and HVAC system
 - Complete landscape and irrigations plans and planting details
 - Complete technical specification set
 - Commissioning measures and specifications, Commissioning Plan
- k. Submit CD package to VCTC for approval. Revise drawings and specifications as necessary based on comments from VCTC.
- l. Coordinate with local utility providers for approval

4. Final Permits:

- a. Submit all documents to the required public agencies for plan check review
- b. Coordinate with public agencies for submittal review and approval
- c. Incorporate plan check corrections into drawings and specifications
- d. Submit revised documents required for Building Permit issuance

5. Bidding:

- a. Assist with bid document preparation.
- b. Participation in (1) pre-bid job walk, describing the project scope and constraints.
- c. Answer pre-bid RFI's and issue Bid Addenda as necessary.
- d. Assistance with bid evaluations and recommendations for award.

6. Construction Administration:

- a. Attend the pre-construction conference meeting.
- b. Attend construction progress job-site meetings during the estimated 6 month construction period (assume 14 total)
- c. Review of all required submittals and shop drawings.
- d. Review and answer construction RFI's.
- e. Review pay of applications and review as-builts to ensure they are being updated regularly.
- f. Report known deviations from plans/specs and known deficiencies.
- g. Submit revisions to public agencies for review and approval, as necessary
- h. Lead two punch list walks at the conclusion of construction (initial and final).
- i. Issue Notice of Substantial Completion as appropriate.
- j. Submittal of LEED Construction Phase documents to USGBC.*
- k. Respond to USGBC evaluation and report results to VCTC, including the final certification level attained.
- l. Perform commissioning process administration and functional performance testing

7. Closeout:

- a. Review as-builts, O&M manuals, warranties, and other required close-out materials submitted by the Contractor.
- b. Prepare record as-built drawings for submittal and approval by VCTC
- c. Verify punch list items are complete per above (1 walk).
- d. Commissioning agent will perform post-construction evaluations and issue the final report.

8. Survey / Lot Split

ARCHITECT

- a. Coordinate efforts between VCTC, City of Camarillo and Civil Engineer.

CIVIL ENGINEER

- b. Perform field survey to locate pavement, curbs, drives, walks, building footprints, fences, walls, planters, and visible surface utilities, together with topographic features such as tops, toes, flow lines, grade breaks as well as critical design constraints as known at the time of proposal. Pavement and surface materials will also be identified. Trees larger than 6" in diameter (measured at chest height) will be located and shown on the map.
- c. Provided that the project boundary is depicted on a map filed in the County (Record of Survey, Parcel Map, or Tract Map), Stantec will compute basic site boundary geometry without establishing junior/senior rights or adjoining title interest.
- d. Perform field survey to search for and recover a sufficient number of existing record monuments and record map boundary evidence. The monuments will be tied to the project control survey, and will be used to orient the boundary to the project mapping datum.
- e. The record map boundary will be added to the AutoCAD drawing base map. A note about how the boundary was computed will be added to the title sheet.
- f. Download and compute survey data. The data will be added to the AutoCAD base map drawing and each feature will be clearly labeled as identified in the field.
- g. Create an AutoCAD drawing for the project base map, including a title sheet with surveyor's notes, vicinity map, and legend. The scale of the base map is proposed to be 1" = 10' with a 1 foot contour interval.
- h. Prepare permit legal descriptions for two new parcels, created by deed. This assumes that the City will exercise an exemption to the Subdivision Map Act.

NOTES:

*LEED review fees will be paid by Consultant and reimbursed by VCTC at cost. See Exhibit B.

**Each submittals to VCTC shall be provided in the following format, as applicable:

- Drawings to be provided in pdf format, CAD files, and (2) full size hard copies
- Specifications to be provided in pdf format and MSWord format
- Various Reports and Calculations to be provided in pdf format and (2) hard copies

The following shall be provided by VCTC:

- a. Full information as to the requirements of the project
- b. Review documents submitted by Consultant and provide comments, direction, or approval as needed in a timely manner.
- c. Soils Report
- d. Recent title report
- e. Hazardous material survey report and specification document
- f. Pay fees associated with City of Camarillo Reviews & Permits (Planning Department, Public Works, Building & Safety)
- g. Pay fees associated with lot split
- h. Front-end specification documents for bidding
- i. Coordinate meetings with VCTC staff as needed

EXHIBIT B

COMPENSATION SCHEDULE

1. Hourly Fees

VCTC hereby agrees to pay Consultant based on an hourly rate compensation, for actual hours performed based on the hourly fees set forth in the following fee schedule, not to exceed the maximum fee amount of \$400,140.00.

Item	Description	Unit	Regular	Prevailing	Travel
1	KBZ Architects				
	Principal	Hourly	\$175.00	n/a	no
	Project Architect	Hourly	\$150.00	n/a	no
	Project Manager	Hourly	\$135.00	n/a	no
	Interior Designer	Hourly	\$125.00	n/a	no
	CADD Operator/Draftsperson	Hourly	\$110.00	n/a	no
	Clerical	Hourly	\$85.00	n/a	no
2	Stantec				
	Principal Engineer	Hourly	\$198.00	n/a	no
	Senior Engineer II	Hourly	\$178.00	n/a	no
	Senior Engineer I	Hourly	\$168.00	n/a	no
	Associate Engineer II	Hourly	\$153.00	n/a	no
	Associate Engineer I	Hourly	\$133.00	n/a	no
	Associate Engineer	Hourly	\$110.00	n/a	no
	Senior Designer	Hourly	\$144.00	n/a	no
	Designer	Hourly	\$133.00	n/a	no
	Senior Technician	Hourly	\$110.00	n/a	no
	Associate Technician	Hourly	\$98.00	n/a	no
	Engineering Technician	Hourly	\$89.00	n/a	no
	One-Man Survey Crew	Hourly	\$210.00	yes	no
	Two-Man Survey Crew	Hourly	\$285.00	yes	no
	Principal Surveyor	Hourly	\$198.00	n/a	no
	Senior Surveyor	Hourly	\$176.00	n/a	no
	Surveying Associate	Hourly	\$150.00	n/a	no
	Surveying Technician	Hourly	\$110.00	n/a	no
	Principal Planner	Hourly	\$187.00	n/a	no
	Senior Planner II	Hourly	\$167.00	n/a	no
	Senior Planner I	Hourly	\$157.00	n/a	no
	Associate Planner	Hourly	\$135.00	n/a	no
	Assistant Planner	Hourly	\$115.00	n/a	no

Item	Description	Unit	Regular	Prevailing	Travel
3	Brodersen Associates				
	<i>Principal Landscape Architect</i>	<i>Hourly</i>	<i>\$135.00</i>	<i>n/a</i>	<i>no</i>
	<i>Associate Landscape Architect</i>	<i>Hourly</i>	<i>\$95.00</i>	<i>n/a</i>	<i>no</i>
	<i>Drafter</i>	<i>Hourly</i>	<i>\$80.00</i>	<i>n/a</i>	<i>no</i>
4	Storke, Wolfe, & Associates				
	<i>Principal Engineer</i>	<i>Hourly</i>	<i>\$150.00</i>	<i>n/a</i>	<i>no</i>
	<i>Senior Engineer</i>	<i>Hourly</i>	<i>\$125.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Engineer</i>	<i>Hourly</i>	<i>\$100.00</i>	<i>n/a</i>	<i>no</i>
	<i>Junior Engineer</i>	<i>Hourly</i>	<i>\$85.00</i>	<i>n/a</i>	<i>no</i>
	<i>Senior CAD Drafter</i>	<i>Hourly</i>	<i>\$80.00</i>	<i>n/a</i>	<i>no</i>
	<i>Junior CAD Drafter</i>	<i>Hourly</i>	<i>\$60.00</i>	<i>n/a</i>	<i>no</i>
	<i>Secretarial</i>	<i>Hourly</i>	<i>\$50.00</i>	<i>n/a</i>	<i>no</i>
	<i>Intern</i>	<i>Hourly</i>	<i>\$40.00</i>	<i>n/a</i>	<i>no</i>
5	AE Group				
	<i>Principal Mechanical Engineer</i>	<i>Hourly</i>	<i>\$175.00</i>	<i>n/a</i>	<i>no</i>
	<i>Mechanical Project Engineer</i>	<i>Hourly</i>	<i>\$155.00</i>	<i>n/a</i>	<i>no</i>
	<i>Mechanical Engineering Assistant</i>	<i>Hourly</i>	<i>\$115.00</i>	<i>n/a</i>	<i>no</i>
6	C. Hood Associates				
	<i>Principal Engineer</i>	<i>Hourly</i>	<i>\$175.00</i>	<i>n/a</i>	<i>no</i>
	<i>Senior Engineer II</i>	<i>Hourly</i>	<i>\$170.00</i>	<i>n/a</i>	<i>no</i>
	<i>Senior Engineer I</i>	<i>Hourly</i>	<i>\$160.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Manager II</i>	<i>Hourly</i>	<i>\$140.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Manager I</i>	<i>Hourly</i>	<i>\$136.00</i>	<i>n/a</i>	<i>no</i>
	<i>Staff Engineer III</i>	<i>Hourly</i>	<i>\$132.00</i>	<i>n/a</i>	<i>no</i>
	<i>Staff Engineer II</i>	<i>Hourly</i>	<i>\$128.00</i>	<i>n/a</i>	<i>no</i>
	<i>Staff Engineer I</i>	<i>Hourly</i>	<i>\$115.00</i>	<i>n/a</i>	<i>no</i>
	<i>CADD Designer/Operator</i>	<i>Hourly</i>	<i>\$106.00</i>	<i>n/a</i>	<i>no</i>
	<i>Assistant Engineer</i>	<i>Hourly</i>	<i>\$102.00</i>	<i>n/a</i>	<i>no</i>
	<i>Drafter</i>	<i>Hourly</i>	<i>\$70.00</i>	<i>n/a</i>	<i>no</i>
	<i>Word Processing/Clerical</i>	<i>Hourly</i>	<i>\$65.00</i>	<i>n/a</i>	<i>no</i>
7	Jacobus & Yuang, Inc				
	<i>Principal</i>	<i>Hourly</i>	<i>\$145.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Estimator</i>	<i>Hourly</i>	<i>\$98.50</i>	<i>n/a</i>	<i>no</i>
	<i>Estimator</i>	<i>Hourly</i>	<i>\$75.00</i>	<i>n/a</i>	<i>no</i>

Item	Description	Unit	Regular	Prevailing	Travel
8	Commissioning				
	<i>President</i>	<i>Hourly</i>	<i>\$275.00</i>	<i>n/a</i>	<i>no</i>
	<i>Principal</i>	<i>Hourly</i>	<i>\$225.00</i>	<i>n/a</i>	<i>no</i>
	<i>Associate Principal</i>	<i>Hourly</i>	<i>\$205.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Manager</i>	<i>Hourly</i>	<i>\$180.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Engineer</i>	<i>Hourly</i>	<i>\$165.00</i>	<i>n/a</i>	<i>no</i>
	<i>Designer</i>	<i>Hourly</i>	<i>\$130.00</i>	<i>n/a</i>	<i>no</i>
	<i>CAD</i>	<i>Hourly</i>	<i>\$90.00</i>	<i>n/a</i>	<i>no</i>
	<i>LEED Consulting</i>	<i>Hourly</i>	<i>\$135.00</i>	<i>n/a</i>	<i>no</i>
	<i>Energy Modeling</i>	<i>Hourly</i>	<i>\$135.00</i>	<i>n/a</i>	<i>no</i>
	<i>Commissioning</i>	<i>Hourly</i>	<i>\$140.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Coordinator</i>	<i>Hourly</i>	<i>\$100.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Administrator</i>	<i>Hourly</i>	<i>\$80.00</i>	<i>n/a</i>	<i>no</i>
	<i>Project Assisstant</i>	<i>Hourly</i>	<i>\$75.00</i>	<i>n/a</i>	<i>no</i>

2. Payment Schedule

Upon approval of invoice, VCTC shall pay Consultant up to 95% of the maximum fee for the specific task stated in the table below, until that task has been completed and accepted by VCTC, at which point Consultant shall be paid the balance.

Task	Description	Maximum Fee
1	Conceptual/Schematic Design	\$ 58,970.00
2	Design Development	\$ 77,710.00
3	Construction Documents	\$ 148,830.00
4	Final Permit	\$ 12,540.00
6	Bidding	\$ 8,500.00
7	Construction Administration	\$ 74,600.00
8	Closeout	\$ 6,990.00
9	Survey & Lot Split	\$ 12,000.00
	Total	\$400,140

EXHIBIT C

REIMBURSABLE EXPENSES

1. Reimbursable Expenses

Consultant shall be reimbursed for the following reasonable out-of-pocket expenses that are incurred and paid for by Consultant in performance of its obligations under this agreement, but only to the extent that such expense are directly related to Consultant's services and do not exceed the maximum reimbursable amount of **\$6,700.00**.

- Outside printing related to deliverables but not for internal use of Consultant or its sub-consultants
- Reproduction or reprographic costs directly related to deliverables but not for internal uses of CONSULTANT or its sub-consultants. I
- Shipping, overnight mail, postage, messenger, courier and/or delivery services (but not for CONSULTANT's internal communications)
- USGBC Fees for LEED Accreditation

Exclusive List. The list of reimbursable expenses set forth above is the sole and exclusive list of reimbursable expenses that CONSULTANT is entitled to receive.

No Administrative Charge or Mark-Ups. The reimbursement provided for herein shall not include an administrative charge, multiplier or other mark-up by CONSULTANT unless authorized in writing in advance by AGENCY.

EXHIBIT D

PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS

I. HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to eight (8) hours during any one (1) calendar day, and forty (40) hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight (8) hours during any one (1) calendar day and forty (40) hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight (8) hours during any one (1) calendar day and forty (40) hours during any one (1) calendar week at not less than one-and-one-half (1.5) times the basic rate of pay.
- C. The Consultant and its subcontractors shall forfeit as a penalty to VCTC twenty five dollars (\$25) for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one (1) calendar day, or more than forty (40) hours in any one (1) calendar week, in violation of the provisions of California Labor Code Section 1810, *et seq.*

II. WAGES:

- A. In accordance with California Labor Code Section 1773.2, the Contractor and any subcontractors shall pay not less than the general prevailing wages for each craft or type of work needed for completion of the services described in Exhibit A, as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research. A copy of this publication is on file in VCTC Public Works Office and shall be made available on request.
- B. Pursuant to Labor Code Section 1775, Contractor may be subject to a penalty of up to two hundred dollars (\$200) per day for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The Consultant or subcontractor shall also pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate.
- C. Consultant shall comply with all of the following requirements:
 - 1. contracts between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

2. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
 4. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- D. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
 2. The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be available for inspection by VCTC and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- E. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.

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