

**AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES BETWEEN THE CITY OF
ENCINITAS AND PARSONS BRINCKERHOFF, INC.**

**RAIL CORRIDOR VISION STUDY
WORK PROJECT # WC15A**

This Agreement is made and entered into as of the date of execution by the City of Encinitas, a municipal corporation, hereinafter referred to as "City," and Parsons Brinckerhoff, Inc., hereinafter referred to as "Consultant."

RECITALS

The City requires outside assistance to provide the following services:

Perform a Rail Corridor Vision Study to provide the long-term vision for potential projects within and adjacent to the rail corridor to meet connectivity and quality of life needs for Encinitas.

WHEREAS, Consultant represents itself as possessing the necessary skills and qualifications to provide the services required by the City and as being fully qualified to perform those services in accordance with the standard of quality ordinarily expected of competent professionals in Consultant's field of expertise;

WHEREAS, Consultant will render such professional services, as hereinafter defined, on the following terms and conditions;

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the City and Consultant agree as follows:

1.0 TERM OF AGREEMENT

1.1 This Agreement shall be effective on and from the day, month and year of the execution of this document by the City.

1.2 Consultant shall commence the performance of the services in accordance with the Scope of Work section provided in Attachment A to this Agreement and shall continue such services until all tasks to be performed are completed, or this Agreement is otherwise terminated. Funding for this Project is included in the adopted CIP (WC15A \$224,858.00). Caltrans awarded the City a Community Transportation Grant of \$175,000.00. Consultant shall complete the services and provide final data and reports no later than February 28, 2018, as required by the Grant award, unless an extension of time is mutually agreed to by both parties. The schedule of tasks is as set forth in Attachment D and may only be modified as mutually agreed to by both parties.

2.0 CONSULTANT'S OBLIGATIONS- SCOPE OF WORK (ATTACHMENT A)

2.1 Consultant shall provide the City with the following services:

The specific manner in which the services are to be performed is described in Attachment A which is attached hereto, and incorporated herein as though fully set forth at length, collectively hereinafter referred to as "Described Services".

2.2 Consultant shall perform all work required to accomplish the Described Services in conformity with applicable requirements of City, State, and Federal law.

2.3 Consultant is hired to render the Described Services and any payments made to Consultant are compensation fully for such services.

2.4 Consultant shall maintain professional certifications as required in order to properly comply with all City, State, and Federal law.

2.5 Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in good faith, at any time during the term of this Agreement, desires the removal of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.

2.6 Consultant shall help the City meet all Caltrans Grant post-award requirements.

2.7 Consultant shall comply with all Sustainable Communities Grant award requirements as set forth by Caltrans in Attachment E. Where a conflict exists between this Agreement and the requirements included and referenced in Attachment E, the more restrictive requirement shall control, unless expressly prohibited by the terms of Attachment E. The scope of work described in Attachment E is superseded by the refined, final scope of work described in Attachment A.

3.0 PAYMENT FOR SERVICES (ATTACHMENT B)

3.1 Payment to Consultant to render the Described Services hereunder shall be as set forth in Attachment B which is attached hereto and incorporated herein as though fully set forth at length. The payments provided in this Section are full compensation for the Described Services as outlined in Attachment A.

3.2 Consultant shall submit monthly bills to the City the following month, describing its services and costs provided during the previous month, based upon time and materials by task not to exceed agreement amount. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person. Consultant's monthly bills shall include the following information to which such services or costs pertain: a description of services performed; the date the services were performed; the number of hours spent and by whom and a description of all costs incurred. Consultant agrees to use every appropriate method to contain fees and costs under this Agreement.

3.3 Invoices to be paid by the City shall also be prepared in a manner that helps advance all Caltrans post grant award requirements, including but not limited to the preparation of quarterly reimbursement expense reports.

3.4 The amount set forth in Attachment B may be modified or amended only by a written document executed by both Consultant and authorized City representative prior to the performance of the additional work. Such document shall expressly state that it is intended by the parties to amend the terms and conditions of this Agreement.

4.0 SUBCONTRACTING (ATTACHMENT C)

4.1 If Consultant subcontracts for any of the work to be performed under this Agreement, Consultant shall be as fully responsible to the City for the acts and omissions of Consultant's subcontractors and for the persons either directly or indirectly employed by the subcontractors, as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor of Consultant and the City. Consultant shall bind every subcontractor to the terms of the Agreement applicable to consultant's work unless specifically noted to the contrary in the subcontract in question and approved in writing by the City.

4.2 The name and location of the place of business of each subcontractor who will perform work or labor or render service to the Consultant in performing this Agreement are contained in Attachment C which is attached hereto and incorporated herein as though fully set forth at length.

5.0 PROJECT SCHEDULE AND COMPLETION DATE (ATTACHMENT D)

5.1 Attachment D is the project schedule that Consultant shall strictly meet, including benchmark dates and completion date, which is attached hereto and incorporated herein. Consultant agrees to diligently prosecute the services to be provided under this Agreement to completion and in accordance with the schedule specified herein. In the performance of this Agreement, time is of the essence.

5.2 Consultant shall promptly notify the City of any anticipated or unforeseen delays to the project schedule. Extensions to the project schedule and to this Agreement shall not be made without the prior written approval of the City. All requests for extensions to the project schedule shall be by written request only and submitted to the City prior to the commencement of such work.

6.0 EXTRA WORK

Consultant shall not perform work in excess of the Described Services without the prior, written approval of the City. All requests for extra work shall be by written Change Order submitted to the City prior to the commencement of such work.

7.0 VERBAL AGREEMENT OR CONVERSATION

No verbal agreement or conversation with any officer, agent or employee of the City, either before, during or after the execution of this Agreement, shall effect or modify any of the terms or obligations herein contained nor shall such verbal agreement or conversation entitle Consultant to any additional payment whatsoever.

8.0 TERMINATION OF AGREEMENT

8.1 In the event Consultant fails to prosecute, deliver, or perform the Described Services, the City may terminate this Agreement by notifying Consultant by certified mail of said termination. Thereupon, Consultant shall cease work and within five (5) working days: (1) assemble all documents owned by the City and in consultant's possession and deliver said documents to the City and (2) place all work in progress in a safe and protected condition. The City Manager of the City shall make a determination of the percentage of work which Consultant has performed which is usable and of worth to the City. Based upon that finding, the City shall determine any final payment due to Consultant.

8.2 This Agreement may be terminated by either party, without cause, upon the giving of ten (10) days written notice to the other party. Prior to the 10th day following the giving of the notice, the Consultant shall: (1) assemble the completed work product to date, and put same in order for proper filing and closing, and deliver said product to the City and (2) place all work in progress in a safe and protected condition. The City Manager of the City shall make a determination of the percentage of work which Consultant has performed which is usable and of worth to the City. Based upon that finding, the City shall determine any final payment due to Consultant.

9.0 COVENANTS AGAINST CONTINGENT FEES

Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this representation, the City shall have the right to terminate this Agreement without liability, or, at the City's discretion to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

10.0 OWNERSHIP OF DOCUMENTS

10.1 All plans, studies, sketches, drawings, reports and specifications as herein required are the property of the City, whether or not the City proceeds with the project for which such documents are prepared.

10.2 This Agreement creates a nonexclusive and perpetual right or license for City to copy, use, modify, reuse, and sublicense any and all copyrights, designs, and other intellectual property embodied in the writings prepared by Consultant, and Consultant's subcontractors, under this Agreement. In the event the City should ever desire to undertake a project or review other proposed projects based upon the documents, the Consultant agrees that the City shall have the right to reuse all or any portion of the documents at no additional compensation to the Consultant.

11.0 STATUS OF CONSULTANT

11.1 Consultant shall perform the services provided for herein in a manner of Consultant's own choice, as an independent contractor and in pursuit of Consultant's independent calling, and not

as an employee of the City. Consultant shall be under control of the City only as to the result to be accomplished and the personnel assigned to the project. However, Consultant shall confer with the City.

11.2 If the Consultant subcontracts any of the work to be performed under this Agreement, Consultant shall be as fully responsible to the City for the acts and omissions of the Consultant's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor of Consultant and the City. The Consultant shall bind every subcontract by the terms of the Agreement applicable to Consultant's work, including indemnity and insurance requirements.

12.0 HOLD HARMLESS

12.1 CONSULTANT agrees to indemnify and hold the CITY and CITY'S officers, officials, employees, and agents harmless from, and against any and all liabilities, claims, demands, causes of action, losses, damage and costs, including all costs of defense thereof, arising out of, or in any manner connected directly or indirectly with, any acts or omissions of CONSULTANT or CONSULTANT'S agents, employees, subcontractors, officials, officers or representative. Except as otherwise provided in this Section, upon demand, CONSULTANT shall, at its own expense, defend CITY and CITY'S officers, officials, employees and agents, from and against any and all such liabilities, claims, demands, causes of action, losses, damages and costs.

12.2 CONSULTANT'S obligation herein does not extend to liabilities, claims, demands, causes of action, losses, damages, or costs that arise out of the CITY'S intentional wrongful acts, CITY'S violation of law, or the CITY'S sole active negligence.

13.0 ASSIGNMENT OF CONTRACT

Consultant is without right to and shall not assign this Agreement or any part thereof or any monies due hereunder without the prior written consent of the City which shall not be unreasonably withheld.

14.0 INSURANCE

14.1 Consultant shall obtain, and during the term of this Agreement shall maintain insurance policies of general liability and automobile liability insurance from an insurance company authorized to be in business in the State of California. Each such policy shall be in an amount of not less than one million dollars (\$1,000,000) for each occurrence, and shall be endorsed with the following language:

A. The City and City's officers, elected officials, employees, agents and volunteers are to be covered as additional insured by endorsement, using form ISO CG 20-10-10-01 and CG 20-37-10-01 or the exact equivalent with respect to liability arising out of the acts and omissions by or on behalf of Consultant.

B. The insured waives all rights of subrogation against the City and City's officers, officials, employees, agents and volunteers.

C. Provide that the policy shall remain in full force during the full term of this Agreement and shall not be canceled, voided, terminated, reduced, or allowed to expire without thirty (30) days prior written notice from the issuance company being received by City.

14.2 Consultant shall obtain, and during the term of this Agreement shall maintain, a policy of professional liability insurance that shall:

A. Be from an insurance company authorized to be in business in the State of California;

B. Be in an insurable amount of not less than \$1,000,000 for each occurrence; and

C. Provide that the policy shall remain in full force during the full term of this Agreement and shall not be canceled, terminated, or allowed to expire without thirty (30) days prior written notice to the City from the insurance company.

14.3 Before Consultant shall employ any person or persons in the performance of the Agreement, Consultant shall procure a policy of statutory Workers' Compensation Insurance and Employer's Liability insurance for any and all persons employed directly or indirectly by Consultant and shall be provided with limits not less than one million dollars (\$1,000,000). The insurer shall waive all rights of subrogation against the City for loss arising from work performed under this Agreement

14.4 Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

15.0 DISPUTES

15.1 If a dispute should arise regarding the performance of this Agreement, the following procedures shall be used to address any question of fact or interpretation not otherwise settled by agreement between the parties. Such questions, if they become identified as part of a dispute between persons operating under the provisions of the Agreement, shall be reduced to writing by the complaining party within twenty (20) working days. A copy of such documented dispute shall be forwarded to the other party involved along with recommended methods of resolution. The party receiving the letter shall reply to the letter along with a recommended method of resolution within ten (10) working days of receipt of the letter.

15.2 If the dispute is not resolved at staff level in accordance with Section 15.1, within five (5) City working days of the receiving party response, the aggrieved party, through its respective project manager shall deliver to the City Manager's office a letter outlining the dispute for the City Manager's review. The City Manager, at his/her sole discretion may respond as he/she deems

appropriate, including recommendations for resolution, discussions or rejection of the dispute within fifteen (15) working days of receipt of the complaint.

15.3 If the dispute remains unresolved and the parties have exhausted the procedures outlined in this section, the parties may then seek remedies available to them under this Agreement and at law, including, but not limited to, under the termination procedures. This provision does not relieve Consultant of its obligation and Consultant is required to timely comply with all applicable provisions of the Government Claims Act before initiating any legal proceeding against City.

16.0 CONFLICT OF INTEREST.

Consultant warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law, including, but not limited to, Government Code section 1090. If any principal provider of services is a "consultant" for the purposes of the Fair Political Practices Act (Gov. Code § 81000 et seq.), each such person shall comply with Form 721 Statement of Economic Interests filing requirements in accordance with state or City local Conflict of Interest Code. In addition, if any other conflict of interest should nevertheless hereinafter arise, Consultant shall promptly notify City of the existence of such conflict of interest so that the City may determine whether to terminate this Agreement.

17.0 Consultant's Books and Records.

17.1 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 City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant.

17.2 Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

18.0 NOTICES

18.1 Any notices to be given under this Agreement, or otherwise, shall be served by certified mail.

18.2 For the purposes hereof, unless otherwise provided in writing by the parties hereto, the address of the City and the proper person to receive any notice on the City's behalf is:

TO: City of Encinitas
Attn: City Manager
505 South Vulcan Avenue
Encinitas, CA 92024
(760) 633-2600

18.3 For the purposes hereof, unless otherwise provided in writing by the parties hereto, the address of Consultant and the proper person to receive any notice on the consultant's behalf is:

Rex Plummer, San Diego Area Manager
Parsons Brinckerhoff, Inc.
401 B Street, Suite 1650
San Diego, CA 92101-4245

19.0 GENERAL PROVISIONS

19.1 Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

19.2 If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

19.3 This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a State Court in the County of San Diego.

20.0 CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986

Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including but not limited to verifying the eligibility for employment of all agents, employees, subcontractors and consultants that are included in this Agreement.

21.0 CONSULTANT'S AWARENESS AND COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990 AND SECTION 504 REHABILITATION ACT of 1973

Consultant certifies that Consultant is aware of the requirements of the Americans with Disabilities Act of 1990 (42 USC §§ 12101) and SECTION 504 REHABILITATION ACT of 1973 and has complied with and will comply with these requirements, included but not limited to verifying compliance of their contractors, consultants, agents, and employees.

22.0 EXECUTION OF AGREEMENT

Consultant

City

City of Encinitas



6/30/2016



6/29/16

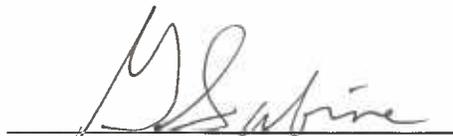
by Rex Plummer,
San Diego Area Manager

Date

by Tim Nash,
Acting City Manager

Date

APPROVED AS TO FORM:



6/29/16

Glenn Sabine, City Attorney

Date

ATTACHMENT A
(Manner of Performing the Services)

Consultant shall perform the services in the following manner:

(Scope of Work attached)

Scope of Work

Task 1.0 – Establish and Manage Project Advisory Committees

Two committees will help guide and inform this process: the Technical Advisory Committee (TAC) and the Stakeholders Advisory Committee (SAC). Although each entity will have different roles, they will provide balanced input to the project planning process. One of the primary functions of the TAC is to provide “parameters and constraints” for the project. The consultant will work closely with the TAC to help identify parameters early to help manage community expectations. The SAC provides a broad community perspective and serves as ambassadors to the project to help inform and engage the community.

Task 1.1 – Formation of the TAC/Meetings

The TAC will be comprised of key stakeholders of the North County Transit District (NCTD), the San Diego Association of Governments (SANDAG), the California Department of Transportation (Caltrans), California Coastal Commission, and City staff. The TAC could also be expanded to include the Los Angeles—San Diego—San Luis Obispo Rail Corridor Agency (LOSSAN) and the California Public Utilities Commission. The consultant will develop the TAC in coordination with the City. The TAC meetings will take place during the existing agency coordination monthly meeting.

The four TAC meetings will each have a clear purpose:

- **TAC Meeting 1: Kick Off.** Define project parameters and constraints of the vision plan.
- **TAC Meeting 2: Issues + Opportunities.** Ensure that all visioning materials and messages clearly illustrate the parameters.
- **TAC Meeting 3: First Draft Corridor Concept Review.** Review the first draft concepts before they are presented to the community to ensure that no fatal flaws exist.
- **TAC Meeting 4: Second Draft Corridor Concept Review.** Review the draft Rail Corridor Vision Study (RCVS) report and provide comments before City Council approval.

Task 1.1 Deliverables:

- List of TAC members and contact information
- Draft and final TAC charge, responsibilities, and expectations document
- Facilitation of four TAC meetings
- Preparation of draft and final support materials
- Draft and final meeting agendas, notes, and action item lists for each meeting

Task 1.2 – Formation of the SAC

The consultant will work closely with City staff to provide a recommendation to the Mayor to form the SAC with approval of the City Council. City staff will develop the first draft of the bylaws of the SAC based on existing Council policy and their role on the project as well as help with meeting logistics. The consultant will develop the mission statement, finalize the bylaws, lead the meeting coordination and facilitated discussions at the SAC meetings.

Our assumption is that the RCVS will serve as the guiding plan for the ATP and the Coastal Business Districts Parking Study. City staff will provide information about other ongoing studies and planning



efforts to the SAC as appropriate. Jessica will clearly define how each study will fit into this singular SAC framework as well as which studies and plans, if any, are **not** a part of this SAC framework.

Task 1.2 Deliverables:

- List of SAC stakeholders and roles with members and contact information and a second focused recommendation if there are gaps between SAC composition needs and current applicant pool
- Draft and final SAC mission statement, responsibilities, and expectations document, final bylaws and a name for the SAC in coordination with an overall communications plan associated with the Public Participation Plan

Task 1.3 – SAC Meetings

The consultant, in coordination with City staff, will lead the SAC meetings. The first SAC meeting will be held after the first TAC meeting. This will allow the consultant to clearly provide the parameters and constraints of the study and manage the expectations of the SAC.

The three SAC meetings will each have a clear purpose:

- **SAC Meeting 1: Kick Off and Input on PPP.** Define the parameters of the project (as informed by TAC; define the role of the SAC; and define methods of implementing public outreach activities prior to initiating public visioning activities.
- **SAC Meeting 2: Wayside Horn Demo Input.** This meeting would be focused on providing input on the Montgomery rail crossing demonstration of wayside horns and would likely require attendance from the consultant involved in the demonstration project
- **SAC Meeting (Optional): Host Wayside Horn Demo.** This optional SAC would be utilized to coordinate with the SAC and the Montgomery rail crossing consultant to have the SAC host the demonstration of wayside horns
- **SAC Meeting 3: Issues + Opportunities.** SAC members will provide feedback on key issues of concern and priorities for improvement prior to the public visioning workshops.
- **SAC Meeting 4: First Draft Corridor Concept Review.** Present results of public visioning workshops and provide input on the first draft corridor concept alternative(s).
- **SAC Meeting 5: Second Draft Corridor Concept Review.** Review of second draft concepts (after the TAC review)
- **SAC Meeting 6: Final Presentation.** SAC will present the final RCVS results.

Task 1.3 Deliverables:

- SAC meeting coordination with other selected planning studies to be consolidated
- SAC meeting attendance (up to six), facilitation, notices, materials and meeting notes
- Summary presentations of all public engagement events

Task 2.0 – Active Public Engagement

The public outreach process will actively engage the community, while leveraging resources and promoting innovation.

The public outreach process for the RCVS will be integrated with concurrent studies (ATP, and Parking Study), where possible. This will consolidate the number of events and provide the community with detailed perspectives of the closely related concepts, such as mobility, parking, and the LOSSAN rail corridor. Generally, integrated events will be completed in two phases: the first phase to discuss issues and priorities and the second phase to collect input on draft concepts. These two phases are consistent with Tasks 2.2 and 2.3, respectively.



Task 2.1 – Conduct Innovative Public Outreach

The consultant will develop a draft and final Public Participation Plan (PPP). The PPP will focus on obtaining meaningful input from as broad a cross section of the community as possible—especially underrepresented populations and school children. This necessitates a variety of tools, strategies, and methods—including leveraging the SAC, schools, community gatherings, and technology—to distribute information and receive public comments.

The consultant will lead a coordination meeting with City and concurrent study staff, to discuss and agree upon unified public outreach strategy for the concurrent studies focused on the integrated events.

The PPP will include a communications plan to provide a single name for all three related mobility studies and jargon-free names in lieu of the RCVS, ATP, parking study, TAC and SAC. A graphic identity packet will be created.

The consultant will promote all outreach events with targeted, bilingual outreach to the community and schools, using interactive materials, graphics, and social media/web content as defined in the PPP.

- **Pop-Up Outreach:** To compliment the public workshops the consultant team will engage additional people at existing community events or other community gatherings as defined by the PPP.
- **Web Comment Tool:** As a compliment to other outreach during the public visioning activities the consultant will utilize an existing web comment tool (<http://maps.pbid.com/sandiego/>) that allows community members to provide comments using any web-enabled computer or smart phone. This tool will also be shared for use on the Encinitas ATP project for a similar purpose at the discretion of the city. The consultant will deliver the comments in an accessible GIS format to the Encinitas ATP consultant team for their use.

Task 2.1 Deliverables:

- Coordination meeting
- Draft and final Public Participation Plan
- Presentation of the final PPP to City Council (optional task, not a part)
- Project identity text and graphic package
- Innovative outreach as defined by the Public Participation Plan
- Web Comment Tool

Task 2.2 – Conduct Public Visioning Activities

The purpose of the public visioning activities is to collect initial public feedback on key issues of concern and priorities for improvement.

The consultant will conduct three open-house style workshops—one in each coastal community: Leucadia, Old Encinitas, and Cardiff-by-the-Sea. One event (in Old Encinitas) will be integrated with the ATP. All three workshops will be integrated with the Parking Study. All three workshops will be promoted to the entire City for broad-based engagement.

Task 2.2 Deliverables:

- Draft and final Logistics and Format Plans for Visioning Activities, including parallel online visioning activities
- Conduct Visioning Activities
- Map of opportunities / constraints to inform first draft concepts



Task 2.3 – Conduct Concept Design Workshops

The purpose of the concept design workshops is to collect input on draft concepts.

The consultant will conduct three open-house style workshops—one in each coastal community: Leucadia, Old Encinitas, and Cardiff-by-the-Sea. One event (in Old Encinitas) will be integrated with the ATP. All three workshops will be promoted to the entire City for broad-based engagement.

The consultant will promote all events will be promoted and supplemented by targeted, bilingual outreach to the community and schools, including interactive materials, graphics, and social media/web content.

Task 2.3 Deliverables:

- Draft and final Logistics and Format Plans for three Concept Design Workshops, including parallel online activities
- Conduct Concept Design Workshops

Task 2.4 – Conduct Community-Wide Open House Event

The open house will be a forum to come together to view the second draft concepts for the RCVS that emerged from the concept design workshops. The consultant will conduct an open-house-style workshop with opportunity for Q&A.

The consultant will promote and supplement with targeted, bilingual public outreach to the community and schools, including interactive materials, graphics, and social media/web content.

This will allow each coastal community to take a broader look at the design concepts—not only reviewing the ideas from the ATP and Parking Study within the context of the RCVS, but also reviewing the visions of the adjacent communities to promote design continuity. Community feedback on the second draft concepts for the RCVS for consideration by the TAC and City staff and inclusion in final concepts (Task 5.0).

Task 2.4 Deliverables:

- Draft and final Logistics and Format Plans for the Community-wide Open House Event, including parallel online activities
- Draft and final PowerPoint summaries of the Open House Event for presentation to the TAC and SAC

Task 3.0 – Develop Rail Corridor Concepts

This task will provide an assessment of the existing and proposed projects that determine how to implement and phase the multiple rail, transit, bike, pedestrian, community enhancement, and local street projects that span 5.5 miles along the City’s rail corridor.

This assessment will be a chapter within the overall RCVS.

Task 3.1 – Rail Corridor Assessment

In order to develop feasible concept design plans, an understanding of the existing and proposed projects in the corridor is crucial.

The consultant will review all of the available materials (projects, plans, and studies listed in the RFP), assemble the mapping information to develop an overview of the existing and proposed projects within the corridor.



Task 3.1 Deliverables:

- Preliminary mapping—building from the Coastal Rail Trail
- Rail Corridor Assessment

Task 3.2 – Quiet Zone/Wayside Horn Early Action Recommendations

The consultant will perform a high-level evaluation of implementing train horn attenuation at every existing and planned at-grade crossing within Encinitas, and provide early action plan recommendations based on the FRA regulatory and NCTD requirements for establishment of a quiet zone.

The consultant will develop a simple pamphlet called *Quiet Zone 101—The Basics of Quiet Zones and Related Safety Systems*, which will answer the questions stated in the RFP and establish a simple framework for understanding quiet zones, wayside horns, and audible warning systems.

Diagnostic Meeting:

One of the steps towards establishing a quiet zone is conducting a diagnostic meeting at each of the grade crossings to be included in a quiet zone. The diagnostic meeting provides the City, the state agency responsible for grade crossing safety (CPUC) and all affected railroads with an opportunity to participate in a review of the grade crossing's condition and provide suggestions/recommendations and/or requirements for improvements associated with crossing safety and quiet zone implementation.

The consultant will conduct its own preliminary high-level diagnostic meeting at each of the City's five existing highway/rail crossings, station pedestrian crossings and any identified future at-grade crossings, including the proposed Montgomery Drive at-grade pedestrian crossing.

Quiet Zone Evaluation:

Information obtained from these meetings will be used to determine the basis for which the quiet zone would be established and the improvements likely to be necessary for quiet zone implementation. The consultant will use the information to develop estimated costs for implementation. The evaluation will examine the feasibility and cost of quiet zones on a project-by-project basis versus a programmatic approach at all the crossings.

Wayside Horns Evaluations:

Another way to silence the routine sounding of a locomotive horn at a grade crossing is to install a wayside horn. Though technically not a quiet zone, a wayside horn is considered to be a one-to-one replacement for and may be used in lieu of a locomotive horn. A grade crossing equipped with a wayside horn is not considered in calculating the QZRI or Crossing Corridor Risk Index in the attempt to create a quiet zone; however, a railroad operating over a grade crossing that is equipped with a wayside horn and located outside of a quiet zone must cease routine locomotive horn use at the grade crossing.

The Early Action Plan:

As part of this task, an early action plan will be created to identify next steps and position the City for subsequent grants and other sources of design and capital funding to expedite implementation of quiet zones/AWS along the rail corridor. As an option, this early action plan will be presented to the City Council.

Task 3.2 Deliverables:

- Draft and final Quiet Zone 101—The Basics of Quiet Zones and related Safety Systems Pamphlet
- Draft and final quiet zone/AWS early action recommendations
- Council presentation (optional task)



Task 3.3 – First Draft- Rail Corridor Concept Alternatives

The results of the public visioning activities and input from TAC and SAC meetings will provide valuable information to refine the concept alternatives.

The consultant design team will be provided with electronic active transportation concept designs (from the ATP), where available, to provide additional detail that will reflect safety requirements, urban design, landscape architecture, placemaking elements, and engineering feasibility review. The consultant also will closely coordinate the concept development process with the Parking Study, as feasible.

Since the rail corridor within the City is divided into three diverse and distinct neighborhoods, the alternatives will be prepared to show each neighborhood separately. These neighborhoods are:

- Leucadia (located at the north end of the City from Encinitas Boulevard north to the City boundary with Carlsbad)
- Old Encinitas (downtown)
- Cardiff-by-the-Sea (located from Chesterfield Drive to Montgomery Drive)

Each neighborhood has its own character and unique challenges along the corridor. The consultant will prepare a total of up to two alternatives for each neighborhood.

Task 3.3 Deliverables:

- First draft Corridor Concept

Task 3.4 – Review of First Draft Corridor Concept Alternative

To facilitate a comprehensive review, the consultant will meet with the City to review comments.

Task 3.4 Deliverables:

- Meeting at the City to review the comments

Task 3.5 – Second Draft Rail Corridor Concept Alternatives

The consultant design team will work closely with the City to update the draft concept plans incorporating comments and strategies based on public input from the Concept Design Workshops, comments from the TAC, SAC and City staff. The consultant will present the revised draft concept plans at the Community-Wide Open House (Task 2.4) with associated planning-level cost estimates.

Task 3.5 Deliverables:

- Second draft Corridor Concepts
- Planning level cost estimates

Task 3.6 – City Review of Second Draft Corridor Concept Alternatives

The consultant will meet with the City to review comments.

Task 3.6 Deliverables:

- Meeting at the City to review comments

Task 3.7 – Final Rail Corridor Concept Alternatives

The consultant design team will update the second draft concept plans incorporating comments and strategies based on public input from the Community-Wide Open House (Task 2.4), comments from the TAC and recommendations from City staff. Based on the above comments, the consultant will



consider up to three unique concept plans for the final concept plan. The final plan(s) will become part of the final RCVS report.

Task 3.7 Deliverables:

- Final Corridor Concepts

Task 4.0 – Conduct Rail Safety Education Campaign

For this task, the consultant will partner with CAOL, the preeminent rail safety education organization at the local, state and national levels. CAOL will be solely focused on public safety at rail grade crossings and along railroad rights-of-way. CAOL has developed a host of safety materials and outreach presentations tailored to many different audiences, including school children, law enforcement, professional drivers, school bus drivers, motorists, pedestrians, transit drivers, new drivers, emergency responders, photographers, public officials, and news media. CAOL is ideally suited to support the City's needs on this task.

Task 4.1 – Prepare Rail Safety Education Campaign

Working with city staff, the consultant and CAOL staff will develop a rail safety education campaign and determine which of the existing available materials will be used to address the specific needs and interests of the community.

Possible rail safety education activities for school-age children at Paul Ecke Central and Cardiff Elementary Schools could include the following:

- **Walking safety tours:** CAOL-authorized volunteers could incorporate rail safety education while leading children on a walking tour outside of, but adjacent to, the rail corridor and at rail-highway grade crossings
- **In-classroom safety exercises:** Teachers can use CAOL videos, materials, and posters as a basis for discussion and subsequent creative activities using their own artwork with rail safety themes
- **General instruction on rail safety:** CAOL-authorized volunteers could present rail safety educational materials and lead discussions in an auditorium, or other large venue, to parents and/or the community with the purpose of expanding the safety message to a wider audience

Possible materials could include:

- Rail safety lesson plans
- Safety posters
- Teacher resources which can be used to supplement lesson plans or as stand-alone components—railroad safety messages and images are available for classroom use via video clips, public service announcements (PSAs), pictures, bulletin board ideas, newsletter articles, award certificates and CAOL presentations
- Educational materials and video
- School or classroom presentations by CAOL-authorized volunteers

Task 4.1 Deliverables:

- Rail Safety Education Campaign plan and materials



Task 4.2 – Conduct Rail Safety Education Campaign

Based on the agreed upon plan from Task 4.1, the consultant team will conduct the Rail Safety Education Campaign.

CAOL training materials are geared to a wide variety of audiences, including video clips, public service announcements, pictures, newsletter articles, and presentations which can easily be integrated into the RCVS public outreach effort. This material also lends itself to innovative public outreach efforts, including:

- Print materials for distribution or posting
- Public service announcements in video format for use on YouTube or on the City’s website
- School educational activities as discussed above
- Activities with seniors and disadvantaged communities—for example, the rail corridor directly adjoins a large minority population in Leucadia; presentations to these groups could be incorporated into the larger project outreach effort; or, with NCTD’s permission, these programs could be presented at the Encinitas COASTER station
- Web content for the City’s webpage, Facebook and Twitter pages

Task 4.2 Deliverables:

- Conduct Rail Safety Education Campaign

Task 4.3 – Summarize Results of Rail Safety Education Campaign

The consultant will document the Rail Safety Education Campaign for inclusion in the Rail Corridor Vision Plan.

Task 4.3 Deliverables:

- Documentation of Rail Safety Education Campaign activities

Task 5.0 – Develop Final RCVS Report

The RCVS will establish a framework for analyzing and assessing the projects and community input as an integrated system, with the goal of optimizing and prioritizing the local and regional projects and ensuring they are in alignment. The study will help the City plan for and implement a series of rail, bike, pedestrian, local street, and community enhancement projects to improve and maintain mobility and access to coastal recreation and local businesses. The outcome will be a single integrated document to establish the framework for comprehensive planning, review, and construction of the multiple projects that are planned in the corridor.

Task 5.1 – Draft RCVS

The consultant will compile the documents prepared during the Active Public Engagement (Task 2.0), the Rail Corridor Assessment (Task 3.1), and the Rail Safety Educational Campaign (Task 4.0), combining them with the concept alternatives to create the RCVS. Additionally, the consultant will coordinate with the other concurrent studies to provide elements from this plan that are pertinent to their efforts. The study will provide an implementation road map that, among other items, identifies what city documents need to be amended as a result of the study.

Task 5.1 Deliverables:

- Project schedule in Microsoft Project format
- Draft and final RCVS with graphic+text plan document and graphically annotated text report



- Elements to include in other concurrent studies

Task 5.2 – Presentation to City Commissions

The consultant will assist City staff in developing materials and presenting the RCVS to relevant City Commissions (for informational purposes), summarizing comments, building consensus, and supporting plan approval by the City Council.

Task 5.2 Deliverables:

- Draft and final presentation
- Presentations and meeting notes

Task 5.3 – Presentation to City Council

The consultant will revise the materials based on input received from City Commissions and assist City staff in presenting the RCVS to the City Council. The consultant will incorporate the comments received from the City Council within the final RCVS document.

Task 5.3 Deliverables:

- Revised presentation
- Presentation and meeting notes



ATTACHMENT B

(Payment for Services)

The CITY shall pay CONSULTANT for the DESCRIBED SERVICES as follows:

The CITY hereby agrees to pay the CONSULTANT, as full compensation for the CONSULTANT'S services upon this project, a fee not to exceed \$224,858.00 for the services included in Attachment A. The total fee for each task is a not to exceed amount, unless a transfer to another task or sub-task is mutually agreed to by both parties in writing, provided the total contract value is not exceeded.

Direct costs and other reimbursable expenses associated with this project are included in the basis of compensation.

CITY and CONSULTANT will work together to ensure invoicing is accompanied by satisfactory documentation of expenses. All services shall be performed to the satisfaction of the City Manager and CITY shall not be liable for any payment under this AGREEMENT for services which are unsatisfactory and which have not been approved by the City Manager.

CITY shall review invoices for payment consideration within thirty (30) days of receipt.

Task Order Estimate
Hours Costs

Attachment B

ODCs	WSP PB											KTU+A			AECOM			California Operation Lifersaver	Total Hours	Totals	
	Seth Torma Sr. Planning Manager	Tom Lichterman Sr. Planning Manager	Karen Kosup Sr. Supervising Engineer	Chris Poli Sr. Engineering Manager	Tom Hester Sr. Supervising Planner	Jeff Howard Sr. Supervising Planner	Ximena Atterbury Urban Designer	Peter Ruscitti Sr. Planner	Tom J Jones Senior Engineer	Allen Delacruz CADD Operator II	Brittany Dupriest Project Accountant I	Mike Singleton	Alison Moss	Jacob Leon	Jessica Sisco	Planner II	Planner I				
	Rates for Period NTP to 07/31/2016 & 8/1/2016 to 7/31/2017																				
	\$247.52 / \$256.18	\$251.67 / \$260.48	\$224.55 / \$232.41	\$267.68 / \$277.05	\$233.37 / \$241.54	\$223.62 / \$231.45	\$89.74 / \$92.88	\$120.11 / \$124.31	\$111.26 / \$115.15	\$60.52 / \$62.64	\$74.29 / \$76.89	\$170.00	\$125.00	\$115.00	\$135.00	\$90.00	\$75.00				
1.0 Establish and Manage Project Advisory Committees	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
1.1 Formation of Technical Advisory Committee/Committee Meetings	\$ -	17.5	14.5	4.0	0.0	4.0	0.0	0.0	0.0	0.0	35.0	0.0	0.0	0.0	0.0	0.0	0.0		75.0	\$12,619	
1.2 Formation of Stakeholder Advisory Committee	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	6.0	2.0	0.0		8.0	\$990	
1.3 SAC Meetings	\$ -	18.0	0.0	4.0	0.0	4.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	24.0	8.0	0.0		58.0	\$10,400	
Subtotals (hours)	\$ -	35.5	14.5	8.0	0.0	8.0	0.0	0.0	0.0	0.0	35.0	0.0	0.0	0.0	30.0	10.0	0.0		141.0		
Subtotals (Costs)	\$ -	\$8,990	\$3,742	\$1,828	\$0	\$1,900	\$0	\$0	\$0	\$0	\$2,600	\$0	\$0	\$0	\$4,050	\$900	\$0	\$0		\$24,010	
2.0 Active Public Engagement	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
2.1 Conduct Innovative Public Outreach	\$ 500	2.0	0.0	0.0	0.0	0.0	0.0	12.0	0.0	0.0	0.0	0.0	0.0	0.0	50.0	30.0	30.0		124.0	\$13,636	
2.2 Conduct Public Visioning Activities	\$ 1,500	6.0	0.0	8.0	0.0	8.0	0.0	8.0	0.0	0.0	0.0	4.0	4.0	0.0	75.0	28.0	30.0		171.0	\$22,184	
2.3 Conduct Concept Design Workshops	\$ 1,500	6.0	0.0	8.0	0.0	8.0	0.0	8.0	0.0	0.0	0.0	4.0	4.0	0.0	75.0	28.0	30.0		171.0	\$22,398	
2.4 Conduct Community-Wide Open House Event	\$ -	6.0	0.0	4.0	0.0	8.0	0.0	8.0	0.0	0.0	0.0	0.0	0.0	0.0	40.0	9.0	10.0		77.0	\$10,421	
Subtotals (hours)	\$ -	20.0	0.0	20.0	0.0	16.0	0.0	36.0	0.0	0.0	0.0	8.0	8.0	0.0	240.0	95.0	100.0		543.0		
Subtotals (Costs)	\$ 3,500	\$5,054	\$0	\$4,585	\$0	\$3,799	\$0	\$4,391	\$0	\$0	\$0	\$1,360	\$1,000	\$0	\$32,400	\$8,550	\$7,500	\$0		\$72,140	
3.0 Develop Rail Corridor Concepts	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
3.1 Rail Corridor Assessment	\$ -	6.0	0.0	8.0	0.0	10.0	0.0	60.0	16.0	0.0	20.0	2.0	2.0	21.0	0.0	0.0	0.0		149.0	\$18,031	
3.2 Quiet Zone/Wayside Horn Early Action Recommendations	\$ 100	2.0	0.0	0.0	40.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		42.0	\$11,202	
3.3 1st draft - Rail Corridor Concept Alternatives	\$ -	6.0	0.0	8.0	0.0	40.0	0.0	100.0	20.0	20.0	40.0	8.0	40.0	55.0	0.0	0.0	0.0		361.0	\$47,881	
3.4 Review of 1st Draft Corridor Concept Alternatives	\$ 100	3.5	0.0	3.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		10.5	\$2,520	
3.5 2nd Draft -Rail Corridor Concept Alternatives	\$ -	2.0	0.0	2.0	0.0	12.0	8.0	27.0	8.0	8.0	12.0	2.0	8.0	32.0	0.0	0.0	0.0		121.0	\$15,922	
3.6 City Review of 2nd Draft Corridor Concept Alternative	\$ 100	3.5	0.0	3.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		7.0	\$1,710	
3.7 Final Rail Corridor Concept Alternative	\$ -	2.0	0.0	2.0	0.0	4.0	0.0	16.0	0.0	0.0	2.0	4.0	10.0	0.0	0.0	0.0	0.0		40.0	\$5,419	
Subtotals (hours)	\$ -	25.0	0.0	27.0	40.0	66.0	39.5	203.0	44.0	28.0	72.0	14.0	54.0	118.0	0.0	0.0	0.0		730.5		
Subtotals (Costs)	\$ 300	\$6,335	\$0	\$6,212	\$10,707	\$15,860	\$9,111	\$18,666	\$5,402	\$3,224	\$4,468	\$0	\$2,380	\$6,750	\$13,570	\$0	\$0	\$0		\$102,986	
4.0 Conduct Rail Safety Education Campaign	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
4.1 Prepare Rail Safety Education Campaign	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		0.0	\$2,000	
4.2 Conduct Rail Safety Education Campaign	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	10.0	4.0	4.0		18.0	\$5,010	
4.3 Summarize Results of Rail Safety Education Campaign	\$ 50	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		3.0	\$769	
Subtotals (hours)	\$ -	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	10.0	4.0	4.0		21.0		
Subtotals (Costs)	\$ 50	\$769	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,350	\$360	\$300	\$5,000		\$7,829	
5.0 Develop Final Rail Corridor Vision Plan	\$ -	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0				
5.1 Draft Rail Corridor Vision	\$ 300	6.0	0.0	0.0	0.0	0.0	0.0	20.0	80.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		106.0	\$13,339	
5.2 Presentation to City Commissions	\$ 50	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0		6.0	\$1,537	
5.3 Presentation to City Council for Adoption	\$ 50	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	8.0	0.0	0.0		14.0	\$2,617	
Subtotals (hours)	NA	18.0	0.0	0.0	0.0	0.0	0.0	20.0	80.0	0.0	0.0	0.0	0.0	0.0	8.0	0.0	0.0		126.0		
Subtotals (Costs)	\$ 400	\$4,611	\$0	\$0	\$0	\$0	\$0	\$1,858	\$9,945	\$0	\$0	\$0	\$0	\$0	\$1,080	\$0	\$0	\$0		\$17,894	
TOTAL (hours)	N/A	101.5	14.5	55.0	40.0	90.0	39.5	223.0	160.0	28.0	72.0	35.0	22.0	62.0	118.0	288.0	109.0	104.0		1,561.5	
Total (Costs)	\$ 4,250	\$25,760	\$3,742	\$12,625	\$10,707	\$21,559	\$9,111	\$20,524	\$19,738	\$3,224	\$4,468	\$2,600	\$3,740	\$7,750	\$13,570	\$38,880	\$9,810	\$7,800	\$5,000		\$224,858

Task Order Estimate
Hours Costs

Attachment B

WSP PB											KTU+A			AECOM		California Operation Lifersaver	Total Hours	Totals
ODCs	Seth Torma Sr. Planning Manager	Tom Lichterman Sr. Planning Manager	Karen Kosup Sr. Supervising Engineer	Chris Poli Sr. Engineering Manager	Tom Hester Sr. Supervising Planner	Jeff Howard Sr. Supervising Planner	Ximena Atterbury Urban Designer	Peter Ruscitti Sr. Planner	Tom J Jones Senior Engineer	Allen Delacruz CADD Operator II	Brittany Dupriest Project Accountant I	Mike Singleton	Alison Moss	Jacob Leon	Jessica Sisco			
																	\$0.00	

ATTACHMENT C
(Subcontractors)

Name	Business Address	Work to be Done
AECOM	1999 Avenue of the Stars Suite 2600 Los Angeles, CA 90067	Public engagement and communications
KTU+A	3916 Normal St, San Diego, CA 92103	Active transportation and urban design
California Operation Lifesaver	www.calol.us (no physical address)	Rail safety education

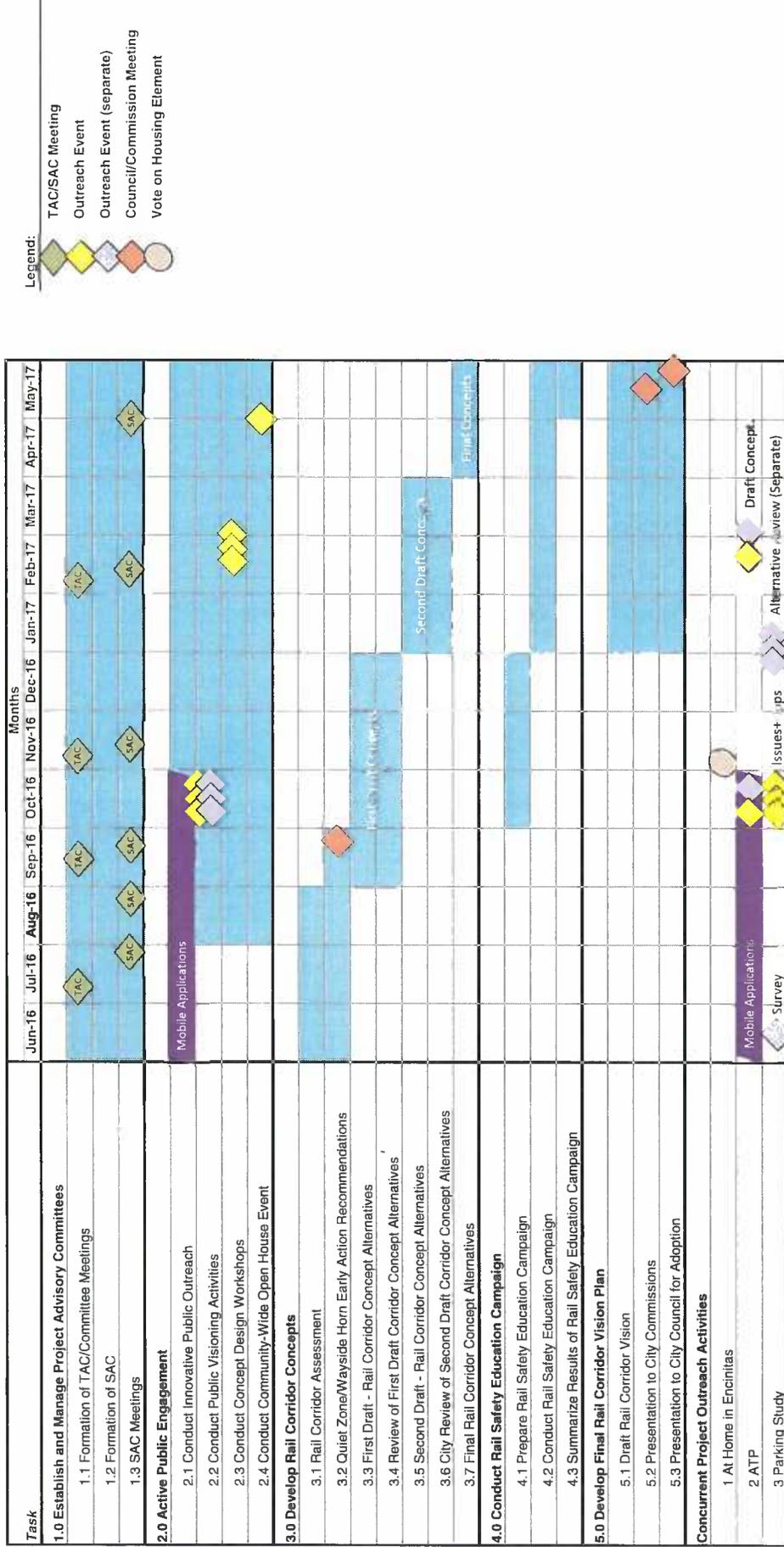
ATTACHMENT D

ESTIMATED PROJECT SCHEDULE AND COMPLETION DATE

Encinitas Rail Corridor Vision Study: Summary Schedule

The following project schedule summarizes the timeframe for completing each task of the RCVS.

Updated 6/24/16



Legend:

- TAC/SAC Meeting
- Outreach Event
- Outreach Event (separate)
- Council/Commission Meeting
- Vote on Housing Element

ATTACHMENT E

CALTRANS SUSTAINABLE COMMUNITIES GRANT AGREEMENT

**Fiscal Year 2015-16
SUSTAINABLE TRANSPORTATION PLANNING
GRANT APPLICATION**

Check One Grant Program:

- Strategic Partnerships
 Sustainable Communities

PROJECT TITLE	Encinitas Rail Corridor Vision Plan		
PROJECT LOCATION (city and county)	City of Encinitas, San Diego County		
	APPLICANT	SUB-APPLICANT	SUB-APPLICANT
Organization	City of Encinitas		
Mailing Address	505 S. Vulcan Ave		
City	Encinitas		
Zip Code	92024		
Executive Director/designee and title	Mr. <input checked="" type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/> Glenn Pruim, Director of Public Works	Mr. <input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/>	Mr. <input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/>
E-mail Address	gpruim@encinitasca.gov		
Contact Person and title	Mr. <input checked="" type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/> Kipp Hefner, Associate Civil Engineer	Mr. <input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/>	Mr. <input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/>
Contact E-mail Address	khefner@encinitasca.gov		
Phone Number	760-633-2775		

FUNDING INFORMATION

Use the Match Calculator to complete this section.
Match Calculator

Grant Funds Requested	Local Match - Cash	Local Match - In-Kind	Total Project Cost
\$ 175,000	\$ 52,500	\$ 0	\$ 227,500

Specific Source of Local Cash Match (i.e. local transportation funds, local sales tax, special bond measures, etc.)

Local cash match is provided through local transportation funds dedicated to creation of a rail corridor vision plan in the amount of \$52,500 (30%).

**SUSTAINABLE COMMUNITIES
GRANTS (STATE)**

**RESTRICTED GRANT
AGREEMENT**

THIS RESTRICTED GRANT AGREEMENT (RGA), between the State of California acting by and through its Department of Transportation, referred to herein as CALTRANS and the City of Encinitas, herein after referred to as AGENCY, will commence on **November 2, 2015**, or approval by CALTRANS, whichever occurs later. This RGA is of no effect unless approved by CALTRANS. Agency shall not receive payment for work performed prior to approval of the RGA and before receipt of notice to proceed by the CALTRANS Contract Manager. This RGA shall expire on **February 28, 2018**:

RECITALS

1. Under this RGA, CALTRANS intends to convey State grant funds to AGENCY, pursuant to Budget Act Line Item 2660-102-0042T, who will conduct transportation studies and planning within the regional area under the jurisdiction of AGENCY under the terms, covenants and conditions of this RGA.
2. CALTRANS and AGENCY intend that only funds that are authorized as grants will be subject to this RGA, and that no funds that should be the subject of a Joint Powers Agreement, Interagency Agreement, or other non-grant agreement shall be subject to this RGA.

SECTION I

AGENCY AGREES:

To timely and satisfactorily complete all Project Work described in **Attachment II** within the project budget and in accordance with the items of this RGA.

SECTION II

CALTRANS AGREES:

That when conducting an audit of the costs claimed by AGENCY under the provisions of this RGA, to conduct the audit in accordance with applicable laws and regulations.

SECTION III

IT IS MUTUALLY AGREED:

In consideration of the foregoing and the mutual promises of the parties hereto, AGENCY and CALTRANS agree as follows:

1. Under this RGA, CALTRANS will convey State grant funds to AGENCY, pursuant to Budget Act Line Item 2660-102-0042T, who will conduct transportation studies and planning within the regional area under the jurisdiction of AGENCY. The funds subject to this RGA must be (a) identified as available for a grant in CALTRANS' budget and (b) for the purpose of conducting transportation studies or planning or to a Caltrans organization that is responsible for conducting transportation studies or planning.
2. Under this Restricted Grant, funds may be only used for the purpose set forth in this paragraph and funds may only be used for costs and expenses that are directly related to such purpose.
3. AGENCY shall perform all the duties and obligations described in the "Encinitas Rail Corridor Vision Plan," hereinafter the Project, subject to the terms and conditions of this RGA. The Approved Project Grant Application (Scope of Work and Project timeline), which are attached hereto as **Attachment II**.
4. The resolution authorizing AGENCY to execute this RGA pertaining to the above described Project is attached hereto as **Attachment I**.
5. All services performed by AGENCY pursuant to this RGA shall be performed in accordance with all applicable State and AGENCY laws, regulations, ordinances, policies and procedures and CALTRANS published manuals, including Grant Application Guide (**Attachment III**). In case of conflict between State and AGENCY laws, regulations, ordinances, policies or procedures, the order of precedence applicability of these laws shall be established by prevailing California laws and regulations; Caltrans policies and procedures; ordinances; and, Agency policies and procedures. This RGA may not include any federal funds.
6. Project funding is as follows:

<u>FUND TITLE</u>	<u>FUND SOURCE</u>	<u>DOLLAR AMOUNT</u>
SHA	State	\$175,000.00
LOCAL MATCH	Agency Provided	\$52,500.00
	Total Project Costs	\$227,500.00

No in-kind contributions may be made unless the amount and type of the contribution is identified above.

7. This RGA is exempt from legal review and approval by the Department of General Services, pursuant to AG Opinions: 58 Ops. AG 586 (1974), 63 Ops. AG 290 (1980), 74 Ops AG 10 (1991), and 88 Ops AG 56.]

8. Notification of Parties

- a. AGENCY's Project Manager for PROJECT is Kipp Hefner, (760) 633-2862.
- b. CALTRANS' Contract Manager is Chris Schmidt, (619) 220-7360.
"Contract Manager" as used herein includes his/her designee.
- c. All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and received by the parties at their respective addresses:

City of Encinitas
Attention: Kipp Hefner, Project Manager
505 S. Vulcan Avenue
Encinitas, CA 92024

California Department of Transportation
DISTRICT 11/Planning
Attention: Chris Schmidt, Contract Manager
4050 Taylor Street
San Diego, CA 92110

9. Period of Performance

- a. Reimbursable work under this RGA shall begin no earlier than on **November 2, 2015**, contingent upon the approval by CALTRANS and receipt of the Notice to Proceed letter of this RGA by the CALTRANS Contract Manager, and will expire on **February 28, 2018**.
- b. AGENCY will attend a kickoff meeting with CALTRANS to be scheduled within one (1) week from receipt of Notice to Proceed letter by the CALTRANS' Contract Manager.

10. Changes in Terms/Amendments

This RGA may only be amended or modified by mutual written agreement of the parties.

11. Cost Limitation

- a. The total amount reimbursable to AGENCY pursuant to this RGA by CALTRANS shall not exceed **\$175,000.00**.
- b. It is agreed and understood that this RGA fund limit is an estimate and that CALTRANS will only reimburse the cost of services actually rendered as authorized by the CALTRANS Contract Manager at or below that fund limitation

established hereinabove.

12. Termination

- a. CALTRANS reserves the right to terminate this RGA upon written notice to AGENCY at least thirty (30) days in advance of the effective date of such termination in the event AGENCY fails to proceed with PROJECT work in accordance with the terms of this RGA.
- b. This RGA may be terminated by either party for any reason by giving written notice to the other party at least thirty (30) days in advance of the effective date of such termination. In the event of termination for convenience, CALTRANS will reimburse AGENCY for all allowable, authorized and non-cancelled costs up to the date of termination.
- c. AGENCY has sixty (60) days after the Termination Date to submit invoices to CALTRANS to make final allowable payments for Project costs in accordance to the terms of this RGA. Failure to submit invoices within this period may result in a waiver by AGENCY of its right to reimbursement of expended costs.

13. Budget Contingency Clause

- a. It is mutually agreed that if the U.S. Congress or the State Legislature fail to appropriate or allocate funds during the current year and/or any subsequent years covered under this RGA does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, CALTRANS shall have no liability to pay any funds whatsoever to AGENCY or to furnish any other considerations under this Agreement and AGENCY shall not be obligated to perform any provisions of this RGA.
- b. If funding for any fiscal year is reduced or deleted by the U.S. Congress or the State Legislature for purposes of this program, CALTRANS shall have the option to either terminate this Agreement with no liability occurring to CALTRANS, or offer a RGA Amendment to AGENCY to reflect the reduced amount.

14. Payment and Invoicing

- a. The method of payment for this RGA will be based on actual allowable costs. CALTRANS will reimburse AGENCY for expended actual allowable direct costs and including, but not limited to labor costs, travel, and contracted consultant services costs incurred by AGENCY in performance of the Project work. Indirect costs are reimbursable only if the AGENCY has an approved Indirect Cost Allocation Plan or an Indirect Cost Rate Proposal as set forth in Section II - Cost Principals, Item 9 d. The total cost shall not exceed the cost reimbursement limitation set forth in Section II - Cost Limitations, Item 4. a. Actual costs shall not exceed the estimated wage rates, labor costs, travel and other estimated costs and fees set forth in **Attachment II** without an amendment to this RGA, as agreed between CALTRANS and AGENCY.

- b. Reimbursement of AGENCY expenditures will be authorized only for those allowable costs actually incurred by AGENCY in the performance of the Project work. AGENCY must not only have incurred the expenditures on or after **November 2, 2015** and the issuance of the Notice to Proceed letter for this RGA and before **February 28, 2018**, but must have also paid for those costs to claim any reimbursement.
- c. Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Human Resources for similar employees (i.e. non-represented employees) unless written verification is supplied that government hotel rates were not then commercially available to AGENCY, its sub-recipients, contractors, and/or subcontractors, at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process at the following link: http://www.dot.ca.gov/hq/asc/travel/ap_b/bu1.htm
Also see website for summary of travel reimbursement rules.
- d. AGENCY shall submit invoices to CALTRANS at least quarterly but no more frequently than monthly in arrears for completion of milestones in accordance with the Project Timeline in **Attachment II** to the satisfaction of the CALTRANS' Contract Manager. Invoices shall reference this RGA Number and shall be signed and submitted to the CALTRANS' Contract Manager at the following address, as stated in Section III - Notification of Parties, Item 1.c.
- e. Invoices shall include the following information:
 - 1) Names of the AGENCY personnel performing work
 - 2) Dates and times of project work
 - 3) Locations of project work
 - 4) Itemized costs as set forth in **Attachment II**, including identification of each employee or subcontractor staff that provided services during the period of the invoice, the number of hours and hourly rates for each employee or subcontractor staff member, authorized travel expenses with receipts, receipts for authorized materials or supplies, and subcontractor invoices.
 - 5) AGENCY shall submit written progress reports with each set of invoices to allow the CALTRANS' Contract Manager to determine if AGENCY is performing to expectations, is on schedule, is within funding cost limitations, to communicate interim findings, and to afford occasions for airing difficulties respecting special problems encountered so that remedies can be developed.
- f. Incomplete or inaccurate invoices shall be returned to the AGENCY unapproved for correction. Failure to submit invoices on a timely basis may be grounds for termination of this RGA for material breach per Section II - Termination, Item 5.
- g. CALTRANS will reimburse AGENCY for all allowable Project costs at least quarterly but no more frequently than monthly in arrears as promptly as CALTRANS fiscal procedures permit upon receipt of an itemized signed invoice.

- h. The RGA Expiration Date refers to the last date for AGENCY to incur valid Project costs or credits and is the date the RGA expires. AGENCY has sixty (60) days after that Expiration Date to make final allowable payments to Project contractors or vendors, submit the Project's Final Product(s) as defined in **Attachment II** and final invoice to CALTRANS for reimbursement for allowable Project costs. Any unexpended Project funds not invoiced by the sixtieth (60th) day will be reverted and will no longer be accessible to reimburse late Project invoices.

15. Local Match Funds

- a. AGENCY shall contribute not less than a proportional cash amount toward the services described herein on a monthly or quarterly basis. The frequency of the payments shall be agreed upon by the parties in a document signed by both parties. Notwithstanding the foregoing, to the extent that in-kind contributions are permitted under this Agreement, the contributions may be counted as cash when they are actually received by Caltrans. Except where expressly allowed in writing herein, reimbursement of credits for local matching funds will be made or allowed only for work performed on and after the date of issuance of the Notice to Proceed and prior to the Expiration Date of this RGA.
- b. Local cash and in-kind match requirements can be found in **Attachment III**, Grants Application Guide. AGENCY agrees to contribute the statutorily required local contribution of matching funds if any is specified within this RGA or in any Attachment hereto, toward the actual cost of the services described in **Attachment II**. AGENCY shall contribute not less than its required match amount toward the services described herein. Local cash and in-kind match requirements can be found at the Office of Regional Planning (ORP) website:
<http://www.dot.ca.gov/hq/tpp/offices/orip/Grants/grants.html>

16. Cost Principles

- a. AGENCY agrees to comply with Title 2, Code of Federal Regulations (CFR), Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- b. AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) and (b) all parties shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Every sub-recipient receiving Project funds as a sub-recipient, contractor, or subcontractor under this RGA shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards to the extent applicable.
- c. Any Project costs for which AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, and/or Part 48, Chapter 1, Part 31, are subject to repayment by AGENCY to CALTRANS.

Should AGENCY fail to reimburse moneys due CALTRANS within thirty (30) days of discovery or demand, or within such other period as may be agreed in writing between the parties hereto, CALTRANS is authorized to intercept and withhold future payments due AGENCY from CALTRANS or any third-party source, including, but not limited to, the State Treasurer, the State Controller or any other fund source.

- d. Prior to AGENCY seeking reimbursement of indirect costs, AGENCY must prepare and submit annually to CALTRANS for review and approval an indirect cost rate proposal and a central service cost allocation plan (if any) in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Chapter 5 of the Local Assistance Procedures Manual which may be accessed at:
<http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm>.
- e. AGENCY agrees and shall require that all of its agreements with consultants and subrecipients contain provisions requiring adherence to this section in its entirety (except section c).

17. Americans with Disabilities Act

By signing this RGA, AGENCY assures CALTRANS that in the course of performing Project work, it will fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

18. Iran Contracting Act

The proposed Contractor must complete and submit to Caltrans the Iran Contracting Act Certification certifying that it is not on the most current Department of General Services (DGS) list to Entities Prohibited from Contracting with Public Entities in California per the Iran Contracting Act, 2010 (<http://www.documents.dgs.ca.gov/pd/poliproc/Iran%20Contracting%20Act%20List.pdf>), before the contract has been executed, unless the Contractor is exempted from the certification requirement by Public Contract Code Section 2205 (c) or (d). If claiming an exemption, the proposed Contractor shall provide written evidence that supports an exemption under Public Contract Code Section 2203 (c) or (d) before execution of the contract.

19. Indemnification

Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by AGENCY, its officers, employees, agents or its subcontractors under or in connection with any work, authority or jurisdiction conferred upon AGENCY under this RGA. It is understood and agreed that AGENCY, its officers, employees, agents, or subcontractors shall fully defend, indemnify and save harmless CALTRANS and all its officers and employees from all claims, suits or actions of every name, kind

and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by AGENCY, its officers, employees, agents or subcontractors under this RGA.

20. Non-Discrimination

- a. During the performance of this RGA, AGENCY and all of its sub-recipients and its subcontractors, if any, shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family and medical care leave, and denial of pregnancy disability leave. AGENCY, its subcontractors, and sub-recipients shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. AGENCY, its subcontractors and sub-recipients shall comply with the provisions of the Fair Employment and Housing Act (Government Code [GC] Section 12900 et seq.) and the applicable regulations promulgated hereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing GC Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this RGA by this reference and are made a part hereof as if set forth in full. AGENCY, its subcontractors, and sub-recipients shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other collective bargaining agreements in place.
- b. AGENCY shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this RGA.

21. Retention of Records/Audits

- a. AGENCY, its contractors, subcontractors and sub-recipients shall establish and maintain an accounting system and records that properly accumulate and segregate incurred Project costs and matching funds by line. The accounting system of AGENCY, its contractors, all subcontractors, and sub-recipients shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of AGENCY, its contractors, subcontractors and sub-recipients connected with Project performance under this RGA shall be maintained for a minimum of three (3) years from the date of final payment to AGENCY and shall be held open to inspection, copying, and audit by representatives of CALTRANS, the California State Auditor, and auditors representing the federal government. Copies thereof will be furnished by AGENCY, its contractors, its subcontractors and sub-recipients upon receipt of any request made by CALTRANS or its agents. In conducting an audit of the costs and match credits claimed under this RGA, CALTRANS will rely to the maximum extent possible on any prior audit of AGENCY pursuant to the

provisions of State and Agency law. In the absence of such an audit, any acceptable audit work performed by AGENCY's external and internal auditors may be relied upon and used by CALTRANS when planning and conducting additional audits.

- b. For the purpose of determining compliance with applicable State and Agency law in connection with the performance of AGENCY's contracts with third parties pursuant to GC Section 8546.7, AGENCY, AGENCY's sub-recipients, contractors, subcontractors, and CALTRANS shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire Project period and for three (3) years from the date of final payment to AGENCY under this RGA. CALTRANS, the California State Auditor, or any duly authorized representative of CALTRANS or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to a Project for audits, examinations, excerpts, and transactions, and AGENCY shall furnish copies thereof if requested.
- c. AGENCY, its sub-recipients, contractors, and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other AGENCY of the State of California designated by CALTRANS, for the purpose of any investigation to ascertain compliance with this RGA.
- d. Additionally, all grants may be subject to a pre-award audit prior to execution of the RGA to ensure AGENCY has an adequate financial management system in place to accumulate and segregate reasonable, allowable and allocable costs.
- e. Any contract with a consultant or sub-recipient entered into as a result of this Agreement shall contain all the provisions of this article.

22. Disputes

- a. Any dispute concerning a question of fact arising under this RGA that is not disposed of by agreement shall be decided by the CALTRANS Contract Officer, who may consider any written or verbal evidence submitted by AGENCY. The decision of the CALTRANS Contract Officer shall be the CALTRANS's final decision regarding the dispute.
- b. Neither the pendency of a dispute nor its consideration by the CALTRANS Contract Officer will excuse AGENCY from full and timely performance in accordance with the terms of the RGA.

23. Third-Party Contracts

- a. AGENCY shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without prior written authorization by CALTRANS Contract Manager unless expressly included (sub-recipient identified) in **Attachment II** as part of the identified Project work.
- b. All State-government-funded procurements must be conducted using a fair and competitive procurement process. AGENCY may use its own procurement procedures as long as the procedures comply with the local AGENCY's laws, rules, and ordinances governing procurement and all applicable provisions of state law, including without limitation the requirement that the AGENCY obtain at least three (3) competitive bids for solicitation of goods, services and consulting services (see Part 2, Chapter 2, Articles 3 and 4 of the Public Contract Code); a qualifications-based solicitation process, for which statements of qualifications are obtained from at least three (3) qualified firms for architecture and engineering services (see Title 1, Division 5, Chapter 10 of the Government Code); and, the provisions of the Local Assistance Procedures Manual (LAPM), Chapter 10, which are not inconsistent with this section 15, Third Party Contracts. The LAPM can be found and the following link:
<http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm#LAPMop1>.
- c. Any subcontract entered into as a result of this RGA shall contain all the provisions stipulated in this RGA to be applicable to AGENCY's sub-recipients, contractors, and subcontractors. Copies of all agreements with sub-recipients, contractors, and subcontractors must be submitted to the CALTRANS Contract Manager.
- d. CALTRANS does not have a contractual relationship with the AGENCY's sub-recipients, contractors, or subcontractors and the AGENCY shall be fully responsible for all work performed by its sub-recipients, contractors, or subcontractors.
- e. Prior authorization in writing by the CALTRANS Contract Manager shall be required before AGENCY enters into any non-budgeted purchase order or sub-agreement for supplies, or consultant services. AGENCY shall provide an evaluation of the necessity or desirability of incurring such costs. Agency shall retain all receipts for such purchases or services and shall submit them with invoices per Section III, Item 7e.4, above.
- f. Any subcontract entered into by AGENCY as a result of this RGA shall mandate that travel and per diem reimbursements and third-party contract reimbursements to subcontractors will be allowable as Project costs only after those costs are incurred and paid for by the subcontractors. Travel expenses and per diem rates for subcontractors shall be reimbursed pursuant to Section III, Item 7c, above.

24. Drug-Free Workplace Certification

By signing this RGA, AGENCY hereby certifies under penalty of perjury under the laws of California that AGENCY will comply with the requirements of the Drug-Free Workplace Act of 1990 (GC Section 8350 et seq.) and will provide a Drug-Free workplace by doing all of the following:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by GC Section 8355(a).
- b. Establish a Drug-Free Awareness Program as required by GC Section 8355(b) to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace.
 - 2) The person's or organization's policy of maintaining a Drug-Free workplace;
 - 3) Any available counseling, rehabilitation, and employee assistance programs.
 - 4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Provide, as required by GC Section 8355(c), that every employee who works on the proposed contract or grant:
 - 1) Will receive a copy of the company's Drug-Free policy statement.
 - 2) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.
- d. Failure to comply with these requirements may result in suspension of payments under this RGA or termination of this RGA or both, and AGENCY may be ineligible for the award of any future state contracts if CALTRANS determines that any of the following has occurred: (1) AGENCY has made a false certification or, (2) agency violates the certification by failing to carry out the requirements as noted above.

25. Relationship of Parties

It is expressly understood that this RGA is an agreement executed by and between two independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

26. State-Owned Data

- a. AGENCY agrees to comply with the following requirements to ensure the preservation, security, and integrity of State-owned data on portable computing devices and portable electronic storage media:

- 1) Encrypt all State-owned data stored on portable computing devices and portable electronic storage media using government-certified Advanced Encryption Standard (AES) cipher algorithm with a 256-bit or 128-bit encryption key to protect CALTRANS data stored on every sector of a hard drive, including temp files, cached data, hibernation files, and even unused disk space.
 - 2) Data encryption shall use cryptographic technology that has been tested and approved against exacting standards, such as FIPS 140-2 Security Requirements for Cryptographic Modules.
 - 3) Encrypt, as described above, all State-owned data transmitted from one computing device or storage medium to another.
 - 4) Maintain confidentiality of all State-owned data by limiting data sharing to those individuals contracted to provide services on behalf of the State, and limit use of State information assets for State purposes only.
 - 5) Install and maintain current anti-virus software, security patches, and upgrades on all computing devices used during the course of the Agreement.
 - 6) Notify the CALTRANS Contract Manager immediately of any actual or attempted violations of security of State-owned data, including lost or stolen computing devices, files, or portable electronic storage media containing State-owned data.
 - 7) Advise the owner of the State-owned data, the agency Information Security Officer, and the agency Chief Information Officer of vulnerabilities that may present a threat to the security of State-owned data and of specific means of protecting that State-owned data.
- b. AGENCY agrees to use the State-owned data only for State purposes under this RGA.
- c. AGENCY agrees to not transfer State-owned data to any computing system, mobile device, or desktop computer without first establishing the specifications for information integrity and security as established for the original data file(s). (State Administrative Manual (SAM) Section 5335.1)

27. Project Close Out/Final Product

- a. AGENCY will provide two (2) copies and two (2) electronic versions of the Final Product(s) to the CALTRANS Contract Manager.
- b. CALTRANS reserves the right to withhold final payment to AGENCY pending receipt of Final Product(s) to the CALTRANS Contract Manager.

28. OWNERSHIP OF PROPRIETARY PROPERTY

a. Defintions

- 1) **Work:** The work to be directly or indirectly produced by AGENCY under this RGA.
- 2) **Work Product:** All deliverables created or produced from Work under this Agreement including but not limited to, all Work and Deliverables conceived or made, or made hereafter conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six (6) months after the termination thereof, which relates to the Work commissioned or performed under this Agreement. "Work Product" includes all deliverables, inventions, innovations, improvements, or other works of authorship Contractor may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret, or other legal protection.
- 3) **Inventions:** Any idea, methodologies, design, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by the Contractor or jointly with the Contractor's Subcontractor and/or the Contractor's Subcontractor's employee's with one or more employees of the Department of Transportation (herein after referred to as "the Department"), during the term of this Agreement and in performance of any Work under this Agreement, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in performance of Work issued under this Agreement.

b. OWNERSHIP OF WORK PRODUCT AND RIGHTS

- 1) **Ownership of work product:** Except in regard to Pre-existing Works, all Work Product derived by the Work performed by the Contractor, its employees or by any of the Contractor's Subcontractor's employees under this Agreement, shall be owned by the Department and shall be considered to be works made for hire by the Contractor's Subcontractor for the Department. The Department shall own all United States and international copyrights in the Work Product.

As such, all Work Product shall contain, in a conspicuous place, a copyright designation consisting of a "c" in a circle followed by the four-digit year in which the Work Product was produced, followed by the words "California Department of Transportation." For example, a Work Product created in the year 2012 would contain the copyright designation © 2012 California Department of Transportation.

- 2) **Vesting of copyright rights:** Contractor, its employees or any of Contractor's Subcontractor's employees agrees to perpetually assign, and upon creation of each Work Product automatically assigns, to the Department, its successors and assigns, ownership of all United States and international copyrights in each and every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Contractor's Subcontractor from the Department. From time to time upon the Department's request, the Contractor's Subcontractor and/or its employees, shall confirm

such assignments by execution and delivery of such assignments, confirmations or assignment, or other written instruments as the Department may request. The Department, its successors and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for Work Product. Contractor hereby agrees to waive all moral rights relating to identification of authorship restriction or limitation on use, or subsequent modifications of the Work.

c. **INVENTIONS**

- 1) **Vesting of patent rights:** The Contractor, its employees and any Contractor's Subcontractor hereby agrees to assign to the Department, its successors, and assigns, all Inventions, together with the right to seek protection by obtaining patent rights therefore and to claim all rights or priority there under, and the same shall become and remain the Department's property regardless of whether such protection is sought. The Contractor, its employees and Contractor's Subcontractor shall promptly make a complete written disclosure to the Department of each Invention not otherwise clearly disclosed to the Department in the pertinent Work Product, specifically pointing out features or concepts that the Contractor, its employees and Contractor's Subcontractor believes to be new or different. The Contractor, its employees and Contractor's Subcontractor shall, upon the Department's request and at the Department's expense, cause patent applications to be filed thereon, through solicitors designated by the Department, and shall sign all such applications over to the Department, its successors, and assigns. The Contractor, its employees and Contractor's Subcontractor shall give the Department and its solicitors all reasonable assistance in connection with the preparation and prosecution of any such patent applications and shall cause to be executed all such assignments or other instruments or documents as the Department may consider necessary or appropriate to carry out the intent on this Agreement.
- 2) **Agency:** In the event that the Department is unable for any reason whatsoever to secure the Contractor's, its employees' and/or Contractor's Subcontractor's signature to any lawful or necessary document required or desirable to apply for or prosecute any United States application (including renewals or divisions thereof), Contractor, its employees and Contractor's Subcontractor hereby irrevocably designates and appoints the Department and its duly authorized officers and agents, as its agent and attorney-in-fact, to act for and on Contractor, its employees and Contractor's Subcontractor's behalf and stead, to execute and file such applications and to do all other lawfully permitted acts to further the prosecution and issuance of any copyrights, trademarks or patents thereon with the same legal force and effect as if executed by Contractor, its employees and/or Contractor's Subcontractor. The Department shall have no obligations to file any copyright, trademark or patent applications.

d. **ADDITIONAL PROVISIONS**

- 1) **Avoidance of infringement:** In performing services under this Agreement, Contractor and its employees agree to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Contractor or its employees becomes aware of any such possible infringement in the course of performing any Work under this Agreement, Contractor or its employees shall immediately notify the Department in writing.
- 2) **Pre-existing works and license:** Contractor acknowledges that all Work Product shall be the sole and exclusive property of the Department, except that any pre-existing works created by Contractor and third parties outside of the Agreement but utilized in connection with the Agreement (the "Pre-existing Works") shall continue to be owned by Contractor or such parties. Contractor agrees to notify the Department in writing of any Pre-existing Works used in connection with any Work Product produced under this Agreement and hereby grants to the Department a non-exclusive, perpetual, royalty-free license to utilize the Pre-existing Works in connection with the Work Product.
- 3) **Subcontractors:** Contractor shall affirmatively bind by contract any of its subcontractors or service vendors (hereinafter "Contractor's Subcontractor") providing services under this Agreement to conform to the provisions of this Exhibit. Contractor's Subcontractor shall then provide the signed contract to the Contractor, who shall provide it to the Department's Contract Manager prior to the commencement of any work. In performing services under this Agreement, Contractor's Subcontractor agrees to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If Contractor's Subcontractor becomes aware of any such possible infringement in the course of performing any Work under this Agreement, Contractor's Subcontractor shall immediately notify the Contractor in writing, Contractor will then immediately notify the Department in writing.

e. **OWNERSHIP OF DATA**

- 1) Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications, and estimates, produced as part of this Agreement will automatically be vested in Caltrans and no further agreement will be necessary to transfer ownership to Caltrans. The Consultant shall furnish Caltrans all necessary copies of data needed to complete the review and approval process.
- 2) It is understood and agreed that all calculations, drawings, and specifications, whether in hard copy of machine readable form, are intended for one-time use in the construction of the project for which this Agreement has been entered into.
- 3) The Consultant is not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by Caltrans of the machine

readable information and data provided by the Consultant under this Agreement; further, the Consultant is not liable for claims, liabilities or losses arising out of, or connected with, any use by Caltrans of the project documentation on other projects, for additions to this project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by the Consultant.

- 4) Any sub-agreement in excess of \$25,000.00, entered, into as a result of this Agreement, shall contain all of the provisions of this clause.

SECTION IV

ATTACHMENTS:

The following attachments are incorporated into and are made a part of this RGA by this reference and attachment.

- I. AGENCY Resolution
- II. Scope of Work and Project Timeline
- III. Grant Application Guide

IN WITNESS WHEREOF, the parties hereto have executed this RGA on the day and year first herein above written:

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

CITY OF ENCINITAS

By: _____

By: _____

Eric Knight
(Print Name)

(Print Name)

Title: Contract Officer

Title: _____

Date: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

RESOLUTION 2015-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ENCINITAS APPROVING THE APPOINTMENT OF THE DIRECTOR OF PUBLIC WORKS AS AN AUTHORIZED REPRESENTATIVE TO ENTER INTO CONTRACTS WITH THE STATE OF CALIFORNIA FOR A SUSTAINABLE TRANSPORTATION PLANNING GRANT

WHEREAS, the City Council of the City of Encinitas has applied for grant funding from the State of California Department of Transportation through the Sustainable Transportation Planning Grant Program to develop the Encinitas Rail Corridor Vision Plan within the City of Encinitas, and

WHEREAS, the State of California Department of Transportation has selected the project for grant funding; and

WHEREAS, the State of California Department of Transportation requires the City of Encinitas to appoint an authorized representative to enter into contract with the State,

NOW, THEREFORE, be it resolved by the City Council of the City of Encinitas:

- 1 That the Director of Public Works or his designee is hereby authorized to enter into contract with the State of California Department of Transportation for the Encinitas Rail Corridor Vision Plan, funded in part through the Sustainable Transportation Planning Grant Program, and,
- 2 That the City of Encinitas hereby agrees and further does authorize the aforementioned representative or their designee to certify that the Agency has and will comply with all applicable state and federal statutory and regulatory requirements related to grants received.

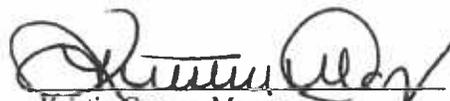
PASSED AND ADOPTED this 20th day of May, 2015, by the following vote, to wit:

AYES: Blakespear, Gaspar, Kranz, Muir, Shaffer

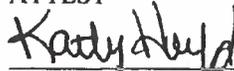
NAYS: None

ABSENT: None

ABSTAIN: None


Kristin Gaspar, Mayor

ATTEST:



Kathy Hollywood, City Clerk

