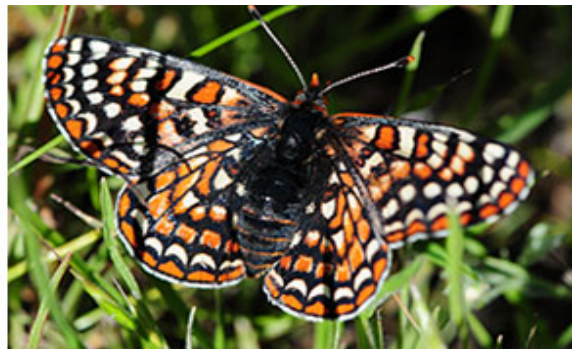
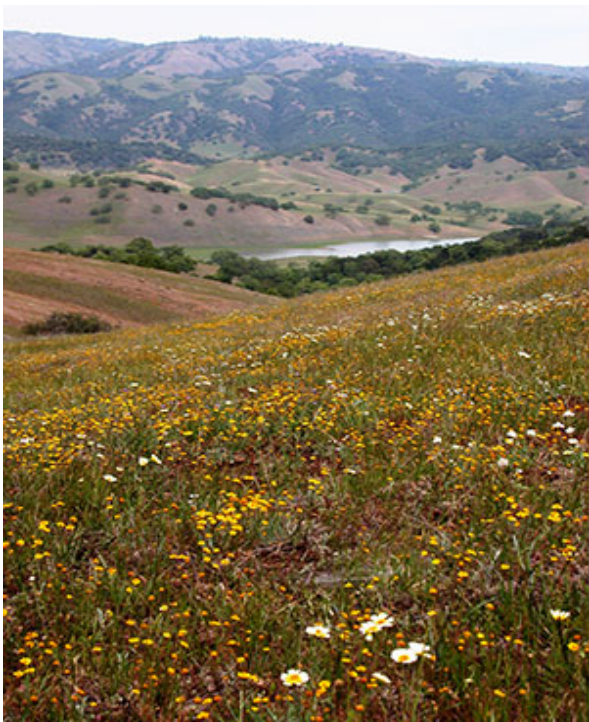


# REQUEST FOR PROPOSALS

## *FIRST AMENDMENT TO THE SANTA CLARA VALLEY HABITAT PLAN*

### SANTA CLARA VALLEY HABITAT AGENCY



Date Issued:	September 9, 2021
Due Date:	October 8, 2021, by 5:00 p.m.
Contact:	Gerry Haas, Principal Planner
Email/Phone:	<a href="mailto:gerry.haas@scv-habitatagency.org">gerry.haas@scv-habitatagency.org</a>
Mail, Express Mail, Hand Delivery:	535 Alkire Avenue, Suite 100 Morgan Hill, CA 95037

# **Request for Proposals (RFP) for Habitat Conservation Plan/Natural Communities Conservation Plan Amendment Services**

## **INTRODUCTION**

The Santa Clara Valley Habitat Agency (Habitat Agency) is seeking a consulting firm experienced in habitat conservation planning and implementation to prepare the first Amendment to the Santa Clara Valley Habitat Plan (Habitat Plan).

## **BACKGROUND**

The Habitat Agency is a joint powers authority formed on April 26, 2013, by the County of Santa Clara, the Cities of San Jose, Morgan Hill, and Gilroy, the Santa Clara Valley Transportation Authority, and Valley Water to implement the Santa Clara Valley Habitat Plan (Habitat Plan) and ensure the long-term protection of ecosystems and biodiversity within the southern and eastern portions of Santa Clara Valley. A copy of the Habitat Plan and information about the Habitat Agency can be found at: [www.scv-habitatagency.org](http://www.scv-habitatagency.org). The Habitat Plan gives the Habitat Agency “incidental take authorization” for impacts on covered species pursuant to the Federal and State of California endangered species acts.

As a public agency located in the City of Morgan Hill, the Habitat Agency currently has four full-time employees, one part-time employee, an Executive Officer, a Management Analyst, as well as contract legal, financial, real estate and clerk of the board services. Technical and permitting support, conservation strategy implementation, and grant preparation and administration are currently provided by a single management consulting firm. The Habitat Agency reports to four boards and committees: Governing Board, Implementation Board, Public Advisory Committee, and Technical Advisory Committee.

## **THE PROJECT**

The Habitat Agency seeks to amend the Habitat Plan to, at a minimum, revise certain species and habitat take limits, add covered species, add covered activities and address administrative changes such as correcting discrepancies, clarifying language, providing more guidance on topics that have complicated implementation. The Habitat Agency will explore adding new co-permittees to the Plan. The Habitat Agency has had initial conversations with the following agencies, but still needs to determine their interest in joining the Plan during the amendment process. The City of Mountain View will be considered as a new co-permittee due to the need to better address burrowing owl impacts and conservation. The inclusion of Mountain View would only apply primarily to covered activities that are related to burrowing owl conservation and covered project impacts to burrowing owl habitat (Shoreline Regional Wildlife Area). The Midpeninsula Regional Open Space District and California State Parks will also be considered as co-permittees to support and facilitate the infrastructure and restoration work of these agencies.

The Habitat Agency will explore expanding the study area and permit area in Santa Clara County by approximately 250,000 acres to include all remaining unincorporated portions of the County, excluding Henry W. Coe State Park. The Habitat Agency will also consider expanding the burrowing owl conservation area, working collaboratively with San Benito County. If the burrowing owl conservation area is extended into San Benito County, it would be limited to the Pajaro River corridor. In addition to potentially expanding the burrowing owl conservation area, the Habitat Agency will need to re-evaluate the burrowing owl program status and the feasibility of achieving the goals of the conservation strategy.

Valley Water has requested inclusion of their Stream Maintenance Program into the Habitat Plan as covered operations and maintenance. The amendment will analyze whether this would require elevating the take limits for certain aquatic resources and if it may require greater restoration commitments, which would need to be analyzed and vetted through the Wildlife Agencies and co-permittees. Valley Water will provide details and projections for the SMP early in the amendment process.

The Habitat Agency will also consider increasing the take limits for San Joaquin kit fox (*Vulpes macrotis*) secondary low use habitat, coyote brush scrub, and western burrowing owl (*Athene cunicularia*) to account for unforeseen impacts and will consider increasing the take limits for other species and land cover types that are approaching their take limits (e.g., tricolored blackbird, bay checkerspot butterfly and freshwater marsh). The Habitat Agency will also consider removing smooth lessingia as a covered species because the conservation objectives have been achieved and it is now ubiquitous in the Plan area.

During the amendment process, the Plan would include administrative changes to language and policies intended to clarify several issues that have caused confusion or complicated Plan implementation. These changes include, but are not limited to, the definition of the coyote brush (*Baccharis pilularis*) scrub land cover type, the definition of a covered plant occurrence, temporary impact tracking, nitrogen deposition fee assessment and collection, revisions to the conservation easement template (and possible alternatives to the easement template), incorporation of prior Clarification and Interpretation Memos and Modifications and implementing other necessary updates.

The Plan amendment will ensure that the Plan conserves additional special status species, which includes evaluating the addition of two federally listed species (Alameda whipsnake and California condor) and one federal candidate (monarch butterfly). The amendment will also consider additional state special status species, including three state fully protected species (which is significant given that an NCCP is one of the only ways to legally authorized take of state fully protected species) and two rare plant species.

The amendment will evaluate a minimum of 13 special status species for inclusion in the Plan amendment.

- Alameda whipsnake (*Masticophis lateralis euryxanthus*) (Federally Threatened, State Threatened)
- California condor, (*Gymnogyps californianus*) (Federally Endangered; State Endangered; State Fully Protected)
- Western monarch butterfly, (*Danaus plexippus*) (Federal Candidate)
- Swainson's hawk, (*Buteo swainsoni*) (State Threatened)
- golden eagle, (*Aquila chrysaetos*) (Bald and Golden Eagle Protection Act; State Fully Protected)
- bald eagle, (*Haliaeetus leucocephalus*) (Bald and Golden Eagle Protection Act; State Endangered; State Fully Protected)
- central coast mountain lion, (*Puma concolor*) (State candidate)
- Crotch's bumblebee, (*Bombus crotchii*) (State candidate)
- western bumblebee, (*Bombus occidentalis*) (State candidate)
- American badger (*Taxidea taxus*) (State Species of Special Concern)
- dusky-footed woodrat (*Neotoma fuscipes*)
- Hall's bushmallow (*Malacothamnus hallii*)
- woodland woollythreads (*Monolopia gracilens*)
- Consideration of other species (e.g., neo-tropical songbirds)

The Habitat Agency will investigate whether these species should be added to the Plan based on their potential to be affected by covered activities, their current and foreseeable listing status, their occurrence in the study area, and the adequacy of data for the species, in consultation with the Wildlife Agencies.

The Plan amendment will also ensure that the Plan accurately reflects and evaluates the amount of take occurring in the Plan area to ensure that those effects will not jeopardize the covered species, will incorporate several topics that have been addressed through modification and clarification or interpretation memos, and include administrative changes to language and policies intended to increase efficiencies and provide greater clarity for the remainder of the permit term. The anticipated outcome of the amended Plan is to have a mutually agreed upon revised Plan that will not exceed its take limits over time, will not impact species for which take is not authorized, and will facilitate infrastructure development and conservation in the portions of Santa Clara County outside the boundaries of the current plan area. Once the Administrative Draft is finalized, it will be analyzed for effects as defined under NEPA and CEQA.

Adding new covered species, new covered activities and expanding the Plan area and will likely increase the conservation commitment and associated cost of administering the Plan. Increased costs would affect the fee study originally prepared for the Plan, which would require direct coordination with the Agency's consulting economist and would result in revisions to Chapter 9 (Cost and Funding) as well as Appendix G (Cost Model).

## **CONSULTANT RESPONSIBILITIES AND DELIVERABLES**

### **Task 1. Confirm Proposed Amendments to the Plan**

This task is for Plan scoping and strategy development to confirm all of the proposed amendments to the Plan. The Habitat Agency will need to identify the proposed amended plan area boundary, the new covered activities, confirm the new covered species, evaluate the burrowing owl program and the future covered status of the species, and continue discussions with the City of Mountain View, Midpeninsula Regional Open Space District and State Parks to determine whether they would become a co-permittee. These four components represent the initial key steps in the Plan amendment and once completed, will form the basic parameters of the amendment. Scoping for covered activities may require up to five days of site visits to see infrastructure or other resources that may be added to the Plan.

The draft and final deliverables for this task will be a Technical Report, which will include information on context/background, purpose, methods (if applicable), analysis (if applicable), and conclusions on decisions made for the proposed Plan Amendments. The Technical Report will be provided to the Habitat Agency, CDFW and USFWS in Adobe Acrobat PDF format and/or as Microsoft Word files as requested and if applicable. Figures, graphics, and model outputs will likely only be available as PDF files.

### **Task 2. Stakeholder Involvement**

Stakeholders provide a collaborative and comprehensive approach to special-status species conservation that will provide a more efficient and effective outcome for the Plan Amendment. The Stakeholder Committee will be the primary means of soliciting input from interested stakeholders. The Stakeholder Committee members will be selected by the Habitat Agency so that a wide range of interest groups is represented. The Stakeholder Committee members will also be selected based on their availability, commitment to the process, and ability to be constructive and respectful members of the group.

Stakeholder meetings will follow a pre-defined agenda and be facilitated to ensure an orderly and respectful discussion of each topic. All stakeholder meetings will be scheduled monthly, bi-monthly or quarterly at a consistent time and place to maximize attendance. The goal of each stakeholder meeting will be to: 1) provide project updates including schedule, 2) provide an overview and training on the next technical subject of the Plan, and 3) receive feedback and discuss the draft technical material provided for review before the meeting. The Plan consultant will provide working draft technical memos or draft chapters of the Plan at least two weeks prior to each stakeholder meeting so that stakeholder members can review the material and come prepared to discuss it at each meeting. Stakeholders will be expected to share material with the organization's membership and report back to the Stakeholder Committee with specific feedback. The Plan consultant will revise material in response to relevant stakeholder comments.

This task also calls for updating the program website with publicly available information and preparing for and attending meetings. The Habitat Agency will maintain the current website (<https://www.scv-habitatagency.org>) with publicly available information. Agendas and meeting notes for meetings open to the public will also be posted to this site.

### **Task 3. Convene and Manage Science Advisory Panel**

This task will focus on establishing and managing a Science Advisory Panel to provide professional analysis and recommendations on the inclusion of new species to the Habitat Plan. If new species are added, the Science Advisory Panel will help to form new conditions, avoidance and minimization measures and protection protocols for the new species. This Panel will convene as necessary and may be able to meet through the existing and ongoing Technical Advisory Committee meetings, which are currently held quarterly, but whose frequency could be adjusted as needed.

### **Task 4. Complete Administrative Draft of the Amended Santa Clara Valley HCP/NCCP**

The draft and final deliverables for this task will be in the form of draft Plan chapters and appendices. These documents will build upon the existing Plan chapters but will be updated as needed to focus on the specifics of the amendment. These documents will draw from the work completed under the first two objectives in this project narrative. Deliverables will be provided to CDFW and USFWS in Word format to facilitate commenting and response to comments using the comment bubble feature in Microsoft Word. This will also allow the use of track changes so that agency staff can readily see how the chapter text changes between versions. Figures, graphics, and model outputs will likely only be available as PDF files.

### **Task 5. Complete Administrative Draft NEPA/CEQA Documentation**

This task first includes working with USFWS to determine the approach for NEPA documentation. The Habitat Agency will select an approach to CEQA that compliments the NEPA approach, although it is assumed the CEQA document will be separate from the NEPA document due to recent changes in federal regulations. Once the approach is determined, the Habitat Agency will work with USFWS to initiate NEPA document development and conduct applicable scoping. Once scoping is conducted, USFWS and the Habitat Agency will oversee development of the Administrative Draft NEPA and CEQA documents, respectively.

This task includes the preparation of a PowerPoint presentation designed to explain the intent and purpose for preparing NEPA and CEQA environmental documents for the Plan Amendment to local officials, local agencies, and general public. The task includes poster boards, preparing handouts, sign-up sheets, comment cards and other miscellaneous meeting materials. The task also includes conducting up to two public meetings to solicit public input on the scope of the proposed NEPA and CEQA documentation and HCP.

### **Task 6. Prepare Final NEPA/CEQA Documentation**

Following release of the Draft NEPA/CEQA documents, Consultant will provide responses to comments, additional analysis and any necessary revision the draft documents to produce a final NEPA/CEQA document for consideration by the Governing Board.

### **Task 7. Prepare Final Amended Santa Clara Valley HCP/NCCP**

Complete the final Amended Habitat Plan for consideration by the Governing Board

**Task 8. Assist with Amended Plan “Roll-out”.**

Following approval by the Governing Board, assist the Habitat Agency with administrative support to introduce the amended Plan and update supporting materials and information. This task would include updating the Agency’s application forms, database, website, Geobrowser and other administrative tasks.

**QUALIFICATIONS**

Highly competent firms with expertise in providing services to an existing Habitat Conservation Plan/National Community Conservation Plan administration.

**GENERAL TERMS AND CONDITIONS**

The designated project team members, including sub-consultants, if any, must be used throughout this assignment. Departure, reassignment, or substitution for, any member will require prior written approval by the Habitat Agency.

Services are expected to be conducted from a variety of locations including: the Habitat Agency’s office, partner office locations, in the field, and by remote access. Consultants are expected to work out of the Habitat Agency’s Morgan Hill office at least one day per week.

The selected firm(s) will be required to execute a consultant services agreement which contains indemnification and insurance requirements. The general form agreement is included in this Request for Proposal (RFP).

**HOW TO RESPOND TO THIS REQUEST FOR PROPOSAL**

Please submit **three (3) hard copies plus one (1) electronic version** of your proposal on a flash drive for consideration to:

**Gerry Haas, Principal Planner  
Santa Clara Valley Habitat Agency  
535 Alkire Avenue, Suite 100  
Morgan Hill, CA 95037**

**PROPOSAL SUBMITTAL REQUIREMENTS**

- Cover letter on company letterhead signed by an officer(s), as required by the firm to commit to the obligations of this RFP
- Name, physical address, phone number of the firm and email address for the contact person during the RFP process
- General description and overview of the firm including size, qualifications, experience, and capabilities in delivering similar services

- A list and brief description of recent similar assignments with the names of clients who commissioned them
- Resumes and summaries of qualifications, experience and role of each team member who will be assigned to this job
- The name(s) and qualifications of sub-consultants, if any, you propose to use and the services they will provide
- Contact names, addresses, phone, and email addresses for at least three (3) references for whom your firm has provided similar services
- Schedule of the firms' hourly rates including those for all proposed staff and the amount of time each person will be committed to this assignment
- Any other information about the firm and/or personnel which will assist us in making a selection
- Total budget and cost break-down by each of the six (6) following tasks or only for the task or tasks for which your firm is submitting:
  - Task 1: Confirm Proposed Amendments to the Plan
  - Task 2: Stakeholder Involvement
  - Task 3: Convene Science Advisory Panel
  - Task 4: Complete Administrative Draft of the Amended Santa Clara Valley HCP/NCCP
  - Task 5: Complete Administrative Draft NEPA/CEQA Documentation
  - Task 6: Prepare Final NEPA/CEQA Documentation
  - Task 7: Prepare Final Plan Amendment
  - Task 8: Implement Amendment "Roll-out"
- Please call out reimbursables and whether they are included in the total costs or if they are expected to be paid outside of the contract amount, plus charges for administrative mark-ups, if any.

## **THE SELECTION PROCESS**

Proposals will be evaluated on the firm's:

- Experience and qualifications,
- Experience and qualifications of its staff,
- Understanding of the assignment, and
- Cost.

Short listed firms will be invited to interview. The Habitat Agency will notify all proposers by email whether or not they are selected for the job. The goal is to have a firm or firms beginning contracted work by December 1, 2021. The Habitat Agency reserves the right to select one or more firms for this assignment, or to reject all proposals submitted under this RFP.



## **TENTATIVE SCHEDULE**

Release of RFP	September 9, 2021
Proposals due	October 8, 2021
Habitat Agency review	October 22, 2021
Interviews (if necessary)	October 25, 2021
Notify selected firm(s)	October 27, 2021
Board approval of contract	November 18, 2021

For additional information or questions, please contact Gerry Haas at (669) 253-6127 or [gerry.haas@scv-habitatagency.org](mailto:gerry.haas@scv-habitatagency.org)

**SAMPLE AGREEMENT FOR CONSULTANT SERVICES  
BETWEEN SANTA CLARA VALLEY HABITAT AGENCY  
AND**

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THIS AGREEMENT dated \_\_\_\_\_, is by and between the SANTA CLARA VALLEY HABITAT AGENCY, a joint powers authority (hereinafter "AGENCY"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter "CONSULTANT").

THE PARTIES HEREBY AGREE AS FOLLOWS:

**SECTION 1. SCOPE OF SERVICES.**

CONSULTANT shall perform those \_\_\_\_\_ (*type*) services specified in detail in EXHIBIT A, entitled "SCOPE OF SERVICES", which is attached and incorporated.

**SECTION 2. TERM OF AGREEMENT.**

The term of this AGREEMENT shall be from \_\_\_\_\_ to \_\_\_\_\_, inclusive, subject to the provisions of SECTION 11 of this AGREEMENT.

**SECTION 3. SCHEDULE OF PERFORMANCE.**

The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT B, entitled "SCHEDULE OF PERFORMANCE", which is attached and incorporated. Time is of the essence in this AGREEMENT.

**SECTION 4. COMPENSATION.**

The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The rate and schedule of payment is set out in EXHIBIT C, entitled "COMPENSATION," which is attached and incorporated.

**SECTION 5. METHOD OF PAYMENT.**

Each month, CONSULTANT shall furnish to the AGENCY a statement of the work performed for compensation during the preceding month. Such statement shall also include a detailed record of the month's actual reimbursable expenditures.

**SECTION 6. INDEPENDENT CONSULTANT.**

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent CONSULTANT and not an agent or employee of AGENCY.

**SECTION 7. ASSIGNABILITY.**

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of AGENCY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

**SECTION 8. INDEMNIFICATION.**

CONSULTANT shall defend, indemnify and hold harmless AGENCY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT's officers, employees or agents. The acceptance of services and duties by AGENCY shall not operate as a waiver of such right of indemnification.

**SECTION 9. INSURANCE REQUIREMENTS.**

CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT D, entitled "INSURANCE," which is attached and incorporated. All policies, endorsements, certificates and/or binders shall be subject to approval by the Agency as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Agency.

CONSULTANT agrees to provide AGENCY with a copy of the policies, certificates and/or endorsements before work commences under this AGREEMENT.

**SECTION 10. NONDISCRIMINATION.**

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

**SECTION 11. TERMINATION.**

- A. Either party shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination.
- B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, AGENCY may terminate this AGREEMENT immediately upon written notice.
- C. AGENCY's Executive Officer is empowered to terminate this AGREEMENT on behalf of AGENCY.
- D. In the event of termination, CONSULTANT shall deliver to AGENCY copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, AGENCY shall pay CONSULTANT for services performed and reimbursable expenses incurred to the date of termination.

**SECTION 12. STANDARD OF PRACTICE.**

CONSULTANT shall exercise the degree of care and skill ordinarily exercised by companies in the same business performing the same or similar services at the same time and in the same geographic area. CONSULTANT makes no warranty, either expressed or implied, as to

the Services, except that the Services were performed pursuant to the standard of practice described.

**SECTION 13. GOVERNING LAW.**

AGENCY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

**SECTION 14. COMPLIANCE WITH LAWS.**

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

**SECTION 15. CONFIDENTIAL INFORMATION.**

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by AGENCY, or as required by law.

**SECTION 16. OWNERSHIP OF MATERIALS.**

All reports, documents or other materials developed or discovered by CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of AGENCY without restriction or limitation upon their use. It is understood by both parties that materials will be subject to the Public Records Act.

**SECTION 17. WAIVER.**

CONSULTANT agrees that waiver by AGENCY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by AGENCY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

**SECTION 18. CONSULTANT'S BOOKS AND RECORDS.**

- A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to AGENCY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.
  
- B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
  
- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to AGENCY, at any time during regular business hours, upon written request by the Executive Officer, Finance Officer, General Counsel, or a designated representative of any of these officers. Copies of such documents shall be provided to AGENCY for inspection. Unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.
  
- D. Where AGENCY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONSULTANT's business, AGENCY may, by written request by any of the above-named officers, require that custody of the records be given to AGENCY. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

**SECTION 19. SPECIAL PROVISIONS.**

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT E, entitled, "SPECIAL PROVISIONS", which is attached and incorporated.

**SECTION 20. NOTICES.**

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To AGENCY: Santa Clara Valley Habitat Agency  
Attn: Executive Officer  
535 Alkire Avenue, Suite 100  
Morgan Hill, CA 95037

To CONSULTANT:

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

**SECTION 21. VENUE.**

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

**SECTION 22. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.**

This AGREEMENT, including all Exhibits attached, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached conflict with any of the terms specified in the body of this

AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

The Parties hereto execute this Agreement.

“AGENCY”

APPROVED AS TO FORM:

SANTA CLARA VALLEY HABITAT AGENCY, a  
joint powers authority

\_\_\_\_\_  
VALERIE J. ARMENTO  
General Counsel

By \_\_\_\_\_  
EDMUND SULLIVAN  
Executive Officer

“CONSULTANT”

\_\_\_\_\_, a \_\_\_\_\_

By \_\_\_\_\_  
Name:  
Title:



**EXHIBIT A**  
**SCOPE OF SERVICES**

CONSULTANT shall perform the following services:

[INSERT DETAILED, CLEAR DESCRIPTION OF SERVICES THAT CONSULTANT WILL PERFORM. USE ACTIVE RATHER THAN PASSIVE VOICE. INCLUDE CLEAR DESCRIPTION OF DELIVERABLES.]

**EXHIBIT B**

**SCHEDULE OF PERFORMANCE**

[INSERT APPLICABLE SCHEDULE. THE FOLLOWING IS ONLY ONE EXAMPLE OF A VERY GENERAL SCHEDULE. MORE SPECIFICS MAY BE NEEDED.]

Work shall commence immediately upon execution of this AGREEMENT. The estimated time for completion is \_\_\_\_\_.

**EXHIBIT C**  
**COMPENSATION**

[INSERT APPLICABLE COMPENSATION PROVISIONS. THE FOLLOWING IS ONLY ONE EXAMPLE OF VERY GENERAL COMPENSATION PROVISIONS. MORE SPECIFICS MAY BE NEEDED.]

AGENCY agrees to compensate CONSULTANT at the hourly rate of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for professional services performed in accordance with the terms and conditions of this AGREEMENT.

The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including both payment for professional services and reimbursable expenses, shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to AGENCY.

Reimbursable expenses shall include:

**EXHIBIT D**  
**INSURANCE**

CONSULTANT, at CONSULTANT's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subCONSULTANTS.

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the Agency Counsel.

**B. Minimum Limits of Insurance**

CONSULTANT shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and

4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by Agency Counsel. At the option of AGENCY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects AGENCY, its officers, employees, agents and CONSULTANTS; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the Agency Counsel.

**D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
  - a. The Santa Clara Valley Habitat Agency, its officers, employees, agents and CONSULTANTS are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to AGENCY, its officers, employees, agents and CONSULTANTS.
  - b. CONSULTANT's insurance coverage shall be primary insurance as respects AGENCY, its officers, employees, agents and CONSULTANTS. Any insurance or self-insurance maintained by AGENCY, its officers, employees, agents or CONSULTANTS shall be excess of CONSULTANT's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided AGENCY, its officers, employees, agents, or CONSULTANTS.

d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Coverage shall contain a waiver of subrogation in favor of the AGENCY, its officers, employees, agents and CONSULTANTS.

2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the AGENCY, its officers, employees, agents and CONSULTANTS.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to AGENCY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

**E. Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to Agency.

**F. Verification of Coverage**

CONSULTANT shall furnish AGENCY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following postal address or any subsequent address as may be directed in writing by the Agency:

Santa Clara Valley Habitat Agency  
535 Alkire Avenue, Suite 100  
Morgan Hill, CA 95037

**G. SubCONSULTANTS**

CONSULTANT shall include all subCONSULTANTS as insureds under its policies or shall obtain separate certificates and endorsements for each subCONSULTANT.



SANTA CLARA VALLEY  
HABITAT AGENCY

# DRAFT

## EXHIBIT E

### SPECIAL PROVISIONS

[INSERT ANY SPECIAL PROVISIONS REQUIRED. THE FOLLOWING LANGUAGE CAN BE USED WHEN REQUIRED, BUT SHOULD NOT BE USED ROUTINELY.]

#### Retroactive Services.

It is understood and agreed that CONSULTANT has provided services prior to the execution of this AGREEMENT in anticipation of its execution. If AGENCY accepts and approves the services provided by CONSULTANT prior to the date of this AGREEMENT, AGENCY agrees to compensate CONSULTANT for those services in accordance with the terms of this AGREEMENT. However, in no event shall CONSULTANT be compensated for work performed for AGENCY prior to \_\_\_\_ .