SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

REQUEST FOR PROPOSALS (RFP)  20-1002397

FOR

PROPERTY MANAGEMENT SERVICES
AND
FACILITY MANAGEMENT SERVICES

KEY RFP DATES

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<td>RFP Release Date:</td>
<td>Friday – July 3, 2020</td>
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<td>Pre-Proposal Walk-Through Date:</td>
<td>Thursday – July 9, 2020 at 10:00 a.m. &amp; 2:00 p.m.</td>
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<td>Thursday – July 16, 2020 at 10:00 a.m. &amp; 2:00 p.m.</td>
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<td>Question Submittal Deadline:</td>
<td>Thursday – July 23, 2020 at 4:00 p.m.</td>
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<td>Proposal Due Date:</td>
<td>Thursday – August 6, 2020 at 2:00 p.m.</td>
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July 3, 2020

SUBJECT: NOTICE OF REQUEST FOR PROPOSALS (RFP) 20-1002397, “PROPERTY MANAGEMENT AND FACILITY MANAGEMENT SERVICES”, (hereinafter referred to as “Project”)

The San Bernardino County Transportation Authority (“SBCTA”) invites proposals from qualified firms to provide Property Management and Facility Management Services outlined in this RFP. Firms intending to submit proposals should submit a separate technical proposal and price proposal for the Property Management Service and the Facility Management Service clearly identifying the services proposed. Firms may submit a proposal for one or both services and must note in writing if the firm is willing to accept being selected for only one of the services or will only accept “All or None”. SBCTA may split awarding services between two firms if it would provide substantial cost savings to SBCTA or to obtain the best value to perform the work. Firms must note the “Key RFP Dates” on the cover of this RFP. It is our intention, subject to approval by SBCTA’s Awarding Authority, to have the selected firm under contract by November 2020. Firms submitting proposals will be evaluated based on qualifications, prior experience with the same or similar type of services identified in the attached Scope of Work, proposed staffing, the firm’s understanding of the needs and requirements of the Project, cost and price, and overall value to SBCTA as identified in this RFP.

The RFP and all RFP schedule updates and addenda, together with other important information, are available on the Vendor Portal on SBCTA’s website at: www.gosbcta.com, click on “Doing Business”, which will take you to the “Bids & RFPs” page. There, click on the tab “Vendor Portal”. The Vendor Portal is the official means of notification to all prospective proposers. Firms are requested to check the Vendor Portal periodically, and no less frequently than weekly, for RFP schedule updates, addenda, and other information. All proposers will be held accountable for compliance with all updates, addenda and other information posted on the website. Please note that SBCTA will not be responsible for mailing any addenda, schedule updates or other information to any firm.

Proposals are due on or before Thursday – August 6, 2020 at 2:00 p.m.

SBCTA has scheduled four (4) Pre-Proposal Walk-through meetings on two separate days for this procurement. Firms interested in submitting proposals for this procurement must attend at least one of the scheduled meetings. The first two walk-through meetings are scheduled for Thursday – July 9, 2020 at 10:00 am. and at 2:00 p.m. The send two walk-through meetings are scheduled for Thursday – July 16, 2020 at 10:00 a.m. and at 2:00 p.m. Attendance at this Pre-Proposal walk-through is MANDATORY. Non-attendance of the walk-through will disqualify firms from consideration for this procurement. All proposers will be held accountable for any addenda issued related to information and instructions given at the Pre-Proposal walk-through.
All questions related to this RFP must be put in writing and submitted to SBCTA no later than Thursday – July 23, 2020 at 4:00 p.m. All questions must be clearly labeled, “RFP20-1002397 - Written Questions” and submitted electronically to:

David Gallardo - Procurement Analyst
procurement@gosbcta.com
RFP20-1002397

Questions received after the deadline may or may not be responded to at the sole discretion of SBCTA. Questions received by the deadline or responded to after the deadline at the discretion of SBCTA, and the written responses, will be posted via written addendum on the Vendor Portal on SBCTA’s website at www.gosbcta.com: click on “Doing Business”, which will take you to the “Bids & RFPs” page. There, click on the tab “Vendor Portal”.

The California Labor Code section 1770, et seq., requires that certain consultants on public works projects pay their workers based on the prevailing wage rates which are established and issued by the Department of Industrial Relations, (http://www.dir.ca.gov). Proposers of this RFP agree to adhere to the Prevailing Wage requirement and use the wage schedules applicable at the time the work is performed, which can be obtained from the Department of Industrial Relations Internet site at (http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm).

Effective March 1, 2015, any consultant or sub consultant who submits a proposal or performs work that requires the payment of prevailing wages under state law must be registered with Department of Industrial Relations. This includes not only work performed by the building and construction trades, but also other types of work, including trucking, surveying, and testing, if that work is subject to prevailing wage requirements.

If the contract is awarded, the firm awarded the contract will be required to comply with all applicable laws and regulations, including but not limited to, equal opportunity laws and regulations.

Firms using sub consultants are encouraged to subcontract with small and disadvantaged businesses to the maximum extent possible.

The award of this contract is subject to the availability, appropriation and receipt of federal, State and/or local funds sufficient to carry out the work identified in this RFP.
SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

REQUEST FOR PROPOSALS 20-1002397

FOR

“PROPERTY MANAGEMENT
AND
FACILITY MANAGEMENT SERVICES”

I. PROPOSAL INSTRUCTIONS

A. INTRODUCTION

The San Bernardino County Transportation Authority (“SBCTA”) is soliciting proposals from qualified firms (“firms” or “proposers”) to assist SBCTA with providing Property Management and Facility Management Services (“Project”).

B. CONTACT INFORMATION

All inquiries, contacts or questions related to this RFP shall be directed to:

San Bernardino County Transportation Authority
David Gallardo - Procurement Analyst
Email: procurement@gosbcta.com

Proposers are cautioned not to discuss this RFP with any official, Board Member or employee of SBCTA, other than the staff identified herein. Neither proposers, nor anyone representing the proposer, are to discuss this RFP with any consultant or contractor engaged by SBCTA for assistance in preparing a response to the RFP. Violation of this prohibition may result in disqualification of the proposer.

C. PRE-PROPOSAL CONFERENCE

SBCTA has scheduled four (4) Pre-Proposal Walk-through meetings on two separate days for this procurement. Firms interested in submitting proposals for this procurement must attend at least one of the scheduled meetings. The first two walk-through meetings are scheduled for Thursday – July 9, 2020 at 10:00 a.m. and at 2:00 p.m. The second two walk-through meetings are scheduled for Thursday – July 16, 2020 at 10:00 a.m. and at 2:00 p.m. Attendance at this Pre-Proposal walk-through is MANDATORY. Non-attendance of the walk-through will disqualify firms from consideration for this procurement. All proposers will be held accountable for any addenda issued related to information and instructions given at the Pre-Proposal walk-through.

D. WRITTEN QUESTIONS/CLARIFICATIONS

All questions and/or clarifications to this RFP, including questions that could not be specifically addressed at the Pre-Proposal Conference, must be put in writing and submitted electronically to procurement@gosbcta.com, and they must be received by SBCTA no later than Thursday – July
23, 2020 at 4:00 p.m. Questions received after the date and time specified may or may not be responded to, at the sole discretion of SBCTA. All questions/clarifications must be clearly labeled “RFP20-1002397 – Written Questions”. SBCTA is not responsible for failure to respond to questions that are not appropriately marked. SBCTA’s responses to the questions received by the date and time identified herein, including SBCTA’s answers, will be posted on the Vendor Portal on SBCTA’s website at www.gosbcta.com; click on “Doing Business”, which will take you to the “Bids & RFPs” page. There, click on the tab “Vendor Portal”.

E. ADDENDA

Any changes to this RFP will be made by written addendum and posted on SBCTA’s website. SBCTA will not be bound to any modifications to or deviations from the requirements set forth in this RFP as a result of any oral discussions and/or instructions. Proposers shall acknowledge any addenda in their proposal.

F. CONTRACT TYPE

A firm fixed price contract will be used for the Project. Any work provided by the selected firm that is not specifically covered by the contract will not be reimbursed. Please refer to the form of contract attached to this RFP for more detailed information.

G. INFORMED PROPOSER

Proposers shall review the Scope of Work (Attachment A), the Price Proposal (Attachment B), and the contract (Attachment C), for a complete understanding of the terms and conditions of this RFP. Proposers are expected to be fully aware of the conditions, requirements, and Scope of Work before submitting any proposal. Failure to do so will be at the proposer’s own risk. By submitting a proposal, the proposer represents that it is legally qualified and fully capable of performing quality work to achieve SBCTA’s objectives and comply with all requirements identified in this RFP and any and all schedule updates, addenda and other information and instructions posted on SBCTA’s website or provided in the Pre-Proposal Conference as set forth above.

H. CONFLICT OF INTEREST

Any person or firm that has assisted SBCTA in preparing any aspect of this RFP or any cost estimate associated with the Scope of Work related to this RFP is prohibited from submitting a proposal in response to this RFP. Firms that received assistance from any such person or entity, or who will use the services of such person or entity in performing the Work, will be disqualified. A firm who is prohibited from submitting a proposal in response to this RFP will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time.

I. PRE-CONTRACTUAL EXPENSES

SBCTA shall not be liable for any pre-contractual expenses incurred by the firm in preparation or submission of their proposal. The proposer shall not include any such expenses as part of their price proposal. Prohibited pre-contractual expenses include any and all expenses incurred by the proposer prior to issuance of the Notice To Proceed by SBCTA.

J. IRAN CONTRACTING ACT OF 2010 – INTENTIONALLY OMITTED.
K. PREVAILING WAGES

The awarded firm shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages, including, but not limited to California Labor Code Section 1770 et. seq. It is required that all mechanics and laborers employed or working on this Project shall be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current wage schedules of the Department of Industrial Relations (DIR), Division of Labor. Firms seeking to perform work on SBCTA’s projects must be registered on the DIR website in order to submit a proposal on state and local projects as defined under the Labor Code.

SBCTA will not accept a proposal nor award any contract without verification that the consultant and their sub consultants are currently registered. Consultants and sub consultants on all public works projects will be required to submit electronic certified payroll records (CPR’s), to the Labor Commissioner on the DIR website. Firms are still required to submit CPR’s directly to SBCTA for review, as well. The prime firm will be required to ensure that their sub consultants subject to prevailing wages are properly registered with the DIR prior to proposal submittal.

L. MATERIALS FURNISHED BY SBCTA

All software, data, reports, surveys, drawings, and other documents furnished to the consultant by SBCTA for the consultant's use in the performance of Work shall be made available only for use in performing the assignment and shall remain the sole property of SBCTA. All such materials shall be returned to SBCTA upon completion of Work, termination of the contract, or other such time as SBCTA may determine.

M. DISADVANTAGED BUSINESS OPPORTUNITIES

Though no DBE goal is set for this Project, SBCTA encourages participation from small and Disadvantaged Business Enterprise (DBE). Firms interested in the DBE program may contact Jeffery Hill, Procurement Manager, at (909) 884-8276.

II. PROPOSAL SUBMITTAL

The procurement will be conducted electronically through SBCTA’s PlanetBids Vendor Portal webpage. SBCTA will not accept paper copies for any part of this procurement, including the proposal submittal.

Proposals are due at or before Thursday – August 6, 2020 at 2:00 pm. Proposals will be submitted electronically through SBCTA’s Vendor Portal PlanetBids. To propose for this project vendors must be registered with SBCTA’s PlanetBids Vendor Portal website.

A firm must accept the Terms and Conditions in order to proceed. Firms will have a series of tab and may save their bid at any time as a draft. Firms may edit the bid as often as they need to until the RFP closes. Proposals received after the date and time specified will be returned to the firm without further consideration or evaluation.

Please note that where two or more firms, persons or entities wish to submit one proposal in response to this RFP, they should do so on a prime/sub-consultant basis rather than as a joint venture. SBCTA will contract with a single firm, person, or entity only, and not with a joint venture.
A. PROPOSAL CONTENT

The proposal is limited to a fifty (50) page cap on an 8 ½” x 11” format, using at least an 11-point font. Only charts and schedules may use an 11” x 17” format, and will be counted as one page each. Each page must be consecutively numbered. Proposals shall not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Proposals that do not contain the required information will be deemed non-responsive and will not be considered. The page limit does not include the following:

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If at any time during the RFP process a firm makes any changes to proposed key personnel or sub consultants, the firm must notify SBCTA in writing of those proposed changes as soon as they are known. SBCTA reserves the right to accept or reject such proposed changes or to revise the evaluation scoring to reflect the proposed staffing changes.

All proposals must include the following information:

1. **Cover Letter**
   - Identification of all proposed sub consultants, including description of the work to be performed by the firm and each sub consultant proposed for the Project and an estimate of the percentage of work to be performed by each sub consultant.
   - Indicate the location of the office from which the work will be performed.
   - A memorandum from a principal of each sub consultant indicating the specific portion of the Work the sub consultant will be performing.
   - Acknowledgement of all addenda.
   - A signed statement by an officer of the prime firm attesting that all information in the proposal is true and correct.
   - A signature of an authorized person within the prime firm who can bind the firm to the terms and conditions of the RFP.
   - A statement that the proposal shall remain valid for 120 days from the date of submission.
   - A list of all prime contracts (if any) awarded to the proposer by SBCTA for the last five (5) years. The list shall include a short description of the project, the award date, completion date, name of assigned Project Manager and contract value.
2. **Contract Termination Circumstances**

If proposer has ever been terminated from a contract, describe the facts and circumstances in detail. Firms shall refer to SBCTA Policy No. 11000 for details. Firms may download the Policy from SBCTA’s website at [www.gosbcta.com](http://www.gosbcta.com); click on “Doing Business” and under the tab “Bids & RFPs,” scroll down to the heading “Important Documents”.

3. **Technical Information**

The technical portion of the proposal shall include the following information:

**a. Qualifications, Related Experience, and References**

This section of the proposal should establish the ability of the proposed team to satisfactorily perform the required work by reasons of: experience in performing work of the same or similar nature; demonstrated experience working with agencies and cities directly involved in this Project, if applicable; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Specifically:

- Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees. Include confirmation that the prime and sub consultants are registered with the Department of Industrial Relations.

- Provide a general description of the firm's current financial condition; identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede ability to complete the Project.

- Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and the participation in such work by the key personnel proposed for assignment to this Project. Highlight the firm’s and key personnel’s experience with the work or services identified in the Scope of Work.

- Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.

- Provide a list of past joint work by the proposer and each sub consultant, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.

- Provide completed reference forms for work of a similar nature to what is in this RFP. (See 6. References for full details). References may also be supplied from other work not cited in this section as related experience.
b. Proposed Staffing and Project Organization

This section of the proposal should establish the method that will be used to manage the Project as well as identify key personnel assigned and their qualifications.

Specifically:

- Provide education, experience and applicable professional credentials of proposed staff.
- Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this Project, current assignment, level of commitment to that assignment, availability for this assignment, and how long each person has been with the firm. SBCTA reserves the right to review, approve and/or designate the positions and functions deemed to be “key” to the Project and request information concerning key personnel not listed as such by the proposer.
- Furnish brief resumes (not more than two [2] pages each) for the proposed key personnel.
- Include a Project organization chart that clearly delineates communication and reporting relationships among the project staff, including sub consultants.
- Include a statement that key personnel will be available to the extent proposed, or designated by SBCTA, for the duration of the Project, acknowledging that no person designated as "key" to the Project shall be removed or replaced without the prior written concurrence of SBCTA.

c. Project Approach/Work Plan

This section of the proposal shall provide a narrative that addresses the Scope of Work and shows understanding of the Project needs and requirements.

Specifically:

- Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the firm’s ability to accomplish the project objectives and to meet the Project schedule.
- Outline sequentially the activities that would be undertaken in completing the tasks and specify who in the firm would perform the work.
- Furnish a Project schedule for each task and subtask in terms of elapsed weeks from commencement date.
- Identify methods that will be used to ensure quality control as well as budget and schedule control for the Project.
- Identify any special issues or problems that are likely to be encountered during this project and how will they be addressed.
Proposers are encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

4. **Forms** – Proposers are required to complete and submit the following form, which are included in this RFP, with their proposal:
   - Form 12-B, “Bidders List of Subcontractors”.
   - Certificate of Compliance with Insurance Requirements
   - Disclosure of Campaign Contributions to Board of Directors

5. **Price Proposal** –
   Proposers shall complete the pricing documents in this RFP identified as Attachment B, and submit with their proposal.

6. **References** –
   Proposing firm and the Project Manager shall each have a total of 3 completed Reference Forms (See Attachment D) submitted directly from current or past clients. It is the responsibility of the Proposer to ensure timely return of any/all Reference Forms to procurement@gosbcta.com in accordance with the proposal due date and time established within this solicitation. Reference Forms will only be accepted if received directly from the client; forms received directly from the Proposer will NOT be evaluated. Reference Forms must include the name, title, address, telephone number, and e-mail address of the person(s) at the client organization who is most knowledgeable about the work performed.

7. **Scope of Work and / or Contract Exceptions**
   SBCTA does not anticipate making substantive changes to its form contract. Proposers are asked to include in their proposals a written discussion of any and all proposed exceptions to or deviations from SBCTA’s Scope of Work or form of contract presented herein as Attachment C. Proposers will be deemed to have accepted any and all terms and conditions not objected to or identified for any exception or deviation in the proposal and no further negotiations of any such term or condition will occur. SBCTA will not negotiate exceptions or deviations not presented in the proposal and may reject proposals where identified exceptions or deviations affect terms of conditions that SBCTA considers non-negotiable.

8. **Appendices**
   Information considered pertinent to this RFP or to the evaluation of qualifications of the proposer, which has not been specifically solicited in any of the aforementioned sections, may be placed in a separate appendix section. Appendices are not included within the page limit set forth above. Appendices should be relevant and brief.

**III. ACCEPTANCE OF PROPOSALS**

SBCTA reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in a proposal. SBCTA reserves the right to withdraw
or cancel this RFP at any time without prior notice and SBCTA makes no representation that any contract will be awarded to any firm responding to this RFP. SBCTA reserves the right to reject all proposals and to re-issue (or not re-issue) a new RFP for the same or similar Work. SBCTA reserves the right to postpone proposal openings for its own convenience. Proposers may withdraw their proposals before the proposal submittal date by submitting a written request signed by an authorized representative of the firm and delivered to SBCTA’s Procurement Manager at the address identified herein.

IV. SELECTION CRITERIA AND WEIGHTS

The primary objective of SBCTA is to select a qualified firm to perform the Scope of Work for SBCTA at a fair and reasonable cost. In addition, SBCTA has established the following criteria for the selection process:

A. The selection process shall be fair, open, and competitive.

B. The selection of the firm will be based on clearly stated objectives identified in this RFP.

C. Selection of the firm shall be based upon demonstrated competence, professional qualifications, experience and capabilities, and overall best value to perform the required Work identified in the Scope of Work.

D. Upon review of the proposals, a shortlist of firms within the competitive range will be invited to an interview tentatively scheduled for Thursday – August 13, 2020. Interviews will be conducted remotely. Firms invited to interview are asked to coordinate and provide remote access to the procurement analyst to invite the evaluation committee for the interview. SBCTA has no preference on the web-based program used, but keep in mind the program should be easily accessible with no cost to the attendees. The contract will be awarded to the firm who offers the overall best value, best conforming to the RFP, which is, in the opinion of SBCTA, most advantageous to SBCTA, and with whom a successful negotiation and agreement on cost and price can be concluded. The determination of the competitive range is at the sole discretion of SBCTA’s Evaluation Committee.

E. SBCTA reserves the right to reject any and all proposals and to negotiate with any responsible, responsive firm. SBCTA is under no obligation to award a contract for the Scope of Work. At the conclusion of the evaluation process, the Evaluation Committee will recommend to the body or officer having authority to award the Contract on behalf of SBCTA (“Awarding Authority”) the firm that offers the best overall value to SBCTA. SBCTA may or may not engage in negotiations with firms who submit proposals; therefore, the firm’s proposal should contain the most favorable terms and conditions including pricing, since the selection and award may be made without any discussion with any firm.

F. Proposals will be evaluated based on the criteria and weights identified herein.

- **Qualifications, Related Experience and References:** Firm’s experience, years in business, and past and current client references; technical expertise and professional competence in areas directly related to this RFP; number of years’ experience performing similar work; demonstrated ability to manage and coordinate the Work, deliver quality products and services, and deliver projects within budget and on schedule; and experience working with public agencies identified in this RFP. – 30 points.
• **Proposed Staffing and Project Organization:** Technical expertise and professional competence in areas directly related to the work identified in the RFP; level of experience, possession of certifications and licenses required, and level of training of key personnel assigned, including sub consultants, if applicable; strength of experience and stability of proposed personnel; breadth and depth of resources, coordination of Work and quality control; availability of proposed staffing; and concurrence with restrictions on changes to key personnel. – **15 points.**

• **Work Plan:** Depth of understanding of SBCTA’s needs and requirements, understanding of the Scope of Work. Proposer’s approach and methodology/systems reflect ability to provide the requested Work. Demonstrated knowledge of the Work being requested; identification and knowledge of all requirements cited in the Scope of Work; and proposed technical and procedural innovations identified in the proposal – **20 points.**

• **Price:** Reasonableness of fee proposed. The price proposal follows prescribed format; includes breakdown of labor and expenses; is competitive with the marketplace of the same or similar services; and the proposed level of effort is consistent with the Scope of Work. – **35 points.**

G. SBCTA shall select the highest ranked firms to participate in the interview process. The number of firms so invited shall be at the discretion of SBCTA, but shall not be less than two. Firms who are invited to the interview will be asked a series of questions which will be scored. The maximum score for the interviews is 100 points. Upon completion of the interview, the Evaluation Committee shall compile their interview scores. The technical proposal will be weighted at **40%** and the interview will be weighted **60%** of the total point score.

V. **NEGOTIATIONS AND AWARD**

The contract, Scope of Work and price may be negotiated with the selected consultant. However, SBCTA may elect to not negotiate with any of the firms, and/or not award the contract. Therefore, it is imperative that each firm submit their best price as part of their proposal.

Firms are advised that any recommendation for contract award is not binding on SBCTA until SBCTA’s Awarding Authority approves the contract and the contract is fully executed.

VI. **PROTEST INFORMATION**

SBCTA has on file written protest procedures (Policy 11007). Firms may download a copy from [www.gosbcta.com](http://www.gosbcta.com); click on “Doing Business” and under the tab “Bids & RFPs,” scroll down to the heading “Important Documents”.

VII. **DEBRIEFING**

Firms who submit a proposal in response to the RFP shall be notified in writing when: the firm was not selected to receive further consideration in the RFP process; the firm was selected for the interview process; and after the RFP Evaluation Committee’s recommendation to award has been determined. Firms who were not awarded the contract may obtain a debriefing by contacting SBCTA’s Procurement Analyst at procurement@gosbcta.com. Firms will have thirty (30) calendar days from the date identified in the written correspondence to request a debriefing.
VIII. PUBLIC RECORDS ACT

Proposals may be subject to public disclosure under the California Public Records Act and other public records laws, and by submitting a proposal, the proposer waives all rights to confidentiality of any information submitted in the proposal and agrees to any and all such disclosures required or permitted by law. Proposals become the property of SBCTA when submitted and by submitting a proposal, the proposer agrees that SBCTA may use any information, documentation or writing contained in the proposal for any SBCTA purpose.
ATTACHMENT “A”

“SCOPE OF WORK”
RFP20-1002397
ATTACHMENT “A”
“SCOPE OF WORK”

PROPERTY MANAGEMENT SERVICES

The San Bernardino County Transportation Authority (SBCTA) is seeking proposals for property and facility management services relating to the occupancy of the Santa Fe San Bernardino Depot located at 1170 West 3rd Street in San Bernardino, CA 92410 (“Premises”). The building, as well as the land upon which it sits, is jointly owned by SBCTA and the City of San Bernardino (“City”) as tenants in common. Square footage and maps of the Premises are included as “Property Management Services - Attachment A” and “Facility Management Services – Attachment A” of the RFP.

I. PROPERTY MANAGEMENT SERVICES:
The selected firm (“Consultant”) shall perform the following services:

A. Marketing leasable space, handling tours of the suites to prospective tenants, and where appropriate, hiring and supervision of commercial leasing broker alliances to increase exposure;

B. Screening of prospective tenants and negotiating leases for leasable space for approval by SBCTA after conferring with the City, including:
   1. Processing applications, credit reports, financial information, etc., to determine and make recommendations as to acceptance and associated risk of each prospect;
   2. Landlord represented negotiations for prospective new tenants or existing tenants lease renewals as the case may be, using SBCTA approved lease documentations.

C. Managing pre-existing and new leases, including the payment and allocation of common area and non-lease space expenses, the collection of rental income, handling eviction proceedings, and the distribution of any net rental income revenue to SBCTA and the City. Adjustments to the allocation of common area and non-leased space expenses shall be made not more frequently than every six (6) months. Services will include, but are not limited to:
   1. Rent collection, which will include facilitating tenants’ ability to pay via credit card if desired;
   2. Computerized tenant accounting with mailed monthly rent statements and return envelopes, making rent payments easier for tenants;
   3. Monitoring and implementation of lease provisions, such as periodic rent increases, assessment of late fees, requesting insurance certificates, notification of key events (such as expirations and options to extend or expand), etc.;
   4. Handling of evictions when necessary, including, but not limited to, preparation and service of 3-day and 30-day notices, and interaction with legal counsel throughout the Unlawful Detainer process;
5. Providing staff member(s) specializing in and dedicated to fielding maintenance requests, including consulting lease documents to verify responsibility, dispatching the appropriate vendor, and following up with tenants to ensure successful resolution.

**Leases**

SBCTA must approve all leases. A call for bids of the space proposed for lease shall be posted in at least three (3) public places for not less than fifteen (15) days and published for not less than two (2) weeks in a newspaper of general circulation. The highest proposal for the proposed lease submitted in response to a call for bids shall be accepted, or all bids shall be rejected.

Leases for a period not exceeding ten (10) years and having an estimated monthly rental of not more than $5,000 may be excluded from the bidding procedure specified in the previous paragraph. Leases excluded from the bidding procedure shall be subject to the following requirements:

- Notices requesting offers to lease SBCTA property shall be posted in the SBCTA offices. Notices shall also be mailed or delivered at least fifteen (15) days prior to accepting offers to lease to any person who has filed written request for notice with SBCTA. Such requests to receive notices shall be renewed annually. Notice shall be published as provided in Government Code Section 6061.
- Notices requesting offers to lease SBCTA property shall describe the property proposed to be leased, the terms of the lease, the location where offers to lease the property will be accepted, the location where leases will be executed, and any SBCTA officer authorized to execute the lease.
- SBCTA Executive Director, or his designee, is authorized to approve and execute leases exempted from the bidding procedures.
- Leases exempt from the bidding procedures are not renewable except by approval of SBCTA after a competitive process.

**Tenant Lease Compliance, Service Requests and Complaints**

The Consultant shall maintain business-like relations with all tenants. The Consultant shall use its reasonable efforts and due diligence to secure full compliance by tenants with the terms and conditions of their respective leases, and to this end, shall use its reasonable efforts to see that all tenants are informed with respect to such rules, regulations and notices as may be promulgated by SBCTA. The Consultant shall not knowingly take any action which would violate any tenant’s lease and shall promptly deliver to SBCTA any notice of default received from a tenant and use its reasonable efforts to cure such default.
II. FACILITY MANAGEMENT SERVICES

The selected Consultant shall perform the following services:

A. Requiring that all subcontractors comply with all federal, state, and local laws and regulations;

B. Requiring that all subcontractors possess a valid license, certification or registration with the appropriate State of California licensing board including, but not limited to: the Contractors State Licensing Board (CSLB), Bureau of Security and Investigative Services (BSIS), Office of the State Fire Marshal (SFM), State of California Department of Industrial Relations Division of Occupational Safety and Health, Structural Pest Control Board, California Department of Pesticide Regulation and/or other State of California licensing board relevant to their specific field, trade, or services; in addition, the Consultant shall ensure that all subcontractors have obtained and submitted proof of insurance with limits and coverages that are consistent with their respective scopes of work. In no way shall the insurance submitted on behalf of a subcontractor be less than the insurance requirements for subcontractors described in the executed contract.

C. Requiring subcontractors to comply with all prevailing wage requirements as determined by the Department of Industrial Relations;

D. Requiring that all maintenance, repairs, and/or alternations are conducted in a manner that preserves the historic integrity of the building.

E. Competitively bidding for the hiring and oversight of a Contractor to provide unarmed security guard services at the Premises and its immediately adjacent parking areas (common areas) 24-hours a day, 7-days a week. Unarmed security services must have applicable certifications and/or licenses to perform services. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

H. Competitively bidding for the hiring and oversight of a Contractor to provide landscaping services for the Premises and its common area. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

I. Competitively bidding for the hiring and oversight of a Contractor for any heating, ventilating, and air conditioning (HVAC) maintenance and repair services, including program and maintenance of the HVAC computer system, for the Premises. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

J. Competitively bidding for the hiring and oversight of a Contractor to provide pest control services for the Premises and its common area. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.
K. Competitively bidding for the hiring and oversight of a Contractor to provide window cleaning services for the Premises. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

L. Competitively bidding for the hiring and oversight of a Contractor to provide elevator maintenance and repair services for the Premises. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

M. Competitively bidding for the hiring and oversight of a Contractor to provide janitorial services for the Premises; does not apply to a restaurant or other food-related tenant, which would be responsible for its own janitorial service. Janitorial services will also be required following any scheduled use of the banquet/community room. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

N. Competitively bidding for the hiring and oversight of a Contractor to provide day porter services for the Premises. Specific duties shall be determined by Consultant and SBCTA prior to the Consultant releasing a competitive bid.

O. Competitively bidding any maintenance and repair services, including, fire extinguisher and alarm monitoring services. Services to be done will be determined by Consultant and SBCTA prior to Consultant releasing competitive bid.

**Service and Supply Contracts**

The Consultant shall directly select, supervise, and engage, with the written approval of SBCTA’s Executive Director or designee: independent contractors, suppliers and vendors, in the operation, repair, maintenance and servicing of the premises, including but not limited to those necessary for custodial services, landscaping services, security services, the supplying of electricity, gas, water, telephone, cleaning, elevator maintenance, vermin extermination, trash removal, and other services deemed necessary or advisable by the Consultant for the operation of the premises.

All service contracts shall, unless expressly approved in writing by SBCTA: 1) include a provision for cancellation (without penalty) on not more than thirty (30) days’ written notice, 2) require that all contractors provide evidence of insurance which meet SBCTA’s minimum insurance requirements noted in Exhibit A, 3) include a provision requiring the contractor to indemnify SBCTA, the City, and the Consultant for any and all claims arising from its acts and omissions, including but not limited to willful misconduct, negligence and all actions in excess of the authority granted to the contractor under the terms of its contract with the Consultant.

All procurement procedures shall follow SBCTA’s Contract and Procurement Policy:

- Informal competitive procurement procedures will generally be used for purchases in excess of $5,000, but not exceeding $25,000.
- The formal Request for Proposal (RFP)/Request for Qualifications (RFQ) process will be used to solicit proposals for services in excess of $25,000 and for solicitation of proposals less than $25,000 in instances where this process is deemed appropriate by SBCTA.
- Formal competitive procurement procedures will follow the competitive sealed bid method of procurement for purchases in excess of $25,000.
• The sole source process will be used for specific instances when it may be necessary or prudent to enter into sole source contracts. The SBCTA Executive Director or designee, shall approve sole source procurements in compliance with SBCTA’s Contract and Procurement Policy, except that with respect to this Contract, the Executive Director is authorized to approve sole source procurements in excess of $25,000. Such sole source procurements shall be routinely reported to the SBCTA Board of Directors.

The Consultant must follow all requirements for these procurement procedures, which can be found by referencing SBCTA’s Contract and Procurement Policy.

For all public works projects that exceed $1,000: all contractors and subcontractors bidding and performing work must register on an annual basis with the California Department of Industrial Relations (DIR), and furnish electronic payroll records for new projects to the Labor Commissioner. Additional information can be found at dir.ca.gov.

Disbursements for Expenses of Property

The Consultant shall, consistent with the approved Budget:

• Pay all bills which the Consultant determines are properly payable;
• Pay water charges, sewer fees, and utility assessments and all other charges and impositions as they shall become due and payable;
• Processing of payables to ensure timely vendor payments and/or as directed by SBCTA solely out of the Operating Account;
• Prepare a budget and annual reconciliation and pro-rata billings of common area maintenance and operating expense increase pass-throughs as appropriate, including documentation and allocation of non-leased space costs to SBCTA and the City;
• Prepare monthly financial reports showing all funds received and disbursed, complete with current and historical profit and loss statements, occupancy reports, bank reconciliations, and various other custom reporting capabilities, and distribution of any net income revenue to SBCTA and the City;
• Prepare monthly narrative property report, featuring operational, leasing, and financial highlights from the previous month;
• Use due diligence and employ reasonable efforts to ensure that the actual costs of maintaining and operating the Premises shall not exceed the amount provided in the applicable budget (either total or in any line-item).

Construction Management Services

For projects of less than $5,000, the Consultant shall order labor and materials and provide the associated supervision and direction for the installation of such renovations, improvements and/or alterations to the premises. Further, the Consultant shall, at SBCTA’s cost and expense, provide labor and materials, through Contractors approved in writing by SBCTA, to perform such work.

For projects greater than $5,000, the Consultant shall, subject to SBCTA authorization, receive a fee equal to 10% of project cost for its project supervision.
EXHIBIT “A”- SAMPLE INSURANCE REQUIREMENTS

Vendor shall procure and maintain, for the duration of the Purchase Order (PO)/Contract, insurance against claims for injuries to persons or damages that may arise from, or in connection with, the services provided under the PO/Contract by Vendor, its agents, representatives, employees or subcontractors as follows:

Scope of Coverages and Minimum Limits of Insurance (Check all applicable boxes)

Vendor shall provide proof of insurance coverage at least as broad as and with limits no less than the following, which insurance coverage shall be maintained for the term of the PO and any extensions thereto:

☐ Commercial General Liability Coverage: Commercial General Liability with limits of not less than of $1,000,000 per occurrence for bodily injury, personal injury and property damage, with an annual aggregate of not less than $2,000,000. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.

☐ Automobile Liability: ISO Form number CA 00 01 covering any auto (Code 1), or if Vendor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with a limit of not less than $1,000,000 per accident for bodily injury and property damage.

☐ Worker’s Compensation insurance as required by the State of California, with statutory limits, and Employer’s Liability Insurance with minimum limits of not less than $1,000,000 per occurrence for bodily injury and $1,000,000 per disease, for each employee.

☐ Excess and/or Umbrella insurance coverage shall be in excess over the General Liability, and Automobile Liability policies of (level of coverage determined on a case by case basis):
  ☐ $5,000,000   ☐ $10,000,000

☐ Course of Construction: Providing coverage for “all risks” of loss in the completed value of the project.

☐ Property Insurance on an “all risks” policy to any tenant improvements or betterments with full replacement cost with no coinsurance penalty provision.

☐ Contractors Pollution Liability with coverage for:
  a. bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
  b. property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
  c. defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; and
d. losses caused by pollution conditions that arise from the operations of the contractor described under the scope of services of this contract.

$1,000,000 per occurrence $2,000,000 annual aggregate.

Railroad Protective Liability Insurance (Necessary for all utility uses and non-utility uses with the potential to affect existing or planned operational railroad right of way):

Coverage: Insurance Services Office Form Railroad Protective Liability, AAR-AASHTO (ISO/RIMA), naming PROPERTY MANAGEMENT FIRM as Certificate Holder, with respect to the operations they or any of their subcontractors perform on the Property. Minimum Limits: **$2 million per occurrence** combined single limit, for coverage and for losses arising out of injury to or death of all persons and for physical loss or damage to or destruction of Property, including the loss of use thereof. A **$6 million annual aggregate** shall apply. If evidencing coverage on the Lloyd’s of London claims-made form, the following provisions shall apply:

a. The limits of liability shall be not less than $3 million per occurrence, combined single limit. A $9 million aggregate may apply.

b. Declarations item 6, extended claims made date, shall allow an extended claims made period no shorter than the length of the original policy period plus one year.

c. If “equivalent or better” wording is not contained in the policy form, the following endorsement must be included:

It is agreed that "physical damage to Property" means direct and accidental loss of or damage to rolling stock and their contents, mechanical construction equipment or motive power equipment, railroad tracks, roadbed, catenaries, signals, bridges or buildings.

In cases of low hazard activity and insignificant risk to rail facilities, and if the exposure to the track is physically separated by a building, floor or a continuous fence (no thoroughfares) and Vendor’s employees are explicitly notified, trained, and supervised such that they are not permitted to have any contact with the track or its related improvements, PROPERTY MANAGEMENT FIRM may waive the Railroad Protective Liability Insurance requirement, in PROPERTY MANAGEMENT FIRM’s sole and absolute discretion, where PROPERTY MANAGEMENT FIRM agreements and obligations with rail operators allow it.

### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by PROPERTY MANAGEMENT FIRM. At the option of PROPERTY MANAGEMENT FIRM, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects PROPERTY MANAGEMENT FIRM, its officials, employees, members, contractors, consultants, authorized rail operators’ agents, and affiliated entities (“Related Parties”); or the Vendor shall procure a bond guaranteeing payment of losses, and related investigations, claim administration and defense expenses.
Waiver of Subrogation

Vendor hereby grants to PROPERTY MANAGEMENT FIRM a waiver of any right to subrogation which any insurer of said Vendor may acquire against PROPERTY MANAGEMENT FIRM by virtue of the payment of any loss under such insurance. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not PROPERTY MANAGEMENT FIRM has received a waiver of subrogation endorsement from the insurer.

Other Insurance Provisions / Endorsements

1. The general liability and automobile liability policies are to contain, or be endorsed to include, the following provisions:
   a. PROPERTY MANAGEMENT FIRM and Related Parties are to be covered as insured parties as respects: liability arising out of activities performed by or on behalf of Vendor; products and completed operations of Vendor; premises owned, occupied or used by Vendor; and automobiles owned, leased, hired or borrowed by Vendor. The coverage shall contain no special limitations on the scope of protection afforded to PROPERTY MANAGEMENT FIRM, or its Related Parties.
   b. For any claims related to this PO/Contract, Vendor’s insurance coverage shall be primary insurance as respects SBCTA, and its Related Parties. Any insurance or self-insurance maintained by PROPERTY MANAGEMENT FIRM, or its Related Parties shall be excess of Vendor’s insurance and shall not contribute with it.
   c. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to PROPERTY MANAGEMENT FIRM and its Related Parties.
   d. Vendor’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. Each insurance policy required by this Exhibit A shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to PROPERTY MANAGEMENT FIRM.

2. All insurance policies, including without limitation, Workers’ Compensation and Employer’s Liability policies, shall contain or be endorsed to include a waiver of subrogation in favor of PROPERTY MANAGEMENT FIRM and its Related Parties. No insurance coverage provided shall prohibit Vendor or Vendor’s employees or agents from waiving the right of subrogation prior to a loss or claim. Vendor hereby waives all rights of subrogation against PROPERTY MANAGEMENT FIRM and its Related Parties.

3. Additional Insured: All policies, except for Employer Liability/Worker’s Compensation and Professional Liability policies, shall contain endorsements naming PROPERTY MANAGEMENT FIRM and its Related Parties (as defined in the Deductibles and Self-Insured Retentions section above) as additional insureds with respect to liabilities arising out the PO/Contract. The additional insured endorsements shall not limit the scope of coverage for PROPERTY MANAGEMENT FIRM or its Related Parties to vicarious liability but shall
allow coverage for PROPERTY MANAGEMENT FIRM and its Related Parties to the full extent provided by the policies.

4. Course of Construction and Property policies shall name PROPERTY MANAGEMENT FIRM as loss payee.

Acceptability of Insurers

Insurance is to be placed with insurers admitted in California and with a current A.M. Best’s rating of no less than A: VIII, unless otherwise approved by PROPERTY MANAGEMENT FIRM.

Verification of Coverage

Vendor shall furnish PROPERTY MANAGEMENT FIRM with original certificates of insurance with endorsements as verifying coverage required by this Exhibit A. All documents are to be signed by a person authorized by that insurer to bind coverage. All documents are to be received and approved by the PROPERTY MANAGEMENT FIRM before performance under the PO/Contract commences. As an alternative, Vendor may provide copies of policy declaration pages or complete and certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Contractors and Subcontractors

Vendor shall include all contractors and subcontractors as insured parties under its policies or require certificates and endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated herein. The administration of insurance compliance of contractors and subcontractors shall be subject to audit review by PROPERTY MANAGEMENT FIRM.
ATTACHMENT “B”

“APPROVED PRICE FORM”
## ATTACHMENT B -- PRICE LIST FOR:
*(Fixed Price)*

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Task Description</th>
<th>Lump Sum</th>
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<td></td>
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<tr>
<td>2022</td>
<td>Property Management</td>
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<tr>
<td>2023</td>
<td>Property Management</td>
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<tr>
<td>Option Year 1 - 2024</td>
<td>Property Management</td>
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<td>Option Year 2 - 2025</td>
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<td>Total for Facility Management</td>
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I hereby acknowledge that I have included all labor hours, fees, taxes, materials and equipment in this price.

______________________________
Proposing Firm Name

______________________________
Print Authorized Person Name

______________________________    ______________________
Signature of Authorized Person        Date
ATTACHMENT “C”
“PROPOSED CONTRACT”
CONTRACT NO. 20-1002397

BY AND BETWEEN

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

AND

FOR

PROPERTY MANAGEMENT
AND
FACILITY MANAGEMENT SERVICES

This contract (“Contract”) is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715, and _____ (“CONSULTANT”), whose address is _____. SBCTA and CONSULTANT are each a “Party” and are collectively the “Parties”.

RECITALS:

WHEREAS, SBCTA requires certain work services as described in Exhibit “A” of this Contract; and

WHEREAS, CONSULTANT has confirmed that CONSULTANT has the requisite professional qualifications, personnel and experience and is fully capable and qualified to perform the services identified herein; and

WHEREAS, CONSULTANT desires to perform all Work identified herein and to do so for the compensation and in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:
ARTICLE 1. PROJECT DESCRIPTION/SCOPE OF WORK

1.1 CONSULTANT agrees to perform the work and services set forth in Exhibit A “Scope of Work” (“Work”) in accordance with all applicable professional standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein, and in the sequence, time, and manner defined herein. The word “Work” includes, without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and services imposed upon or assumed by CONSULTANT hereunder; and the Work performed hereunder shall be completed to the satisfaction of SBCTA, with SBCTA’s satisfaction being based on prevailing applicable professional standards.

1.2 The Project Manager for this Contract is Ivan Ramirez or such other designee as shall be designated in written notice to CONSULTANT from time to time by the Executive Director of SBCTA or his or her designee. The Project Manager shall have authority to act on behalf of SBCTA in administering this Contract, including giving notices (including, without limitation, notices of default and/or termination), technical directions and approvals, demanding performance and accepting work performed, but is not authorized to receive or issue payments or execute amendments to the Contract itself.

ARTICLE 2. CONTRACT TERM

The Contract term shall commence upon issuance of a written Notice To Proceed (NTP) issued by SBCTA’s Procurement Analyst, and shall continue in full force and effect through December 31, 2023 until otherwise terminated, or unless extended as hereinafter provided by written amendment, except that all indemnity and defense obligations hereunder shall survive termination of this Contract. CONSULTANT shall not be compensated for any Work performed or costs incurred prior to issuance of the NTP.

SBCTA at its sole discretion may extend the original term of the Contract for Two (2), One (1) year option terms. The maximum term of this Contract, including the Option Term(s), if exercised, will not exceed December 31, 2025.

ARTICLE 3. COMPENSATION

3.1 Total compensation to CONSULTANT for full and complete performance of the Scope of Work, identified herein, and in compliance with all the terms and conditions of this Contract, shall be on a Time & Materials basis for all obligations incurred in, or application to, CONSULTANT’s performance of Work, and for which CONSULTANT shall furnish all personnel, facilities, equipment, materials, supplies, and Services (except as may be explicitly set forth in this Contract as furnished by SBCTA) shall not exceed the amount set forth in section 3.2 below.

3.2 The total Contract Not-To-Exceed Amount is _______ Dollars ($______). All Work provided under this Contract is to be performed as set forth in Exhibit A “Scope of Work”, and shall be reimbursed pursuant to Exhibit B “Price Form”. The hourly labor rates identified in Exhibit B shall remain fixed for the term of this Contract and include CONSULTANT’s direct labor costs, indirect costs, and profit. All expenses shall be reimbursed for the amounts
identified in Exhibit B. Any travel expenses must be pre-approved by SBCTA and shall be reimbursed for per diem expenses at a rate not to exceed the currently authorized rates for state employees under the California Department of Human Resources rules. SBCTA will not reimburse CONSULTANT for any expenses not shown in Exhibit B or agreed to and approved by SBCTA as required under this Contract.

3.3 For personnel subject to prevailing wage rates as described in the California Labor Code, all wage increases that are the direct result of changes in the prevailing wage rates are reimbursable.

3.4 The Cost Principles and Procedures set forth in 48 CFR, Ch. 1, subch. E, Part 31, as constituted on the effective date of this Contract shall be utilized to determine allowability of costs under this Contract and may be modified from time to time by written amendment of the Contract.

3.4.1 CONSULTANT agrees to comply with Federal Department of Transportation procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

3.4.2 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31, or 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, shall be repaid by CONSULTANT to SBCTA.

3.5 Any Work provided by CONSULTANT not specifically covered by the Scope of Work shall not be compensated without prior written authorization from SBCTA. It shall be CONSULTANT’s responsibility to recognize and notify SBCTA in writing when services not covered by the Scope of Work have been requested or are required. All changes and/or modifications to the Scope of Work shall be made in accordance with the “CHANGES” Article in this Contract. Any additional services agreed to in accordance with this Contract shall become part of the Work.

3.6 All subcontracts in excess of $25,000 shall contain the above provisions.

ARTICLE 4. INVOICING

4.1 Payment to CONSULTANT as provided herein shall be payable in four (4) week billing period payments, forty-five (45) calendar days after receipt of an acceptable invoice by SBCTA of an invoice prepared in accordance with instructions below. Payment shall not be construed to be an acceptance of Work.

4.2 CONSULTANT shall prepare invoices in a form satisfactory to and approved by SBCTA, which shall be accompanied by documentation supporting each element of measurement and/or cost. Each invoice will be for a four-week billing period and will be marked with SBCTA’s contract number, description and task order number, if applicable. Invoices shall be submitted within fifteen (15) calendar days for the period covered by the invoice except for the month of June, which will require the invoice to be submitted by July 10th. Invoices shall include request for payment for Work (including additional services authorized by SBCTA) completed by CONSULTANT during each billing period and shall include back-up information sufficient to establish the validity of the invoice. Any invoice submitted which
fails to comply with the terms of this Contract, including the requirements of form and documentation, may be returned to CONSULTANT. Any costs incurred by CONSULTANT in connection with the resubmission of a proper invoice shall be at CONSULTANT’s sole expense. The final invoice shall be marked “FINAL” and will be submitted within 60 calendar days after SBCTA has received and approved all Work and deliverables. Invoices should be e-mailed to SBCTA at the following address:

ap@gosbcta.com

4.3 CONSULTANT shall include a statement and release with each invoice, satisfactory to SBCTA, that CONSULTANT has fully performed the Work invoiced pursuant to the Contract for the period covered, that all information included with the invoice is true and correct, and that all payments to and claims of CONSULTANT and its sub consultants for Work during the period will be satisfied upon making of such payment. SBCTA shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.

4.4 No payment will be made prior to approval of any Work, nor for any Work performed prior to the NTP or the issuance of an applicable CTO, nor for any Work under any amendment to the Contract until SBCTA’s Awarding Authority takes action.

4.5 CONSULTANT agrees to promptly pay each sub consultant for the satisfactory completion of all Work performed under this Contract no later than ten (10) calendar days from the receipt of payment from SBCTA. CONSULTANT also agrees to return any retainage payments to each sub consultant within ten (10) calendar days after the sub consultant’s work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval by SBCTA. SBCTA reserves the right to request documentation from CONSULTANT showing payment has been made to its sub consultants. SBCTA also reserves the right, at its own sole discretion, to issue joint checks to CONSULTANT and any sub consultant(s), which shall constitute payment to CONSULTANT in compliance with the terms of this Contract. This clause applies to both DBE and non-DBE sub consultants.

4.6 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Ch. 1, subch. E, Part 31 are subject to repayment by CONSULTANT to SBCTA.

ARTICLE 5. TAXES, DUTIES AND FEES
Except to the extent expressly provided elsewhere in this Contract, CONSULTANT shall pay when due, and the compensation set forth herein, shall be inclusive of all: a) local, municipal, State, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONSULTANT; and d) other governmental fees and taxes or charges of whatever nature applicable to CONSULTANT to enable it to conduct business.

ARTICLE 6. AVAILABILITY OF FUNDS
The award and performance of this Contract is contingent on the availability of funds. If funds are not appropriated and/or allocated and available to SBCTA for the continuance of Work performed by
CONSULTANT, Work directly or indirectly involved may be suspended or terminated by SBCTA at the end of the period for which funds are available. When SBCTA becomes aware that any portion of Work will or may be affected by a shortage of funds, it will promptly notify CONSULTANT. Nothing herein shall relieve SBCTA from its obligation to compensate CONSULTANT for work already performed pursuant to this Contract. No penalty shall accrue to SBCTA in the event this provision is exercised.

ARTICLE 7. PERMITS AND LICENSES

CONSULTANT shall, without additional compensation, keep current all governmental permits, certificates and licenses (including professional licenses) and required registrations necessary for CONSULTANT to perform Work identified herein.

ARTICLE 8. DOCUMENTATION AND RIGHT TO AUDIT

8.1 CONSULTANT shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by SBCTA, or until the conclusion of all litigation, appeals or claims related to this Contract, whichever is longer. CONSULTANT shall provide SBCTA, the California State Auditor, or other authorized representatives of SBCTA access to Consultants’ records which are directly related to this Contract for the purpose of inspection, auditing or copying during the entirety of the records maintenance period above. CONSULTANT further agrees to maintain separate records for costs of Work performed by amendment. CONSULTANT shall allow SBCTA and its representatives or agents to reproduce any materials as reasonably necessary.

8.2 The cost proposal and/or invoices for this Contract are subject to audit by SBCTA and/or any state or federal agency funding this Project at any time. After CONSULTANT receives any audit recommendations, the cost or price proposal shall be adjusted by CONSULTANT and approved by SBCTA’s Project Manager to conform to the audit recommendations. CONSULTANT agrees that individual items of cost identified in the audit report may be incorporated into the Contract at SBCTA’s sole discretion. Refusal by CONSULTANT to incorporate the audit or post award recommendations will be considered a breach of the Contract and cause for termination of the Contract. Any dispute concerning the audit findings of this Contract shall be reviewed by SBCTA’s Chief Financial Officer. CONSULTANT may request a review by submitting the request in writing to SBCTA within thirty (30) calendar days after issuance of the audit report.

8.3 Subcontracts in excess of $25,000 shall contain this provision.

ARTICLE 9. RESPONSIBILITY OF CONSULTANT

9.1 CONSULTANT shall be responsible for the professional quality, technical accuracy, and assurance of compliance with all applicable federal, State and local laws and regulations and other Work furnished by CONSULTANT under the Contract. The Contract includes reference to the appropriate standards for Work performance stipulated in the Contract.

9.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, CONSULTANT shall, as an integral part of its Work, employ quality
control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality and safety of the Project and the Work performed by CONSULTANT within the areas of CONSULTANT’s expertise. At any time during performance of the Scope of Work, should CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties which could pose potential risk to SBCTA or the Project, CONSULTANT shall immediately document such matters and notify SBCTA in writing. CONSULTANT shall also similarly notify SBCTA in regard to the possibility of any natural catastrophe, or potential failure, or any situation that exceeds assumptions and could precipitate a failure of any part of the Project. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable SBCTA to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.

9.3 CONSULTANT shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Work; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Work to SBCTA; and (c) are not otherwise disqualified from performing the Work under applicable law. If requested by SBCTA and not in violation of applicable law, CONSULTANT shall conduct a background check, at Contractor’s sole expense, on all its personnel providing Work. If requested by SBCTA, Contractor shall provide the results of the background check of each to SBCTA. Such background check shall be in the form generally used by CONSULTANT in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. CONSULTANT personnel who do not meet SBCTA’s hiring criteria, in SBCTA’s sole discretion, shall not be assigned to work on SBCTA property or Work, and SBCTA shall have the right, at its sole option, to refuse access to any Contract personnel to any SBCTA facility.

9.4 In performing the Work and while at any SBCTA facility, CONSULTANT personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of SBCTA regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of SBCTA; and (d) abide by all laws applicable to SBCTA facilities and the provision of the Work. SBCTA Policies, and additions or modifications thereto, may be communicated orally or in writing to CONSULTANT or CONSULTANT personnel or may be made available to CONSULTANT or CONSULTANT personnel by conspicuous posting at a SBCTA facility, electronic posting, or other means generally used by SBCTA to disseminate such information to its employees or consultants. CONSULTANT shall be responsible for the promulgation and distribution of SBCTA Policies to CONSULTANT personnel to the extent necessary and appropriate.

SBCTA shall have the right to require CONSULTANT’s employees, agents, representatives and subcontractors to exhibit identification credentials issued by SBCTA in order to exercise any right of access under this Contract.
9.5 CONSULTANT shall repair, or cause to be repaired, at its own cost, all damages to SBCTA vehicles, facilities, buildings or grounds caused by the willful or negligent acts of CONSULTANT or its employees or agents. Such repairs shall be made immediately after CONSULTANT becomes aware of such damage, but in no event later than thirty (30) days after the occurrence. If CONSULTANT fails to make timely repairs, SBCTA may make any necessary repairs. CONSULTANT, as determined by SBCTA, shall repay all costs incurred by SBCTA for such repairs, by cash payment upon demand, or SBCTA may deduct such costs from any amounts due to CONSULTANT from SBCTA, as determined at SBCTA’s sole discretion.

ARTICLE 10. REPORTING AND DELIVERABLES

All reports and deliverables shall be submitted in accordance with Exhibit A “Scope of Work”. At a minimum, CONSULTANT shall submit monthly progress reports with their monthly invoices. The report shall be sufficiently detailed for SBCTA to determine if CONSULTANT is performing to expectations and is on schedule; to provide communication of interim findings; and to sufficiently address any difficulties or problems encountered, so remedies can be developed.

ARTICLE 11. TECHNICAL DIRECTION

11.1 Performance of Work under this Contract shall be subject to the technical direction of SBCTA’s Project Manager, identified in Section 1.2. The term “Technical Direction” is defined to include, without limitation:

11.1.1 Directions to CONSULTANT which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the Scope of Work.

11.1.2 Provision of written information to CONSULTANT which assists in the interpretation of reports or technical portions of the Scope of Work described herein.

11.1.3 Review and, where required by the Contract, approval of technical reports and technical information to be delivered by CONSULTANT to SBCTA under the Contract.

11.1.4 SBCTA’s Project Manager may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications are limited to: substitutions of personnel identified in the Contract, including Key Personnel and sub consultants; modifications to classifications, hourly rates and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All such modifications will be documented in writing between the Parties.

11.2 Technical Direction must be within the Scope of Work under this Contract. SBCTA’s Project Manager does not have the authority to, and may not, issue any Technical Direction which:

11.2.1 Increases or decreases the Scope of Work;

11.2.2 Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;

11.2.3 Constitutes a change as defined in the “CHANGES” Article of the Contract;
11.2.4 In any manner causes an increase or decrease in the Contract price as identified in the “COMPENSATION” Article or the time required for Contract performance;

11.2.5 Changes any of the expressed terms, conditions or specifications of the Contract, unless identified herein;

11.2.6 Interferes with CONSULTANT’s right to perform the terms and conditions of the Contract unless identified herein; or

11.2.7 Approves any demand or claims for additional payment.

11.3 Failure of CONSULTANT and SBCTA’s Project Manager to agree that the Technical Direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken with respect thereto, shall be subject to the provisions of the “DISPUTES” Article herein.

11.4 All Technical Direction shall be issued in writing by SBCTA’s Project Manager.

11.5 CONSULTANT shall proceed promptly with the performance of Technical Direction issued by SBCTA’s Project Manager, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONSULTANT, any instruction or direction by SBCTA’s Project Manager falls within one of the categories defined in sections 11.2.1 through 11.2.7 above, CONSULTANT shall not proceed but shall notify SBCTA in writing within five (5) working days after receipt of any such instruction or direction and shall request SBCTA to modify the Contract accordingly. Upon receiving the notification from CONSULTANT, SBCTA shall:

11.5.1 Advise CONSULTANT in writing within thirty (30) calendar days after receipt of CONSULTANT’s letter that the Technical Direction is or is not within the scope of this Contract.

11.5.2 Advise CONSULTANT within a reasonable time whether SBCTA will or will not issue a written amendment.

ARTICLE 12. CHANGES

12.1 The Work shall be subject to changes by additions, deletions, or revisions made by SBCTA. CONSULTANT will be advised of any such changes by written notification from SBCTA describing the change. This notification will not be binding on SBCTA until SBCTA’s Awarding Authority has approved an amendment to this Contract.

12.2 Promptly after such written notification of change is given to CONSULTANT by SBCTA, the Parties will attempt to negotiate a mutually agreeable adjustment to compensation or time of performance, and amend the Contract accordingly.

ARTICLE 13. EQUAL EMPLOYMENT OPPORTUNITY

13.1 During the term of this Contract, CONSULTANT shall not willfully discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, gender, sex, marital status, gender identity, gender expression, sexual orientation, age, or military and
veteran status. CONSULTANT agrees to comply with the provisions of Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

13.2 The CONSULTANT and all sub consultants shall comply with all provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin. In addition, CONSULTANT and all sub consultants will ensure their services are consistent with and comply with obligations and procedures outlined in SBCTA’s current Board-adopted Title VI Program, including the Public Participation Plan and the Language Assistance Plan.

ARTICLE 14. CONFLICT OF INTEREST

CONSULTANT agrees that it presently has no interest, financial or otherwise, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or be contrary to the interests of SBCTA as to the Project. CONSULTANT further agrees that in the performance of this Contract, no person having any such interest shall be employed. CONSULTANT is obligated to fully disclose to SBCTA, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT’s staff designated by SBCTA’s Executive Director as “Consultants” under the Political Reform Act shall timely file Statements of Economic Interest with the SBCTA Clerk of the Board.

ARTICLE 15. KEY PERSONNEL

The personnel specified below are considered to be essential to the Work being performed under this Contract. Prior to diverting any of the specified individuals to other projects, or reallocation of any tasks or hours of Work that are the responsibility of key personnel to other personnel, CONSULTANT shall notify SBCTA in writing in advance and shall submit justifications (including proposed substitutions, resumes and payroll information to support any changes to the labor rates) in sufficient detail to permit evaluation of the impact on the Project. Diversion or reallocation of key personnel shall not be made without prior written consent of SBCTA’s PM. CONSULTANT shall not substitute any key personnel without the prior written consent of SBCTA. In the event that the Parties cannot agree as to the substitution of key personnel, SBCTA may terminate this Contract. Key Personnel are:

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ARTICLE 16. REPRESENTATIONS

All Work supplied by CONSULTANT under this Contract shall be supplied by personnel who are qualified, careful, skilled, experienced and competent in their respective trades or professions. CONSULTANT agrees that they are supplying professional services, findings, and/or
recommendations in the performance of this Contract and agrees with SBCTA that the same shall conform to professional standards that are generally accepted in the profession in the State of California.

ARTICLE 17. PROPRIETARY RIGHTS/CONFIDENTIALITY

17.1 If, as a part of this Contract, CONSULTANT is required to produce materials, documents, data, or information (“Products”), then CONSULTANT, if requested by SBCTA, shall deliver to SBCTA the original of all such Products, which shall become the sole property of SBCTA.

17.2 All materials, documents, data or information obtained from SBCTA's data files or any SBCTA-owned medium furnished to CONSULTANT in the performance of this Contract will at all times remain the property of SBCTA. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONSULTANT without the express written consent of SBCTA.

17.3 Except as reasonably necessary for the performance of the Work, CONSULTANT agrees that it, its employees, agents and sub consultants will hold in confidence and not divulge to third parties, without prior written consent of SBCTA, any information obtained by CONSULTANT from or through SBCTA unless (a) the information was known to CONSULTANT prior to obtaining same from SBCTA, or (b) the information was at the time of disclosure to CONSULTANT, or thereafter becomes, part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONSULTANT or its employees, agents, or sub consultants, or (c) the information was obtained by CONSULTANT from a third party who did not receive the same, directly or indirectly, from SBCTA and who had, to CONSULTANT's knowledge and belief, the right to disclose the same. Any materials and information referred to in this Article which are produced by CONSULTANT shall remain confidential until released in writing by SBCTA, except to the extent such materials and information become subject to disclosure by SBCTA under the California Public Records Act, or other law, or otherwise become public information through no fault of CONSULTANT, or its employees or agents.

17.4 CONSULTANT shall not use SBCTA's name or photographs in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of SBCTA.

17.5 All press releases, or press inquiries relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by SBCTA unless otherwise agreed to in writing by both Parties.

ARTICLE 18. TERMINATION

18.1 Termination for Convenience - SBCTA shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Work and shall preserve Work in progress and completed Work, pending SBCTA's instruction, and shall turn over such Work in accordance with SBCTA’s instructions.
18.1.1 CONSULTANT shall deliver to SBCTA all deliverables prepared by CONSULTANT or its sub consultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA for payment in accordance with the terms herein.

18.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from SBCTA as complete and full settlement for such termination a pro rata share of the Contract cost based upon the percentage of all contracted Work satisfactorily executed to the date of termination.

18.1.3 CONSULTANT shall be entitled to receive the actual costs incurred by CONSULTANT to return CONSULTANT’s tools and equipment, if any, to it or its suppliers’ premises, or to turn over Work in progress in accordance with SBCTA's instructions plus the actual cost necessarily incurred in effecting the termination.

18.2 Termination for Cause - In the event CONSULTANT shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONSULTANT, or a receiver shall be appointed on account of its insolvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice, SBCTA may, without prejudice to any other rights or remedies SBCTA may have, and in compliance with applicable Bankruptcy Laws: (a) hold in abeyance further payments to CONSULTANT; (b) stop any Work of CONSULTANT or its sub consultants related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by SBCTA, SBCTA may take possession of the deliverables and finished Work by whatever method SBCTA may deem expedient. A waiver by SBCTA of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, of the same or any other provision, nor be deemed to waive, amend, or modify any term of this Contract.

18.2.1 CONSULTANT shall deliver to SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its sub consultants or furnished to CONSULTANT by SBCTA within ten (10) working days of said notice.

18.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to SBCTA, satisfactory in form and content to SBCTA and verified by SBCTA. In no event shall CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

ARTICLE 19. STOP WORK ORDER

Upon failure of CONSULTANT or its sub consultants to comply with any of the requirements of this Contract, SBCTA shall have the right to stop any or all Work affected by such failure until such failure is remedied or to terminate this Contract in accordance with section “Termination For Cause” above.
ARTICLE 20. CLAIMS

SBCTA shall not be bound to any adjustments in the Contract amount or schedule unless expressly agreed to by SBCTA in writing. SBCTA shall not be liable to CONSULTANT for any claim asserted by CONSULTANT after final payment has been made under this Contract.

ARTICLE 21. INSURANCE

21.1 Prior to commencing the Work, subject to the provisions of Article 21.2 “General Provisions”, and at all times during the performance of the Work and for such additional periods as required herein, CONSULTANT and all sub-consultants of every tier performing any Work under this contract shall, at CONSULTANT’s and sub-consultant's sole expense, procure and maintain broad form insurance coverage at least as broad as the following minimum requirements specified below:

21.1.1 Professional Liability. The policies must include the following:

- A limit of liability not less than $2,000,000 per claim
- An annual aggregate limit of not less than $2,000,000
- Coverage shall be appropriate for the CONSULTANT’s profession and provided services to include coverage for errors and omissions arising out of the CONSULTANT’s professional services, or services of any person employed by the CONSULTANT, or any person for whose acts, errors, mistakes or omissions the CONSULTANT may be legally liable.

- If Coverage is on a claims made basis:
  - Policy shall contain a retroactive date for coverage of prior acts, which date will be prior to the date the CONSULTANT begins to perform Work under this Contract.
  - CONSULTANT shall secure and maintain “tail” coverage for a minimum of three (3) years after Contract completion.

21.1.2 Worker’s Compensation/Employer’s Liability. The policies must include the following:

- Coverage A. Statutory Benefits
- Coverage B. Employer’s Liability
- Bodily Injury by accident - $1,000,000 per accident
- Bodily Injury by disease - $1,000,000 policy limit/$1,000,000 each employee

Such policies shall contain a waiver of subrogation in favor of the parties named as Indemnitees below. Such insurance shall be in strict accordance with the applicable workers’ compensation laws in effect during performance of the Work by CONSULTANT or any sub consultant of any tier. All sub consultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONSULTANT and all parties
named as Indemnitees below. Where coverage is provided through the California State Compensation Insurance Fund, the requirement for a minimum A.M. Best rating does not apply.

21.1.3. Commercial General Liability. The policy must include the following:

- Consultant shall maintain commercial general liability (CGL) insurance (Insurance Services Office (ISO) Form CG 00 01), and if necessary, excess/umbrella commercial liability insurance, with a combined limit of liability of not less than **$7,000,000 each occurrence**. If the contract value is equal to or in excess of **$25,000,000**, then the combined limit of liability shall be no less than **$25,000,000 each occurrence**.

- The policy shall, at a minimum, include coverage for any and all of the following: bodily injury, property damage, personal injury, broad form contractual liability (including coverage to the maximum extent possible for the indemnifications in this Contract), premises-operations (including explosion, collapse and underground coverage), duty to defend in addition to (without reducing) the limits of the policy(ies), and products and completed operations.
  - $2,000,000 per occurrence limit for property damage or bodily injury
  - $1,000,000 per occurrence limit for personal injury and advertising injury
  - $2,000,000 per occurrence limits for products/completed operations coverage (ISO Form 20 37 10 01) if SBCTA’s Risk Manager determines it is in SBCTA’s best interests to require such coverage,
  - If a general aggregate applies, it shall apply separately to this project/location. The project name must be indicated under “Description of Operations/Locations” (ISO Form CG 25 03 or CG 2504).
  - Coverage is to be on an “occurrence” form. “Claims made” and “modified occurrence” forms are not acceptable.
  - A copy of the declaration page or endorsement page listing all policy endorsements for the CGL policy must be included.

All sub consultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the CGL insurance coverage with limits not less than:

- Each occurrence limit: $1,000,000
- General aggregate limit: $2,000,000
- Personal injury and advertising limit $1,000,000
- Products-completed operations aggregate limit $2,000,000

All sub consultants’ and sub-sub consultants’ deductibles or self-insured retentions must be acceptable to SBCTA’s Risk Manager.

21.1.4 Umbrella/Excess CGL. The policy must include the following:
• If the CONSULTANT elects to include an umbrella or excess policy to cover any of the total limits required beyond the primary commercial general liability policy limits and/or the primary commercial automobile liability policy limits, then the policy must include the following:
  o The umbrella or excess policy shall follow form over the CONSULTANT’s primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
  o The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
  o The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.
  o The umbrella or excess policy must also extend coverage over the automobile policy if it is to be used in combination with the primary automobile policy to meet the total insurance requirement limits.

There shall be no statement limiting the coverage provided to the parties listed as additionally insureds or as indemnitees below.

21.1.5 Commercial Auto. The policy must include the following:
• A total limit of liability of not less than $5,000,000 each accident. This total limit of liability may be met by combining the limits of the primary auto policy with an umbrella or excess policy in accordance with subparagraph 4 (Umbrella/Excess CGL) of Section A of this Article.

• Such insurance shall cover liability arising out of any vehicle, including owned, hired, leased, borrowed and non-owned vehicles assigned to or used in performance of the CONSULTANT services.
  o Combined Bodily Injury and Property Damage Liability insurance.

The commercial automobile liability insurance shall be written on the most recent edition of ISO Form CA 00 01 or equivalent acceptable to SBCTA.

21.1.6 Pollution Liability The policy must include the following if it is determined by SBCTA’s Risk Manager to be in SBCTA’s best interests to require such policy:
• $2,000,000 per claim or occurrence limits/$4,000,000 in the aggregate

• If the services involve mold identification/remediation, the policy shall not contain a mold exclusion and the definition of “Pollution” shall include microbial matter including mold.

• If the services involve lead-based paint or asbestos identification/remediation, the policy shall not contain lead-based paint or asbestos exclusions.

21.1.7 Railroad Protective Liability The policy must include the following:
• Should the CONSULTANT need to perform activities in a railroad right-of-way,
SBCTA’s Risk Manager and/or a railroad operator may require CONSULTANT to provide Railroad Protective Liability.

- In such a case, the policy shall be in amounts and coverages and from issuers, acceptable to SBCTA’s Risk Manager in his/her sole discretion.

- Depending on facts and circumstances, and the terms and conditions of the policy involved, SBCTA’s Risk Manager may choose to find that the CONSULTANT satisfactorily meets this requirement by obtaining one of the following: a) an acceptable Railroad Protective Liability specific policy; b) a waiver of any railroad liability exclusion from the CONSULTANT’s existing general liability policy; or c) acceptable general liability insurance without a railroad exclusion.


21.2.1 Qualifications of Insurance Carriers. All policies written by insurance carriers shall be authorized and admitted to do business in the state of California with a current A.M. Best rating of A-VIII or better. Professional Liability and Contractor’s Pollution Liability policies may be from non-admitted carriers provided they are authorized and licensed in the state of California and meet the current A.M. Best rating of A: VIII or better.

21.2.2 Additional Insurance Coverage. All policies, except those for Workers’ Compensation and Professional Liability insurance, shall be endorsed by ISO Form CG 20 10 11 85, or if not available, then ISO Form CG 20 38, to name San Bernardino County Transportation Authority and its officers, directors, members, employees, agents and volunteers, as additional insureds (“Additional Insureds”). With respect to general liability arising out of or connected with work or operations performed by or on behalf of the CONSULTANT under this Contract, coverage for such Additional Insureds shall not extend to liability to the extent prohibited by section 11580.04 of the Insurance Code. The additional insured endorsements shall not limit the scope of coverage for SBCTA to vicarious liability, but shall allow coverage for SBCTA to the full extent provided by the policy.

21.2.3 Proof of Coverage. Evidence of insurance in a form acceptable to SBCTA’s Risk Manager, including declarations pages of each policy, certificates of insurance and the required additional insured endorsements, shall be provided to SBCTA’s Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as SBCTA specifies. Certificate(s) of insurance, as evidence of the required insurance shall: be executed by a duly authorized representative of each insurer; show compliance with the insurance requirements set forth in this Article; set forth deductible amounts applicable to each policy; list all exclusions which are added by endorsement to each policy; and also include the Contract Number and the SBCTA Project Manager’s name on the face of the certificate. If requested in writing by SBCTA, CONSULTANT shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SBCTA.
21.2.4 **Deductibles.** Regardless of the allowance of exclusions or deductibles by SBCTA, CONSULTANT shall be responsible for any deductible amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its sub-consultants to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. All deductibles will be in amounts acceptable to SBCTA’s Risk Manager. CONSULTANT will advise SBCTA in writing as to the amounts of any deductible, or as to any increase in any insurance deductible under any insurance required above. There will be no deductibles in excess of $250,000 per occurrence, loss or claim under the insurance. There shall be no self-insured retention. SBCTA will have the right, but not the obligation, to pay any deductible due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due CONSULTANT. The policies shall not provide that any deductible or other payment required under the policy can be paid only by the named insured, and not by an additional insured.

21.2.5 **CONSULTANT’s and Sub consultants’ Insurance will be Primary.** All policies required to be maintained by the CONSULTANT or any sub consultant, with the exceptions of Professional Liability and Worker’s Compensation, shall be endorsed, with a form at least as broad as ISO Form CG 20 01 04 13, to be primary coverage, and any coverage carried by any of the Additional Insureds shall be excess and non-contributory. Further, none of CONSULTANT’s or sub consultants’ pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.

21.2.6 **Waiver of Subrogation Rights.** To the fullest extent permitted by law, CONSULTANT hereby waives all rights of recovery under subrogation against the Additional Insureds named herein, and any other consultant, sub consultant or sub-sub consultant performing work or rendering services on behalf of SBCTA in connection with the planning, development and construction of the Project. To the fullest extent permitted by law, CONSULTANT shall require similar written express waivers and insurance clauses from each of its sub consultants of every tier. CONSULTANT shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds (ISO Form CG 24 04 05 09). Such insurance and coverages provided shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss or claim.

21.2.7 **Cancellation.** If any insurance company elects to cancel or non-renew coverage for any reason, CONSULTANT will provide SBCTA thirty (30) days prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SBCTA ten (10) days prior written notice. In any event, CONSULTANT will provide SBCTA with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONSULTANT receives within one business day after CONSULTANT
receives it by submitting it to SBCTA at procurement@gosbcta.com, to the attention of SBCTA’s Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.

21.2.8 Enforcement. SBCTA may take any steps as are necessary to assure CONSULTANT’s compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONSULTANT fails to obtain or maintain any insurance coverage required, SBCTA may, but is not required to, maintain this coverage and charge the expense to the CONSULTANT or withhold such expense from amounts owed CONSULTANT, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONSULTANT of its duties and responsibility under the Contract, including but not limited to obligation to indemnify, defend and hold harmless the Indemnities named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude SBCTA from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONSULTANT or any sub consultant of any tier of their obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.

21.2.9 No Waiver. Failure of SBCTA to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.

21.2.10 Subconsultant Insurance. Insurance required of the CONSULTANT shall be also provided by sub consultants or by CONSULTANT on behalf of all sub consultants to cover their services performed under this Contract. CONSULTANT may reduce types and the amounts of insurance limits provided by sub consultant(s) to be proportionate to the amount of the sub consultant’s contract and the level of liability exposure for the specific type of work performed by the sub consultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to sub consultant.

21.2.11 Higher limits. If CONSULTANT maintains higher limits than the minimums shown above, SBCTA shall be entitled to coverage for the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SBCTA.

21.2.12 Special Risks or Circumstances. SBCTA reserves the right to modify any or all of the above insurance requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 22. INDEMNITY

22.1 To the extent, but only to the extent, that CONSULTANT’s Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:
CONSULTANT shall indemnify and defend (with legal counsel reasonably approved by SBCTA) SBCTA and its authorized officers, employees, agents and volunteers (collectively “Indemnitees”), from any and all losses, damages, liability, actions, and/or costs for claims that arise out of, pertain to, or are related to the negligence, recklessness, or willful misconduct of the professional.

22.2 For all other Work, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA) and hold harmless SBCTA and its authorized officers, employees, agents and volunteers (“Indemnitees”), from any and all claims, actions, losses, damages and/or liability (Claims) arising out of this Contract from any cause whatsoever, including acts, errors, or omissions of any person and for any costs or expenses incurred by SBCTA on account of any claim, except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. CONSULTANT’s indemnification obligation applies to SBCTA’s “active” as well as “passive” negligence, but does not apply to SBCTA’s “sole negligence” or “willful misconduct” within the meaning of Civil Code section 2782.

ARTICLE 23. ERRORS AND OMISSIONS

CONSULTANT shall be responsible for the professional quality, technical accuracy, and coordination of all Work required under this Contract. CONSULTANT shall be liable for SBCTA’s costs resulting from errors or deficiencies in Work furnished under this Contract, including, but not limited to, any fines, penalties, damages, and costs required because of an error or deficiency in the Work provided by CONSULTANT under this Contract.

ARTICLE 24. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONSULTANT under this Contract shall become the sole property of SBCTA when prepared, whether delivered to SBCTA or not.

ARTICLE 25. SUBCONTRACTS

25.1 CONSULTANT shall not subcontract performance of all or any portion of Work under this Contract, except to those sub consultants listed in CONSULTANT’s proposal, without first notifying SBCTA in writing of the intended subcontracting and obtaining SBCTA’s written approval of the subcontracting and the sub consultant. The definition of sub consultant and the requirements for sub consultants hereunder shall include all subcontracts at any tier.

25.2 CONSULTANT agrees that any and all sub consultants of CONSULTANT performing Work under this Contract will comply with the terms and conditions of this Contract applicable to the portion of Work performed by them. CONSULTANT shall incorporate all applicable provisions of this Contract into their subcontracts regardless of the tier. If requested by SBCTA, CONSULTANT shall furnish SBCTA a copy of the proposed subcontract for SBCTA’s approval of the terms and conditions thereof and shall not execute such subcontract until SBCTA has approved such terms and conditions. SBCTA’s approval shall not be unreasonably withheld.

25.3 Approval by SBCTA of any Work to be subcontracted and the sub consultant to perform said Work will not relieve CONSULTANT of any responsibility or liability in regard to the
acceptable and complete performance of said Work. Any substitution of sub consultants must be approved in writing by SBCTA. CONSULTANT shall have sole responsibility for managing all of their sub consultants, including resolution of any disputes between CONSULTANT and its sub consultants.

ARTICLE 26. RECORD INSPECTION AND AUDITING

SBCTA or any of its designees, representatives, or agents shall at all times have access during normal business hours to CONSULTANT’s operations and products wherever they are in preparation or progress, and CONSULTANT shall provide sufficient, safe, and proper facilities for such access and inspection thereof. Inspection or lack of inspection by SBCTA shall not be deemed to be a waiver of any of their rights to require CONSULTANT to comply with the Contract or to subsequently reject unsatisfactory Work or products.

ARTICLE 27. INDEPENDENT CONTRACTOR

CONSULTANT is and shall be at all times an independent contractor. Accordingly, all Work provided by CONSULTANT shall be done and performed by CONSULTANT under the sole supervision, direction and control of CONSULTANT. SBCTA shall rely on CONSULTANT for results only, and shall have no right at any time to direct or supervise CONSULTANT or CONSULTANT's employees in the performance of Work or as to the manner, means and methods by which Work is performed. All personnel furnished by CONSULTANT pursuant to this Contract, and all representatives of CONSULTANT, shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's sub consultant(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SBCTA.

ARTICLE 28. ATTORNEY’S FEES

If any legal action is instituted to enforce or declare any Party’s rights under the Contract, each Party, including the prevailing Party, must bear its own costs and attorneys’ fees. This Article shall not apply to those costs and attorneys’ fees directly arising from any third party legal action against a Party hereto and payable under the “Indemnity” provision of the Contract.

ARTICLE 29. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any Party to this Contract will be the Superior Court of California, San Bernardino County. Each Party hereby waives any law or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County.

ARTICLE 30. FEDERAL, STATE AND LOCAL LAWS

CONSULTANT warrants that in the performance of this Contract, it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.
ARTICLE 31. PRECEDENCE

31.1 The Contract consists of these Contract Articles, Exhibit A “Scope of Work”, and Exhibit B “Price Proposal”, SBCTA’s Request for Proposal and CONSULTANT’s proposal, all of which are incorporated into this Contract by this reference.

31.2 The following order of precedence shall apply: first, the Contract Articles; second, Exhibits A and B; third, SBCTA’s Request for Proposal; and last, CONSULTANT’s proposal. In the event of a conflict between the Contract Articles and the Scope of Work, the Contract Articles will prevail.

31.3 In the event of an express conflict between the documents listed in this Article, or between any other documents which are a part of the Contract, CONSULTANT shall notify SBCTA in writing within three (3) business days of its discovery of the conflict and shall comply with SBCTA's resolution of the conflict.

ARTICLE 32. COMMUNICATIONS AND NOTICES

Notices sent by mail shall be by United States Mail, postage paid, certified mail (return receipt requested). Any and all notices permitted or required to be given hereunder shall be deemed duly given and received: (a) upon actual delivery, if delivery is personally made or if made by fax or email during regular business hours; (b) the first business day following delivery by fax or email when not made during regular business hours; or (c) on the fourth business day after deposit of such notice into the United States Mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time by a notice given in accordance with this Article. CONSULTANT shall notify SBCTA of any contact information changes within ten (10) business days of the change.

<table>
<thead>
<tr>
<th>To CONSULTANT</th>
<th>To SBCTA</th>
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<tbody>
<tr>
<td>Attn:</td>
<td>Attn: Ivan Ramirez</td>
</tr>
<tr>
<td>Email:</td>
<td>Email: <a href="mailto:iramirez@gosbcta.com">iramirez@gosbcta.com</a></td>
</tr>
<tr>
<td>Phone:</td>
<td>Phone: (909) 884-8276</td>
</tr>
<tr>
<td>2nd Contact:</td>
<td>Copy: Procurement Manager</td>
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<tr>
<td>Email:</td>
<td>Email: <a href="mailto:procurement@gosbcta.com">procurement@gosbcta.com</a></td>
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ARTICLE 33. DISPUTES

33.1 In the event any dispute, other than an audit, arises between the Parties in connection with this Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Work to be performed, Scope of Work and/or time of performance), the dispute shall be decided by SBCTA’s Procurement Manager within thirty (30) calendar days after notice thereof in writing, which notice shall include a particular statement of the grounds of the dispute. If CONSULTANT does not agree with the decision, then CONSULTANT shall have ten (10) calendar days after receipt of the decision in which to file a written appeal thereto with SBCTA’s Executive Director. If the Executive Director fails to resolve the dispute in a manner acceptable to CONSULTANT, then such dispute may be reviewed by a court of competent jurisdiction.
33.2 During resolution of the dispute, CONSULTANT shall proceed with performance of this Contract with due diligence.

ARTICLE 34. GRATUITIES
CONSULTANT, its employees, agents, or representatives shall not offer or give to any officer, official, agent or employee of SBCTA, any gift, entertainment, payment, loan, or other gratuity.

ARTICLE 35. REVIEW AND ACCEPTANCE
All Work performed by CONSULTANT shall be subject to periodic review and approval by SBCTA at any and all places where such performance may be carried on. Failure of SBCTA to make such review or to discover defective work shall not prejudice the rights of SBCTA at the time of final acceptance. All Work performed by CONSULTANT shall be subject to periodic and final review and acceptance by SBCTA upon completion of all Work.

ARTICLE 36. CONFIDENTIALITY
Any SBCTA communications or materials to which CONSULTANT or its sub consultants or agents have access, or materials prepared by CONSULTANT under the terms of this Contract, shall be held in confidence by CONSULTANT, who shall exercise reasonable precautions to prevent the disclosure of confidential information to anyone except as expressly authorized by SBCTA. Any communications with or work product of SBCTA’s legal counsel to which CONSULTANT or its sub consultants or agents have access in performing work under this Contract shall be subject to the attorney-client privilege and attorney work product doctrine and shall be confidential. CONSULTANT shall not release any reports, information or promotional material or allow for the use of any photos related to this Contract for any purpose without prior written approval of SBCTA.

ARTICLE 37. EVALUATION OF CONSULTANT
CONSULTANT’s performance may be evaluated by SBCTA periodically throughout the Contract performance period, such as at the completion of certain milestones as identified in Scope of Work and/or at the completion of the Contract. A copy of the evaluation will be given to CONSULTANT for their information. The evaluation information shall be retained as part of the Contract file and may be used to evaluate CONSULTANT if they submit a proposal on a future RFP issued by SBCTA.

ARTICLE 38. SAFETY
CONSULTANT shall strictly comply with OSHA regulations and local, municipal, state, and federal safety and health laws, orders and regulations applicable to CONSULTANT’s operations in the performance of Work under this Contract. CONSULTANT shall comply with all safety instructions issued by SBCTA or their representatives.

ARTICLE 39. DRUG FREE WORKPLACE
CONSULTANT agrees to comply with the Drug Free Workplace Act of 1990 per Government Code section 8350 et seq.

ARTICLE 40. ASSIGNMENT
CONSULTANT shall not assign this Contract in whole or in part, voluntarily, by operation of law, or otherwise, without first obtaining the written consent of SBCTA. SBCTA’s exercise of consent
shall be within its sole discretion. Any purported assignment without SBCTA’s prior written consent shall be void and of no effect, and shall constitute a material breach of this Contract. Subject to the foregoing, the provisions of this Contract shall extend to the benefit of and be binding upon the successors and assigns of the Parties.

ARTICLE 41. AMENDMENTS

The Contract may only be changed by a written amendment duly executed by the Parties. Work authorized under an amendment shall not commence until the amendment has been duly executed.

ARTICLE 42. PREVAILING WAGES

42.1 CONSULTANT shall comply with the State of California’s General Prevailing Wage Rate requirements in accordance with California Labor Code Section 1770, and all Federal, State, and local laws and ordinances applicable to the Work.

42.2 Any subcontract entered into as a result of this Contract, if for more than $25,000 for public works construction or more than $15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

ARTICLE 43. CONTINGENT FEE

CONSULTANT warrants by execution of this Contract that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, SBCTA has the right to terminate this Contract without liability, pay only for the value of the Work actually performed, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 44. FORCE MAJEURE

CONSULTANT shall not be in default under this Contract in the event that the Work performed by CONSULTANT is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, or other catastrophic events which are beyond the reasonable control of CONSULTANT and which CONSULTANT could not reasonably be expected to have prevented or controlled. “Other catastrophic events” does not include the financial inability of CONSULTANT to perform or failure of CONSULTANT to obtain either any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of CONSULTANT.

ARTICLE 45. WARRANTY

CONSULTANT warrants that all Work performed shall be in accordance with the Contract and all applicable professional standards. In the event of a breach of this provision, CONSULTANT shall take the necessary actions to correct the breach at CONSULTANT’s sole expense. If CONSULTANT does not take the necessary action to correct the breach, SBCTA, without waiving any other rights or
remedies it may have, may take the necessary steps to correct the breach, and the CONSULTANT shall promptly reimburse SBCTA for all expenses and costs incurred.

**ARTICLE 46. ENTIRE DOCUMENT**

46.1 This Contract constitutes the sole and only agreement governing the Work and supersedes any prior understandings, written or oral, between the Parties respecting the Project. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been expressly incorporated into this Contract.

46.2 No agent, official, employee or representative of SBCTA has any authority to bind SBCTA to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.

46.3 Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

**ARTICLE 47. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT**

CONSULTANT shall comply with all applicable provisions of the Americans with Disabilities Act in performing Work under this Contract.

**ARTICLE 48. EFFECTIVE DATE**

The date that this Contract is executed by SBCTA shall be the Effective Date of the Contract.

-----------------------------------SIGNATURES ARE ON THE FOLLOWING PAGE-----------------------------------
IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

CONSULTANT

By: ___________________________
   Name
   Title
   Date: ___________________________

San Bernardino County
Transportation Authority

By: ___________________________
   Frank J. Navarro
   President, Board of Directors
   Date: ___________________________

APPROVED AS TO FORM

By: ___________________________
   Julianna K. Tillquist,
   General Counsel
   Date: ___________________________

CONCURRENCE

By: ___________________________
   Jeffery Hill,
   Procurement Manager
   Date: ___________________________
EXHIBIT “A”

“SCOPE OF WORK”
EXHIBIT “B”

“PRICE PROPOSAL”
ATTACHMENT “C”
RFP FORMS
CERTIFICATE OF COMPLIANCE WITH INSURANCE REQUIREMENTS

(FORM MUST BE COMPLETED IN ITS ENTIRETY AND BE INCLUDED WITH PROPOSAL OR BID SUBMITTAL)

INSURANCE REQUIREMENTS: (check appropriate boxes below)

☐ Contractor/Consultant has provided a copy of the insurance requirements contained in the San Bernardino County Transportation Authority (SBCTA) Contract to their agent or broker to confirm the ability to meet requirements.

AND

☐ Contractor/Consultant certifies that the company or individual is fully prepared to secure the necessary insurance coverage and limits as detailed in the SBCTA Contract and comply with all insurance requirements.

OR

☐ Consultant has identified areas of conflict with the insurance requirements and has provided a list of concerns in its response to the Request for Proposals (RFP) and has referenced each section and page number identified in the SBCTA Contract.

Company Information:

Company/Individuals Name

Address

City	State	Zip Code

Principal Name

Title

Principal Signature	Date

Phone	Email Address

Broker Information:

Broker Name

Address

City	State	Zip Code

Phone Number	Email Address
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
DISCLOSURE OF CAMPAIGN CONTRIBUTIONS TO BOARD OF DIRECTORS

Government Code Section 84308, 2 California Code of Regulations 18438.1, et seq.

No Member of the Board of Directors or alternates of the San Bernardino County Transportation Authority shall receive or solicit a campaign contribution of more than $250 from Bidder or Bidder’s agent during the time of: 1) Bid solicitation; 2) Consideration of Bids received; and 3) Awarding of a contract or execution of a purchase and sale agreement based on a Bid (collectively referred to as the “Proceeding”), and for 3 months following the conclusion of the Proceeding. This prohibition does not apply to the awarding of contracts that are competitively bid. In addition, Directors and alternates cannot participate in any such matters if they have received more than $250 in campaign contributions within the last year from anyone financially interested in the Proceeding, such as Bidder and/or Bidder’s agent.

Pursuant to these requirements, Bidder shall disclose any campaign contribution in an amount of more than $250 made by Bidder, and/or Bidder’s agent, to any Director within 12 months from the date of these Bid Documents/Request for Proposals (as applicable). For the purpose of this disclosure obligation, contributions made by Bidder within the preceding 12 months shall be aggregated with those made by Bidder’s agent within the preceding 12 months or the period of the agency relationship between the Bidder and Bidder’s agent, whichever is shorter. In addition, Bidder and/or Bidder’s agent shall not make a contribution of more than $250 to a Director or alternate during the Proceeding and for 3 months following the conclusion of the Proceeding.

The disclosure by Bidder, as set forth, herein, shall be incorporated into the written record of the Proceeding and shall be made available to the public for inspection and copying.

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than $250 to any SBCTA Director or alternate in the 12 months preceding the date of issuance of this Request for Bids/Requests for Proposals?
   _____ YES  _____ NO
   
   Board Member Name:  ___________________________ Date:  ________________

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than $250 to any Board member or alternate?
   _____ YES  _____ NO
   
   Board Member Name:  ___________________________ Date:  ________________

Answering yes to either of the two questions above does not preclude SBCTA from awarding a bid to your firm. It does, however, preclude the identified Board member or alternate from participating in the Bid/contract award process for this Bid/contract.

A current list of the Board of Directors and alternates of the San Bernardino County Transportation Authority is attached as Attachment A.
(CONTINUED)

**BIDDER INFORMATION:**

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<td>Bill Jahn</td>
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<td>Eunice Ulloa</td>
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<td>Ray Marquez</td>
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<td>Frank Navarro</td>
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<td>Acquanetta Warren</td>
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<td>Darcy McNaboe</td>
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<td>Rebekah Swanson</td>
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<td>City of Highland</td>
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<td>Town of Apple Valley</td>
<td>Art Bishop</td>
</tr>
<tr>
<td>Town of Yucca Valley</td>
<td>Rick Denison</td>
</tr>
</tbody>
</table>
EXHIBIT 12-B
BIDDER’S LIST OF SUBCONTRACTORS
PART I & II
(DBE AND NON-DBE)
INSTRUCTIONS—EXHIBIT 12-B BIDDER’S LIST OF SUBCONTRACTORS
(DBE AND NON-DBE) PART I AND PART II

ALL PROPOSERS:

The U.S. Department of Transportation (DOT) requires SBCTA to maintain a “Bidders List” containing information about all firms (DBE and non-DBE) that bid, proposal or quote on SBCTA’s DOT-assisted contracts, in accordance with 49 CFR Part 26.11, for use in SBCTA’s overall annual DBE goal-setting process. Therefore, the Proposer shall provide the requested information for every firm who submitted a quote, bid, or proposal, including the primary Proposer whether successful or unsuccessful in their attempt to obtain a contract:

a. Firm name;
b. Firm address;
c. Phone number
d. A description of the work that each DBE will perform;
e. Range of annual gross receipts for the last year;

PART I - Identifies all subcontractors (DBE and Non-DBE) that provided a quote, bid, or proposal.

PART II - Identifies all subcontractors (DBE and Non-DBE) that provided a quote, bid, or proposal but were not selected to participate as a subcontractor on the project.

It is the Proposers responsibility to verify that the DBE(s) are certified with the CUCP.
Exhibit 12-B  Bidder’s List of Subcontractor (DBE and Non-DBE) Part 1

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at: https://www.dir.ca.gov/Public-Works/Contractor-Registration.html

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or $10,000 (whichever is greater). Photocopy this form for additional firms.

Federal Project Number: _______________________

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<th>Line Item &amp; Description</th>
<th>Subcontract Amount</th>
<th>Percentage of Bid Item Subcontracted</th>
<th>Contractor License Number</th>
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Distribution: 1) Original-Local Agency File  2) Copy-DLAE w/ Award Package
**Bidder’s List of Subcontractors (DBE and Non-DBE) Part 2**

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractor who provided a quote or bid but **were not selected** to participate as a subcontractor on this project. *Photocopy this form for additional firms.*

Federal Project Number: _______________________

<table>
<thead>
<tr>
<th>Subcontractor Name and Location</th>
<th>Line Item &amp; Description</th>
<th>Subcontract Amount</th>
<th>Percentage of Bid Item Subcontracted</th>
<th>Contractor License Number</th>
<th>DBE (Y/N)</th>
<th>DBE Cert Number</th>
<th>Annual Gross Receipts</th>
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<tbody>
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Distribution: 1) Original-Local Agency File  2) Copy-DLAE w/ Award Package
ATTACHMENT “D”
REFERENCE FORM
Date:

Name of Reference and Title
Address, City, State, Zip Code
Telephone No., Email Address

SUBJECT: Request for Proposal RFP20-1002397

Dear _________________,

San Bernardino County Transportation Authority (SBCTA) has released Request for Proposals (RFP) 20-1002397 for Property Management and Facility Management Services.

Our firm is currently responding to the RFP and SBCTA has requested that Proposers provide references from customers and clients who have received similar work or services from me or our firm.

Your firm has been identified as a reference. You are respectfully requested to complete and sign the attached questionnaire and submit it to SBCTA directly at procurement@gosbcta.com. Please note, SBCTA will not accept or give consideration to questionnaires submitted by proposers.

The questionnaire is due no later than (proposer select the due date); however, if you could submit the questionnaire sooner, it would be greatly appreciated.

The information as described in the questionnaire is very important and helpful in assisting our firm with SBCTA’s selection process. We sincerely appreciate your cooperation in this matter.

Sincerely,

__________________________________
Reference Name
Title
PROPOSING FIRM NAME

TO BE COMPLETED BY REFERENCE AGENCY/FIRM:

Project Owner/Agency Name

<table>
<thead>
<tr>
<th>Address</th>
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<tr>
<td>City</td>
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</table>

Contact Name | Contact Title

Phone | Email Address

What role did the firm/key person serve on the project?

What services did the firm/key person provide for the project?

<table>
<thead>
<tr>
<th>Question</th>
<th>Rating Definition</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How do you rate the firm's/key personnel's overall performance and</td>
<td>Excellent (3) Took initiative, consistently demonstrated knowledge of the</td>
<td></td>
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<tr>
<td>technical competence in providing similar work?</td>
<td>management consulting services on the “Project”, consistently anticipated and</td>
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<tr>
<td></td>
<td>solved issues.</td>
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<tr>
<td>If the rating is Poor, please provide an explanation here:</td>
<td>Good (2) Demonstrated knowledge of Project, solved unexpected issues promptly,</td>
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<td></td>
<td>few mistakes.</td>
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<td></td>
<td>Satisfactory (1) Demonstrated knowledge of the Project, occasional unanticipated</td>
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<td></td>
<td>issues arose, some mistakes.</td>
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<tr>
<td></td>
<td>Poor (0) Knowledge of the Project was lacking, issues remained unresolved, frequent</td>
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<tr>
<td></td>
<td>mistakes.</td>
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<tr>
<td>2. What was the quality of the advice provided by the firm/key person?</td>
<td>Excellent (3) Consistently provided thorough and practical advice, anticipated</td>
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<td></td>
<td>issues we did not point out.</td>
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<tr>
<td>If the rating is Poor, please provide an explanation here:</td>
<td>Good (2) Rarely had to redirect the firm/key person and advice provided was</td>
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<td>valuable and responsive.</td>
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<td></td>
<td>Satisfactory (1) Usually provided helpful information and advice.</td>
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<td></td>
<td>Poor (0) Repeatedly had to be redirected and prompted to provide an adequate</td>
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<td>response.</td>
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<tr>
<td>Question</td>
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<tr>
<td>3. How was the firm's/key person's independence projected and communicated with the Agency?</td>
<td><strong>Excellent (3)</strong></td>
<td>Discussed methodology/proposed changes of Agency and provided adequate research results to support their position and stood firm on their decision. Always answered/returned calls and correspondence or provided updates promptly.</td>
</tr>
<tr>
<td>If the rating is Poor, please provide an explanation here:</td>
<td><strong>Good (2)</strong></td>
<td>Discussed methodology/proposed changes of Agency and provided adequate research results to support their position, but did not always stand firm on their decision. Answered/returned calls and correspondence or provided updates promptly and most of the time.</td>
</tr>
<tr>
<td></td>
<td><strong>Satisfactory (1)</strong></td>
<td>Discussed methodology/proposed changes of Agency, but did not provide adequate research results to support their position and did not always stand firm on their decision. Answered/returned calls and correspondence or provided updates, but not always promptly.</td>
</tr>
<tr>
<td></td>
<td><strong>Poor (0)</strong></td>
<td>Discussed methodology/proposed changes of Agency but did not research or provide support even if they did not agree with changes/methodology; did not stand firm on their decision/frequently sided with Agency. Did not answer/return calls or correspondence or provide updates.</td>
</tr>
<tr>
<td>4. How do you rate the firm's/individual's knowledge with proposed work?</td>
<td><strong>Excellent (3)</strong></td>
<td>Exceeded most expectations (knowledge of project requirements always apparent.).</td>
</tr>
<tr>
<td>If the rating is Poor, please provide an explanation here:</td>
<td><strong>Good (2)</strong></td>
<td>Exceeded some expectations (knowledge of project requirements frequently apparent.).</td>
</tr>
<tr>
<td></td>
<td><strong>Satisfactory (1)</strong></td>
<td>Met expectations (knowledge of project requirement at times, but further research required).</td>
</tr>
<tr>
<td></td>
<td><strong>Poor (0)</strong></td>
<td>Failed to meet expectations (knowledge of project requirements lacking).</td>
</tr>
<tr>
<td>5. How do you rate the firm's/key person's experience?</td>
<td><strong>Excellent (3)</strong></td>
<td>Exceeded most expectations (always negotiated, resolved and processed change orders in a timely manner).</td>
</tr>
<tr>
<td>If the rating is Poor, please provide an explanation here:</td>
<td><strong>Good (2)</strong></td>
<td>Exceeded some expectations (always negotiated, resolved and processed change orders and most of the time).</td>
</tr>
<tr>
<td></td>
<td><strong>Satisfactory (1)</strong></td>
<td>Met expectations (negotiated, resolved and processed change orders, but not always promptly).</td>
</tr>
<tr>
<td></td>
<td><strong>Poor (0)</strong></td>
<td>Failed to meet expectations (negotiated, resolved and processed change orders, but consistently late).</td>
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<tr>
<td>Question</td>
<td>Rating Definition</td>
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<td>6. Were the required Services completed on time and to your satisfaction?</td>
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<td>If the rating is Poor, please provide an explanation here:</td>
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<tr>
<td>Excellent (3)</td>
<td>Always on time or ahead of schedule.</td>
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<tr>
<td>Good (2)</td>
<td>On time.</td>
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<tr>
<td>Satisfactory (1)</td>
<td>Occasionally late.</td>
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<tr>
<td>Poor (0)</td>
<td>Consistently late.</td>
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<td>7. Did the firm/key person's stay within budget?</td>
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<td>If the rating is Poor, please provide an explanation here:</td>
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<tr>
<td>Excellent (3)</td>
<td>Always within budget.</td>
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<tr>
<td>Good (2)</td>
<td>Most often within budget.</td>
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<tr>
<td>Satisfactory (1)</td>
<td>Somewhat within budget.</td>
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<tr>
<td>Poor (0)</td>
<td>Consistently over budget.</td>
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<tr>
<td>8. How do you rate the firm's/ key person's task management and scheduling abilities?</td>
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<td>If the rating is Poor, please provide an explanation here:</td>
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<tr>
<td>Excellent (3)</td>
<td>Exceeded most expectations.</td>
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<tr>
<td>Good (2)</td>
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<tr>
<td>Satisfactory (1)</td>
<td>Met expectations.</td>
<td></td>
</tr>
<tr>
<td>Poor (0)</td>
<td>Failed to meet expectations.</td>
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</table>

Additional Comments (Use additional sheets as necessary):

Print Contact Name

Title

Contact Signature

Date

Please Submit to:
San Bernardino County Transportation Authority
1170 W. 3rd Street, 2nd Fl., San Bernardino, CA 92410
Phone: (909) 884-8276 - Email: procurement@gosbcta.com