



## **SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY**

**REQUEST FOR PROPOSALS (RFP) 22-1002663**

**FOR**

**CONSTRUCTION MANAGEMENT SERVICES ON-CALL**

### **KEY RFP DATES**

<b>RFP Issue Date:</b>	<b>Thursday – September 2, 2021</b>
<b>Pre-Proposal Conference Date:</b>	<b>Tuesday– September 14, 2021, @ 2:00 p.m.</b>
<b>Question Submittal Deadline:</b>	<b>Thursday – September 16, 2021, @ 4:00 p.m.</b>
<b>Proposal Due Date:</b>	<b>Tuesday – October 5, 2021, @ 2:00 p.m.</b>
<b>Interview Date (if necessary):</b>	<b>Tuesday – October 26, 2021</b>
<b>Contract Award Date:</b>	<b>Wednesday – December 1, 2021</b>
<b>Notice To Proceed:</b>	<b>December 2021</b>



September 2, 2021

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS (RFP) 22-1002663  
FOR " CONSTRUCTION MANAGEMENT SERVICES ON-CALL"**

The San Bernardino County Transportation Authority ("SBCTA") invites proposals from qualified firms/proposers to provide here On-Call Construction Management Services ("Services"), as identified in this RFP.

Proposers intending to submit proposals should note the "KEY RFP DATES" schedule on the cover of this RFP. It is our intention, subject to approval by SBCTA's Awarding Authority, to have the selected consultant under contract by December 2021. 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, and the firm's understanding of the Services needed for the Project.

The RFP and all RFP schedule updates and addenda, together with other important information, are available on SBCTA's website at [www.gosbcta.com](http://www.gosbcta.com), click on "Bids & RFPs", which will take you to the "Contracting" page. There, look under the heading "Current Open Bids." The website is the official means of notification to all prospective proposers. Firms should check the website weekly for RFP schedule updates, addenda, and other information. All proposers will be responsible for compliance with all updates, addenda and other information posted on the website. Please note that SBCTA will not mail any addenda, schedule updates or other information to any firm.

**PROPOSALS ARE DUE ON OR BEFORE 2:00 P.M., Tuesday, October 5, 2021.**

**This is a Federal-aid project:** The contract to be awarded is financed in part by the U.S. Department of Transportation (US DOT). Proposers are required to certify that they meet all federal requirements identified in this RFP, including but not limited to all applicable equal opportunity laws and regulations.

Proposers are advised that, as required by federal law, 49 CFR Part 26, SBCTA has implemented Disadvantaged Business Enterprise (DBE) requirement for federally funded projects. SBCTA has set a contract DBE goal range of 0-20% for this Project. Additionally, DBE goals for each CTO will be determined prior to procurement issuing the CTO request.

There is a new public works Contractor Registration Program, which requires all consultants, contractors and subcontractors bidding and performing work on Public Works Projects based on the prevailing wage rates, to register on an annual basis (each July 1 through June 30 state fiscal year) with the California Department of Industrial Relations (DIR). Per this program, proposers shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the

Public Contract Code, or engage in the performance of any contract for public work subject to Labor Code sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of the Labor Code for an unregistered proposer to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the proposer is registered to perform public work pursuant to Labor Code Section 1725.5 at the time the contract is awarded.

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 subconsultant 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 selected consultant will be required to comply with all applicable laws and regulations including but not limited to equal opportunity laws and regulations.

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.

The award of this contract may be subject to Pre-Award Audit required by applicable funding agencies, including the California Department of Transportation (Caltrans), federal agencies and/or SBCTA itself. The selected consultant shall have provide the documents as required per Exhibit 10-A.

**SBCTA**  
**REQUEST FOR PROPOSALS 22-1002663**  
**FOR**  
**CONSTRUCTION MANAGEMENT SERVICES ON-CALL**

**I. GENERAL INFORMATION**

**A. INTRODUCTION**

The San Bernardino County Transportation Authority (“SBCTA”) is soliciting proposals from qualified firms (“firms” or “proposers”) to provide **CONSTRUCTION SERVICES ON-CALL** (“Services”).

**B. CONTACT INFORMATION**

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

**Luis Medina**  
**Procurement Analyst**  
**SBCTA**  
**1170 W. 3rd Street, 2<sup>nd</sup> Floor**  
**San Bernardino, CA 92410-1715**  
**(909) 884-8276**  
[procurement@gosbcta.com](mailto:procurement@gosbcta.com)

Proposers are cautioned not to discuss this RFP with any official, Board Member or employee of SBCTA, other than the procurement staff identified herein. Neither proposers, nor anyone representing proposers, 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**

A Pre-Proposal Conference is scheduled for **2:00 PM., Tuesday, September 14, 2021**, via Zoom. Attendance at this Pre-Proposal Conference is encouraged, but not mandatory. Proposers that attend are asked to submit their information using this link <https://sanbag-lfweb.sanbag.ca.gov/Forms/Signin> within 24 hours of the meeting. Interested firms are strongly encouraged to attend the Pre-Proposal Conference, but will not be disqualified for failure to attend. However, all proposers will be responsible for any addenda issued related to information and instructions given at the Pre-Proposal Conference.

**Join Zoom Meeting**

Topic: PRE-PROPOSAL CONFERENCE - RFP 22-1002663 "CM SERVICES ON-CALL"  
Time: Sep 14, 2021 02:00 PM Pacific Time (US and Canada)

<https://gosbcta.zoom.us/j/93124260685?pwd=ckN0aWdiSjdiK0NYRlpgRHdBai9aZz09>

Meeting ID: 931 2426 0685

Passcode: 581169

One tap mobile

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+13462487799,,93124260685#,,, \*581169# US (Houston)

#### **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 the Procurement Analyst at [procurement@gosbcta.com](mailto:procurement@gosbcta.com), and they must be received by SBCTA no later than **4:00 p.m., on Thursday, September 16, 2021**. 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 **“Written Questions for RFP 22-1002663”**. 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 SBCTA’s website at [www.gosbcta.com](http://www.gosbcta.com) click on “Doing Business”, select “Vendor Portal.” On the “Vendor Portal” page, look under the heading “Bid Opportunities.”

#### **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 receipt of any addenda in their proposal.

#### **F. CONTRACT TYPE**

A Specified Rates of Compensation contract will be used for the Project which will apply to services authorized under On-Call Contract Task Order. Any work performed by the consultant 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 (identified herein as Attachment A), and contract (identified herein as Attachment B), for a complete understanding of the terms and conditions in 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. Proposers that received assistance from any such person or entity, or who will use the services of such person or entity in performing the Services 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. Firms responsible for a Project's design may not participate in construction management or construction inspection services for the Project. The determination of a conflict of interest, direct or incidental, shall be made by SBCTA's Executive Director or designee based upon substantial evidence.

#### **I. PRE CONTRACTUAL EXPENSES**

SBCTA shall not be liable for any pre-contractual expenses incurred by a proposer in preparation or submittal of its proposal. Proposer shall not include any such expenses as part of its cost 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**

In accordance with Public Contract Code Section 2204(a), the proposer certifies that at the time the proposal is submitted, the proposer signing the proposal is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person (as defined in Public Contract Code Section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

Proposers are cautioned that making a false certification may subject the proposer to civil penalties, termination of an existing contract, and ineligibility to bid or proposed on a contract for a period of three (3) years in accordance with Public Contract Code Section 2205. Proposer agrees that by submitting a proposal, that submittal shall constitute proposer's certification.

#### **K. PREVAILING WAGES**

The awarded proposer 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 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 neither accept a proposal nor award any contract without verification that the consultant and their subconsultants are currently registered. Consultants and subconsultants on

all public works projects will be required to submit electronic certified payroll records (CPRs), to the Labor Commissioner on the DIR website. Consultants are also required to submit CPRs directly to SBCTA for review. The prime consultant shall ensure that its subconsultants 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 proposer by SBCTA for the proposer's use in the performance of Services 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 Services, termination of the contract, or other such time as SBCTA may determine.

**M. DISADVANTAGED BUSINESS ENTERPRISE**

Proposers are advised that, as required by federal law, 49 CFR Part 26,

In conformance with title 49 CFR Part 26, SBCTA has established a contract specific goal of 0-20% for Disadvantaged Business Enterprises (DBE). The proposer is required to meet this goal or demonstrate Good Faith Efforts as a condition of the award of this Contract. Proposer shall complete and submit Form 10 O-1, "Local Agency Bidder DBE Commitment," and Form 12-B, "Bidders List of Subcontractors," at the time of proposal submittal. Form 10 O-2, "Local Agency Bidder-DBE Commitment," and 15-H, "Good Faith Efforts," are to be submitted in a sealed envelope with their cost proposal. Some CTOs procured under the resulting contract from this RFP may have a DBE requirement for federally funded projects. DBE goals for such CTOs will be determined prior to procurement.

As there is a DBE goal on this Contract, the proposer, in order to be considered responsible and responsive, must meet the Contract specific DBE goal identified in this RFP or make Good Faith Efforts to meet the goal established for this Contract. If the goal is not met, the proposer must document adequate Good Faith Efforts. Only DBE firms certified through the California Unified Certification Program (CUCP) will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

Please refer to Attachment DE of this RFP for further information regarding the DBE requirements. Proposers are advised that questions related to the DBE requirements must be submitted as a written question per the instructions in this RFP.

**N. 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.

**II. PROPOSAL INSTRUCTIONS**

## **A. 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 2:00 p.m., Tuesday, October 5, 2021.** 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 tabs 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/subconsultant basis rather than as a joint venture. SBCTA will contract with a single firm, person or entity only and not with a joint venture.

## **B. PROPOSAL CONTENT**

The proposal is limited to a 40 page cap (8 ½" x 11"), in no less than 11-point font. Charts and schedules may be included in 11" x 17" format. 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:

<b>Documents not included in page count</b>
Table of Contents
Cover Letter
Memorandums from Subconsultants
SBCTA-provided Forms
Outside Cover
Section Dividers
Appendices

If at any time during the RFP process a proposer makes any changes to proposed key personnel or subconsultants, the proposer 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 subconsultants including description of the Services to be performed by the proposer and each subconsultant proposed for the Project and an



estimate of the percentage of work to be performed by each subconsultant.

- Indicate the location of the primary office from which the Services will be performed.
- A memorandum from a principal of each subconsultant indicating the specific portion of the Services the subconsultant will be performing.
- Acknowledgement of all addenda.
- A signed statement by an officer of the prime proposer attesting that all information in the proposal is true and correct.
- A signature of an authorized person who can bind the proposer to the terms and conditions of the RFP and related contract.
- A statement that the proposal is valid for 180 calendar days from the date of submission.
- A list of all prime contracts (if any) awarded to proposer by SBCTA, San Bernardino County Transportation Commission and San Bernardino Associated Governments 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.

## **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 proposer and/or proposed team to satisfactorily perform the required Services 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 proposer, 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 proposer and its subconsultants are registered with the Department of Industrial Relations.
- Provide a general description of the proposer'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 proposer's experience in performing services of a similar nature to that solicited in this RFP, and the participation in such services by the key personnel proposed for assignment to this Project. Highlight the proposer's and key personnel's experience with the Services identified in the Scope of Work.
- Describe experience in working with the various government agencies that may have jurisdiction over approval of the Services 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 subconsultant, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- Proposer 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](mailto: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.

**b. Proposed Staffing and Project Organization**

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

Specifically:

- Provide education, experience with state and federal guidelines and applicable professional credentials of proposed Project staff. Identify the person who is a licensed Professional Engineer (PE) in the State of California and include a copy of PE's license.
- 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 proposed staff/personnel, including subconsultants.

- Include a statement that key personnel will be available to the extent proposed, or designated by SBCTA, for the duration of the contract, 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 a clear 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 proposer’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 would perform the Services.
- Furnish a schedule for each task and subtask in terms of elapsed weeks from the contract 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 the Project and how they will 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 forms, which are enclosed in this RFP, with their proposals:

- a) Non-Lobbying Certification for Federal-Aid Contracts Instructions For Completion Of SF-LLL, Disclosure Of Lobbying Activities Disclosure Of Lobbying Activities
- b) Certification Regarding Debarment, Suspension, And Other Responsibility Matters - Primary Covered Transactions
- c) Proposer’s Good Faith Efforts Affidavit
- d) DBE Form 10-O1 - “Consultant Proposal DBE Commitment”
- e) Form 12-B, “Bidder’s List of Subcontractors”
- f) Certificate of Compliance With Insurance Requirements
- g) Disclosure of Campaign Contributions to Board of Directors
- h) Exhibit 10-A A&E Consultant Financial Document Review Request Letter

The top ranked proposer shall submit the following forms with its cost proposal:

- a) DBE Form 10-O2, “Consultant Contract DBE Information”
- b) DBE Form 15-H, “Good Faith Efforts”

- c) Form 333, "Certification of Consultant, Commissions & Fees" must be completed by the prime and all subconsultants performing Services in excess of \$150,000.
- d) Exhibit 10-A A&E Consultant Financial Document Review Request Letter

\* The top ranked proposer's subconsultants with subcontracts in excess of \$25,000 must complete the "Certification Regarding Debarment, Suspension And Other Ineligibility And Voluntary Exclusion – Lower Tier Covered Transactions," within ten (10) working days after the top ranked proposer received the "Notice of Intent To Award" letter issued by SBCTA.

#### **5. Cost Proposal**

Proposers are asked to submit only the technical information requested in this RFP. **No cost proposal or work hours are to be included in this phase of the RFP process.** Please note that the top ranked proposer will be asked to provide the required documents as shown in Exhibit 10A.

#### **6. Scope of Work and/or Contract Exceptions**

SBCTA does not anticipate making substantive changes to its contract. Proposers should 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 Attachments A and B, respectively. Proposers will be deemed to have accepted any and all terms and conditions not objected to or identified as an exception or deviation in the proposal and there will be no further negotiations of any such terms or conditions not presented in the proposal. SBCTA may reject proposals where identified exceptions or deviations affect terms or conditions that SBCTA considers non-negotiable.

#### **7. 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 proposer 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 Services. 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 proposer and delivered to SBCTA's Procurement Analyst at the address identified herein.

### **IV. SELECTION CRITERIA AND WEIGHTS**

The primary objective of SBCTA is to select a qualified consultant to provide the Services identified in the Scope of Work as identified herein. In addition, SBCTA has established the following criteria for the selection process:

- A. The selection process shall be fair, open, and competitive.
- B. Consultant selection shall be based on clearly stated objectives, identified in this RFP.
- C. Selection shall be based also upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required Services identified in the Scope of Work.
- D. Upon review of the proposals and at SBCTA's discretion, a shortlist of proposers within the competitive range will be invited to an interview tentatively scheduled for Tuesday, October 26, 2021 via webinar. The contract will be awarded to the most technically qualified proposer(s) best conforming to the RFP, which is, in the opinion of SBCTA, most advantageous to SBCTA, and with which a successful negotiation and agreement on cost and price can be concluded as set forth in Article V. below. The determination of the competitive range is at the sole discretion of SBCTA's Evaluation Committee. At SBCTA's discretion, award may be made without conducting interviews, and based on the proposals only.
- E. SBCTA reserves the right to reject any and all proposals. SBCTA is under no obligation to award a contract for the subject Services. At the conclusion of the evaluation process, the Evaluation Committee will recommend the proposer(s) who ranked the highest in overall score to the body or officer having authority to award the Contract on behalf of SBCTA ("Awarding Authority"). SBCTA reserves the right to request additional information and/or clarification from any or all proposers to this RFP, but is under no obligation to do so.
- F. Proposals will be evaluated based on the criteria and weights identified herein.
  - **Qualifications, Related Experience and References:** Proposer'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; ability to deliver quality products and services; ability to deliver projects within budget and on schedule; and experience working with public agencies identified in the RFP. - 35 points.
  - **Proposed Staffing and Project Organization:** Technical expertise and professional competence in areas directly related to the work identified in this RFP; level of experience; knowledge of state and federal guidelines and requirements; possession of certifications and licenses required, and level of training of key personnel assigned, including subconsultants, 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 in key personnel. – 35 points.
  - **Work Plan:** Depth of understanding of SBCTA's needs and requirements, and understanding of the Scope of Work; proposer's approach and methodology/systems reflecting the ability to provide the requested Services; demonstrated knowledge of the Services being requested; identification and knowledge of all requirements cited in the Scope of Work; and proposed technical or procedural innovations identified in the proposal. - 30 points.

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

## **V. NEGOTIATIONS AND AWARD**

The contract, Scope of Work and cost proposal will be negotiated with the top ranked proposer. Should negotiations fail with the top ranked proposer, SBCTA will discontinue negotiations and commence negotiations with the second ranked proposer, and so on until the Scope of Work, level of effort and cost/price have been successfully negotiated and a contract has been agreed to. However, SBCTA may elect at any time to not negotiate any further and not award the contract.

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

## **VI. PROTEST INFORMATION**

SBCTA has a Vendor Protest policy (Policy 11007) which provides guidelines for the submittal and evaluation of a protest relating to procurements. Proposers may view or download a copy of this policy from SBCTA's website, [www.gosbcta.com](http://www.gosbcta.com), click on "Doing Business", select "Bids & RFPs," then, under the heading "Important Documents."

## **VII. DEBRIEFING**

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

## **ATTACHMENT A – “SCOPE OF WORK”**

## **SCOPE OF WORK**

### **SBCTA On-Call Construction Management Services**

SBCTA will utilize the services of CONSULTANT to provide **On-Call Construction Management Services** for various transportation projects at SBCTA. Type, size, and value of projects and corresponding construction management services needs will vary. CONSULTANT will be placed on a bench and proposals for Contract Task Orders (CTO) will be solicited as appropriate.

Services and deliverables needed for each CTO will be described in detail in each CTO Request for Proposals (RFP). Construction Management Services may include, but are not limited to, the following:

#### **A. ADMINISTRATION/PRE-CONSTRUCTION**

- a. Client Coordination and Meetings
- b. Contract Administration and Budget Management
- c. Constructability Reviews
- d. Permit Reviews
- e. Right of Way /Temporary Construction Easement reviews
- f. Plans Specifications and Estimate reviews
- g. Calculations and Profiles
- h. Utility Coordination
- i. Traffic Control
- j. Data/Control/Topographic Surveys
- k. Geotechnical Services
- l. Contract Advertisement and Bid Support Cost Estimating

#### **B. CONSTRUCTION**

- a. Contractor Management
- b. Pre-Construction and Regular Construction Meetings
- c. Construction Surveying
- d. Document Control and Filing
- e. Project Schedule/Critical Path Method Management
- f. Monthly Activity Reports
- g. Progress Reports
- h. Environmental Compliance
- i. Partnering
- j. Certified Payrolls and Labor Compliance
- k. Permitting
- l. Storm Water Pollution Prevention Plan (SWPPP) Management
- m. Shop Drawings and Request For Information
- n. Safety Committee Reviews
- o. Change Order and Claims Administration



### C. INSPECTIONS

- a. Roadway
- b. Paving and Subgrade
- c. Structures
- d. Electrical
- e. Landscape
- f. Environmental Inspections
- g. Drainage/Stormwater
- h. Materials Testing
- i. Source Inspection
- j. Health and Safety
- k. Plant Establishment
- l. Utilities

### D. POST CONSTRUCTION

- a. Computer Aided Design Drafting (CADD)
- b. As-Builts
- c. Project Closeout

## PERSONNEL

Consultant shall provide fully qualified staff with appropriate licenses and/or certifications. Credentials of certified staff shall be current and shall be made available to SBCTA upon request. CONSULTANT shall provide the following, but not limited to personnel:

- |                              |                           |                             |
|------------------------------|---------------------------|-----------------------------|
| • Resident Engineer (RE)     | • Project Manager (PM)    | • Office Engineer           |
| • Structures Representative  | • SWPPP Inspector (QSP)   | • Roadway Inspector         |
| • Assistant RE / PM          | • Quality Inspector (CQA) | • Landscape Architect (RLA) |
| • Electrical Inspector (CEI) | • Land Surveyor (PLS)     | • Source Inspector          |
| • Welding Inspector (CWI)    | • Landscape Inspector     | • Civil Engineer (PE)       |
| • Estimator                  | • Scheduler               | • CADD designer             |
| • Biologist                  | • Planner                 | • Administrative            |

## STANDARDS

All work performed under this contract shall conform to project bid documents, special provisions, plans, approved environmental document and permits and all applicable SBCTA, Caltrans or local requirements, including but not limited to:

1. Construction Manual and its revisions
2. Bridge Construction Records and Procedures Manual
3. Quality Assurance Program Manual
4. Manual of Traffic Controls for Construction and Maintenance Work Zones
5. Caltrans Standard Specifications and Standard Plans
6. Caltrans Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual

7. Manual of Test (3 volumes)
8. Survey Manual
9. Caltrans District 8 Standard Staking Procedures Manual

END OF SCOPE OF WORK

**ATTACHMENT B – “PROPOSED CONTRACT”**

**CONTRACT No. 22-1002663**

**BY AND BETWEEN**

**SBCTA**

**AND**

---

**FOR**

**CONSTRUCTION MANAGEMENT SERVICES ON-CALL SERVICES**

This contract (referred to as “Contract” or “Agreement”), is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA” or “LOCAL AGENCY”) whose address is 1170 W. 3rd Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715; and \_\_\_\_\_ (“CONSULTANT”) whose address is: \_\_\_\_\_. SBCTA and CONSULTANT are each a “Party” and collectively the “Parties”.

**RECITALS:**

**WHEREAS**, SBCTA requires work 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 work 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 I. INTRODUCTION**

- A. The work to be performed under this Contract is set forth in Exhibit A “Scope of Work” and Exhibit B “CONSULTANT’s Approved Cost Proposal” (“Cost Proposal”) dated (Insert Date) (collectively the “Work” or “Services”).
- B. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of SBCTA.
- C. Without the written consent of SBCTA, this Contract is not assignable by CONSULTANT either in whole or in part. SBCTA may assign its rights and obligations under this Contract in whole or in part to any related or successor agency.
- D. No alteration or variations of the terms of this Contract shall be valid, unless made in writing and signed by the Parties; and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties.

- E. The consideration to be paid to CONSULTANT as provided in this Contract shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
- F. SBCTA's Project Manager or Contract Administrator for this Contract is Khalid Bazmi. Contract Administrator delegates authority to issue the Notice to Proceed to SBCTA's Procurement Manager.

## **ARTICLE II. PROJECT DESCRIPTION/SCOPE OF WORK**

CONSULTANT agrees to perform the Work in accordance with all applicable professional architectural, engineering, construction management, land surveying and/or materials testing 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", as used herein, includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and Work imposed upon or assumed by CONSULTANT hereunder. The Work performed under this Contract shall be completed to the satisfaction of SBCTA, with its satisfaction being based on prevailing applicable professional standards. Scope of Work is sometimes referred to as Statement of Work in this Contract. The Scope of Work is more fully described in Exhibit A.

## **ARTICLE III. CONSULTANT's REPORTS OR MEETINGS**

- A. CONSULTANT shall submit progress reports to SBCTA at least once a month. The report should be sufficiently detailed for Contract Administrator 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 special problems encountered so remedies can be developed.
- B. CONSULTANT's project manager shall meet with SBCTA's Contract Administrator, as needed, to discuss progress on the Contract.

## **ARTICLE IV. PERFORMANCE PERIOD**

- A. This Contract shall go into effect on (12/XX/2021), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The Contract shall end on December 31, 2026, unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the Contract is fully executed and approved by LOCAL AGENCY.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this Contract, the terms of the Contract shall be extended by contract amendment.

## **ARTICLE V. ALLOWABLE COSTS AND PAYMENTS**

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal (Exhibit B). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the Cost Proposal and identified in the Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.
- D. After a project to be performed under this Contract is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expense, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this Contract has been approved by LOCAL AGENCY, and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any Work performed prior to approval of this Contract.
- J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and Work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.

- K. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all Work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of Work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the Work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Contract number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this Contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this Contract. Invoices shall be emailed to LOCAL AGENCY's Contract Administrator and to ap@gosbcta.com.
- L. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by contract amendment.
- M. If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- N. Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
- O. The total amount payable to LOCAL AGENCY for all Task Orders resulting from this Contract shall not exceed \$\_\_\_\_\_. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Contract through Task Orders.

## **ARTICLE VI. TERMINATION**

- A. LOCAL AGENCY reserves the right to terminate this Contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. LOCAL AGENCY may terminate this Contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the Work in manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this Contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this Contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the Contract. In which case the overage shall be deducted from any sum due CONSULTANT under this Contract and the balance, if any, shall be paid to CONSULTANT upon demand.

## **ARTICLE VII. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

#### **ARTICLE VIII. RETENTION OF RECORDS/AUDIT**

- A. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents papers, accounting records, and other evidence pertaining to the performance of the Contract, including but not limited to, the costs, of administering the Contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the Contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants' (CPA) work papers that are pertinent to the Contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- B. **Per 2 CFR Ch. II § 200.333 Retention requirements for records.** Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or passthrough entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities.

#### **ARTICLE IX. AUDIT REVIEW PROCEDURES**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.



- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this Contract.
- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Contract, Cost Proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The Contract, Cost Proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the Contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.

#### **ARTICLE X. SUBCONTRACTING**

- A. Nothing contained in this Contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the Work contemplated with resources available within its own organization and no portion of the Work pertinent to this Contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approval Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. All subcontracts entered into as a result of this Contract shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

#### **ARTICLE XI. EQUIPMENT PURCHASE**

- A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract

exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the Contract, or if the Contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

## **ARTICLE XII. STATE PREVAILING WAGE RATES**

- A. 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.
- B. 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, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

## **ARTICLE XIII. CONFLICT OF INTEREST**

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this Contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Contract, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Contract.

- C. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this Contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- D. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this Contract is also employed by the construction contractor for any project included within this Contract.
- E. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this Contract shall have provided services on the design of any project included within this contract.

#### **ARTICLE XIV. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

CONSULTANT warrants that this Contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the Contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

#### **ARTICLE XV. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING**

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
  - 1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
  - 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any

person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

#### **ARTICLE XVI. STATEMENT OF COMPLIANCE**

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations Section 11102.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11005 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations (2 CCR Sec. 11099 et seq.), are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis 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, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

#### **ARTICLE XVII. DEBARMENT AND SUSPENSION CERTIFICATION**

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

#### **ARTICLE XVIII. FUNDING REQUIREMENTS**

- A. It is mutually understood between the Parties that this Contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both Parties, in order to avoid program or fiscal delays that would occur if the Contract were executed after that determination was made.
- B. This Contract is valid and enforceable only, if sufficient funds are made available to SBCTA for the purpose of this Contract. In addition, this Contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by Congress, State Legislature, or SBCTA governing board that may affect the provisions, terms, or funding of this Contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this Contract may be amended to reflect any reduction in funds.
- D. SBCTA has the option to terminate the Contract under the 30-day cancellation clause or by mutual agreement, or to amend the Contract to reflect any reduction of funds.

#### **ARTICLE XIX. CHANGE IN TERMS**

- A. This Contract may be amended or modified only by mutual written agreement of the Parties.
- B. CONSULTANT shall only commence Work covered by an amendment after the amendment is executed and the NTP has been provided by SBCTA's Procurement Analyst.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the CONSULTANT's Approved Cost Proposal, without prior written

approval of SBCTA.

## **ARTICLE XX. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- A. CONSULTANTS must give consideration to DBE firms as specified in 23 CFR §172.5(b), 49 CFR, Part 26. If the Contract has a DBE goal, CONSULTANT must meet the DBE goal by using DBEs as subconsultants or documenting a good faith effort to have met the goal. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace the subconsultant with another DBE subconsultant if the goal is not otherwise met. A DBE may be terminated only with written approval by SBCTA and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting SBCTA's consent for the proposed termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- B. SBCTA, as a recipient of federal financial assistance, is required to implement a Disadvantaged Business Program in accordance with federal regulations at 49 CFR Part 26 issued by the U.S. Department of Transportation (DOT). The contract goal range for this project pursuant to the CONSULTANT's Approved Cost Proposal is 0-20%. CONSULTANT must furnish all documentation satisfactory to SBCTA that the work committed to DBEs was actually performed by DBEs. Requests for progress payments must include a summary of payments (Form 315Caltrans Form Exhibit 9-F) actually made to DBEs during the invoice period, which includes a total of all payments made to all subconsultants under this Contract. DBE participation shall be credited toward the overall DBE goal only when payments are actually made to the DBE firms. CONSULTANT shall submit on the 15<sup>th</sup> of every month to SBCTA's Procurement Analyst, Form 315Exhibit 9-F form per the Caltrans Exhibit 9-F Instructions. Upon completion of the Contract, CONSULTANT shall submit "Final Report-Utilization of Disadvantaged Business Enterprises--First Tier Subconsultants" Form 17-F with the final invoice. Failure to submit the required reports shall result in SBCTA imposing a penalty of \$100 per day, per report.
- C. CONSULTANT shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in SBCTA exercising the right to impose administrative remedies, which shall include, but shall not be limited to the following: withholding of payment due to CONSULTANT equivalent to the difference between the actual DBE attainment and the Contract DBE goal; suspension of payment to CONSULTANT of any other monies held by SBCTA; and termination of the Contract, in whole or in part. The administrative remedies shall not apply if the CONSULTANT is able to demonstrate, to the satisfaction of SBCTA, that it exercised Good Faith Efforts in an attempt to meet the Contract DBE goal.
- D. SBCTA will bring to the attention of the DOT Operating Administration, in writing, any false, fraudulent, or dishonest conduct in connection with SBCTA's administration of Caltrans' DBE program, to enable the DOT Operating Administration to take the necessary and appropriate steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, or action under suspension and debarment or Program Fraud and Civil Penalties rules) as provided in Title 49 CFR, Part 26, Section 26.109. SBCTA also

will consider similar action under its own legal authorities, including, but not limited to, responsibility determinations in future contracts.

#### **ARTICLE XXI. 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 the 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 XXII. DISPUTES**

- A. Any dispute, other than audit, concerning a question of fact arising under this Contract that is not disposed of by agreement shall be decided by a committee consisting of SBCTA's Procurement Analyst and SBCTA's Program Manager who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than 30 days after completion of all Work under the Contract, CONSULTANT may request review by SBCTA's Executive Director of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by SBCTA's Executive Director excuses CONSULTANT from full and timely performance in accordance with the terms of this Contract.

#### **ARTICLE XXIII. INSPECTION OF WORK**

CONSULTANT and any subconsultant shall permit SBCTA, the state, and the FHWA if federal participating funds are used in this Contract, to review and inspect the project activities and files at all reasonable times during the performance period of this Contract, including review and inspection on a daily basis.

#### **ARTICLE XXIV. SAFETY**

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by SBCTA and SBCTA representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while at the construction project site.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, SBCTA has determined that such areas are within the limits of the Project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

- C. Any subcontract entered into as a result of this Contract, shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

## **ARTICLE XXV. INSURANCE**

- A. Prior to commencing the Work, subject to the provisions of Article I “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:
- B. 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 \$4,000,000
  - 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.
- C. 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 subconsultant of any tier. All subconsultants 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.

D. 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 **\$3,000,000 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 subconsultants 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 subconsultants' and sub-subconsultants' deductibles or self-insured retentions must be acceptable to SBCTA's Risk Manager.

E. 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:
  - 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.
  - The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
  - 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.
  - 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.

F. Commercial Auto. The policy must include the following:

- A total limit of liability of not less than **\$3,000,000** each accident. This total limits 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.
  - 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.

G. Pollution Liability : Purposely omitted

H. 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.

I. General Provisions

Qualifications of Insurance Carriers. If policies are written by insurer carriers authorized and admitted to do business in the state of California, then the insurer carriers must have a current A.M. Best rating of A-VIII or better and if policies are written by insurance carriers that are non- admitted but authorized to conduct business in the state of California, then they must meet the current A.M. Best rating of A-X or better, unless otherwise approved in writing by SBCTA's Risk Manager.

- J. 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.
- K. 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.
- L. **Deductibles and Self-Insured Retention** - Regardless of the allowance of exclusions or deductibles by SBCTA, CONTRACTOR shall be responsible for any deductible or self- insured retention ( SIR) amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONTRACTOR will pay, and shall require its sub-CONTRACTORS to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. Any deductibles or self-insured retentions must be declared to and approved in writing by SBCTA's Risk Manager. At the option of SBCTA, if the deductible or SIR is greater than \$ 50,000 or five ( 5) percent of the amount of coverage required under this Contract, whichever is less, the CONTRACTOR shall guarantee that either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to SBCTA, its directors, officials, officers, employees and agents; or, ( 2) the CONTRACTOR shall procure a bond guaranteeing the amount of the deductible or self-insured retention. SBCTA will have the right, but not the obligation, to pay any

deductible or SIR 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 to CONTRACTOR. The Contractor's policies will neither obligate nor prohibit SBCTA or any other Additional Insured, from paying any portion of any Contractor's deductible or SIR.

- M. CONSULTANT's and Subconsultants' Insurance will be Primary. All policies required to be maintained by the CONSULTANT or any subconsultant with the exception 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 subconsultants' 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.
- N. 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, subconsultant or sub-subconsultant 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 subconsultants 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.
- O. 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](mailto: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.
- P. 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 Indemnitees 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 subconsultant 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.

- Q. 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.
- R. Subconsultant Insurance. Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all subconsultants to cover their services performed under this Contract. CONSULTANT may reduce types and the amounts of insurance limits provided by subconsultants to be proportionate to the amount of the subconsultant's contract and the level of liability exposure for the specific type of work performed by the subconsultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.
- S. 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.
- T. Special Risks or Circumstances. SBCTA, acting through its Executive Director, 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 XXVI. INDEMNITY

- A. 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) San Bernardino County Transportation Authority and its directors, officers, employees, agents and volunteers, 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 design professional to the maximum extent permitted by Civil Code Section 2782.8.

- B. For all other Work and obligations under this Contract, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA) and hold harmless SBCTA and its directors, officers, employees, agents and volunteers ("Indemnitees"), from any and all claims, actions, losses, damages and/or liability ("Claims") arising out of or related to any act or omission of CONSULTANT or any of its officers, employees, agents, subconsultants or volunteers, and for any costs or expenses incurred by Indemnitees on account of any such

Claims 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 an Indemnitee's "active" as well as "passive" negligence but does not apply to an Indemnitee's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

#### **ARTICLE XXVII. OWNERSHIP OF DATA**

- A. Upon completion of all Work under this Contract, ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this Contract will automatically be vested in SBCTA, and no further agreement will be necessary to transfer ownership to SBCTA. CONSULTANT shall furnish SBCTA all necessary copies as needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the Project for which this Contract has been entered into.
- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of or connected with the modification or misuse by SBCTA of the machine-readable information and data provided by CONSULTANT under this Contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of or connected with any use by SBCTA of the project documentation on other projects or additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the Contract as appropriate (48 CFR 27, Subpart 27.3, Patent Rights under Government Contracts for federal-aid contracts).
- E. SBCTA may permit copyrighting reports or other agreement products. If copyrights are permitted, the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.
- F. Any subcontract in excess of \$25,000 entered into as a result of this Contract, shall contain all of the provisions of this Article.

#### **ARTICLE XXVIII. CLAIMS FILED BY SBCTA's CONSTRUCTION CONTRACTOR**

- A. If claims are filed by SBCTA's construction contractor relating to Work performed by CONSULTANT's personnel and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims, CONSULTANT agrees to make its personnel available for consultation with SBCTA and legal staff, and for testimony, if necessary, at depositions, administrative proceedings, trial or arbitration proceedings.
- B. CONSULTANT's personnel that SBCTA considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from SBCTA. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the CONSULTANT's personnel services under this Contract.

- C. Services of CONSULTANT's personnel in connection with SBCTA's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Contract in order to resolve the construction claims.
- D. Any subcontract in excess of \$25,000 entered into as a result of this Contract, shall contain all of the provisions of this Article.

#### **ARTICLE XXIX. CONFIDENTIALITY OF DATA**

- A. All financial, statistical, personal, technical, or other data and information relative to SBCTA's operations which are designated confidential by SBCTA and made available to CONSULTANT in order to carry out this Contract shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion or at a public hearing held by SBCTA relating to the Contract shall not authorize CONSULTANT to further disclose such information or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media, including social media, regarding the Contract or SBCTA's actions on the same, except to SBCTA's staff, CONSULTANT's own personnel involved in the performance of this Contract, at public hearings or in response to questions from a SBCTA Board Committee or other public meeting approved by SBCTA.
- D. CONSULTANT shall not issue any news release or public relations item of any nature whatsoever regarding Work performed or to be performed under this Contract without prior review of the contents thereof by SBCTA and receipt of SBCTA's written permission.
- E. Any SBCTA communications or materials to which CONSULTANT or its subconsultants 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 subconsultants or agents have access in performing Work under this Contract shall be subject to 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.
- F. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.
- G. CONSULTANT agrees to inform itself and make its employees, agents and subconsultants aware of the requirements of SBCTA's privacy confidentiality policies, and to abide by the same. CONSULTANT further agrees to require all employees, agents, and subconsultants assigned to any SBCTA project or task to sign and adhere to a SBCTA Confidentiality Agreement as directed by SBCTA personnel. CONSULTANT acknowledges and agrees that its duties and obligations under this provision specifically pertain to, but is not to, all of its employees, agents, and subconsultants who may have access to Personally Identifiable Information ("PII") and/or Sensitive Security Information ("SSI") within the custody or

control of SBCTA.

### **ARTICLE XXX. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that ordered CONSULTANT to comply with an order of the National Labor Relations Board.

### **ARTICLE XXXI. EVALUATION OF CONSULTANT**

CONSULTANT's performance may be evaluated by SBCTA. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the Contract file. This information may be used when evaluating the firm on future proposal submittals.

### **ARTICLE XXXII. RETENTION OF FUNDS**

A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.

B. Retention.

1. As partial security against CONSULTANT's failure to perform under this CONTRACT, SBCTA shall withhold a retention of ten percent (10%) of the total amount of each invoice from CONSULTANT up to \$250,000. CONSULTANT may request in writing a reduction of retention from 10% to five percent (5%) upon acceptable completion of at least 50% of the Work, as determined by SBCTA. All retained funds shall be released by SBCTA within sixty (60) calendar days after the last to occur of:
  - a. SBCTA's payment of the final invoice, unless SBCTA elects to audit CONSULTANT's records in accordance with this Contract. If SBCTA elects to audit, then retain funds shall be paid to CONSULTANT with thirty (30) calendar days of completion of the audit in an amount reflecting any adjustments required by the audit; or
  - b. final resolution of all Stop Notices, claims for payment and/or other claims arising out of the Work performed under the Contract.
2. CONSULTANT, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment for Work satisfactorily completed and accepted including incremental acceptances of portions of the Work by SBCTA. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days may take place only for good cause and with SBCTA's prior written approval. Any violation of this provision shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or non-payment by CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant.



This provision applies to both DBE and non-DBE consultants and subconsultants.

### **ARTICLE XXXIII. RESPONSIBILITY OF CONSULTANT**

- A. CONSULTANT shall be responsible for the professional quality, technical accuracy, and the 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 design or other standards for Work performance stipulated in the Contract.
- B. 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. Risks that may be encountered include, but are not limited to, soil conditions, constructability, factors of safety, impact on adjacent properties, public safety, and environmental considerations. 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 SANBAG 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, potential failure, or any situation that exceeds environmental, design, and/or construction assumptions and could precipitate a failure of any structure or other 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.
- C. When a modification to a construction contract is required because of an error or deficiency in the design Work provided under this Contract, CONSULTANT shall be responsible for any and all additional costs associated with the construction contract or the construction of the Project.
- D. SBCTA shall advise CONSULTANT of CONSULTANT's responsibility for additional costs as described above and shall collect the amount due, including but not limited to withholding of payments if the recoverable cost will exceed the administrative cost involved or is otherwise in SBCTA's best interest. SBCTA shall include in the Contract Audit File a written statement of the reasons for the decision to recover or not recover the costs from CONSULTANT.
- E. CONSULTANT shall document the results of the Work to the satisfaction of SBCTA, and if applicable, Caltrans and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of SBCTA's objectives.
- F. As applicable, the responsible consultant/engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her, certify as-built drawings, and where appropriate, indicate his/her California registration or license number.

### **ARTICLE XXXIV. TECHNICAL DIRECTION**

- A. Performance of Work under this Contract shall be subject to the technical direction of SBCTA's Project Manager. The term "Technical Direction" is defined to include, without limitation:

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 contractual Scope of Work.
  2. Provision of written information to CONSULTANT which assists in the interpretation of drawings, reports, or technical portions of the Scope of Work described herein.
  3. Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by CONSULTANT to SBCTA under the Contract.
  4. SBCTA may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications as defined herein are limited to: substitutions of personnel identified in this Contract, including Key Personnel and project personnel and subconsultants; modifications to hourly rates, classifications, and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All administrative modifications shall be documented in writing between the Parties.
- B. Technical Direction must be within the Scope of Work under this Contract. SBCTA does not have the authority to, and may not, issue any Technical Direction which:
1. Increases or decreases the Scope of Work;
  2. Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;
  3. In any manner causes an increase or decrease in the Contract price as identified in this Contract, or the time required for Contract performance;
  4. Changes any of the expressed terms, conditions or specifications of the Contract; unless identified herein;
  5. Interferes with the CONSULTANT's right to perform the terms and conditions of the Contract; or
  6. Approves any demand or claim for additional payment.
- C. 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, shall be subject to the provisions of the "DISPUTES" Article herein.
- D. All Technical Direction shall be issued in writing by SBCTA's Project Manager.
- E. CONSULTANT shall proceed promptly with the performance of Technical Direction, 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 falls within one of the categories defined in B.1. through B.6. of this Article, 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 the CONSULTANT, SBCTA's Project Manager shall:

1. Advise CONSULTANT in writing within thirty (30) calendar days after receipt of the CONSULTANT's letter that the Technical Direction is or is not within the scope of this Contract.
  2. Advise CONSULTANT within a reasonable time whether SBCTA will or will not issue a written amendment.
- F. There shall be no changes in CONSULTANT's Key Personnel as identified herein, without prior written approval by SBCTA's Project Manager.

#### **ARTICLE XXXV. 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 reallocating any tasks or hours of Work that are the responsibility of key personnel to other personnel, CONSULTANT shall notify SBCTA in writing and shall submit justifications (including proposed substitutions, resumes and payroll information to support any changes to the labor rate) 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 Project Manager. CONSULTANT shall not substitute any key personnel without the prior written consent of SBCTA's Project Manager. In the event that the Parties cannot agree as to the substitution of key personnel, SBCTA may terminate the Contract.

Key Personnel are:

<b>Name</b>	<b>Job Classification/Function</b>

#### **ARTICLE XXXVI. 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 and engineering and environmental principles and standards that are generally accepted in the profession in the State of California.

#### **ARTICLE XXXVII. ADDITIONAL TERMINATION PROVISIONS**

- A. In addition to the terms of Article VI, the following provisions apply to termination of the Contract.
- B. Termination for Convenience – SBCTA's Executive Director 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 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.

1. CONSULTANT shall deliver to SBCTA all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA for payment in accordance with the terms of this Contract.
  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.
  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.
- C. 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 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 subconsultants 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 products and finished Work by whatever method SBCTA may deem expedient.
1. 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 this Contract.
  2. CONSULTANT shall deliver to SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA within ten (10) working days of said notice.
- D. 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 XXXVIII. OPTION TERMS**

SBCTA at its sole discretion may extend the original term of the Contract by exercising up to (2) one year option terms. The maximum term of this Contract, including all option term(s) if

exercised, will not exceed December 31, 2028.

#### **ARTICLE XXXIX. ADDITIONAL PAYMENT TERMS.**

##### **A. STATEMENT WITH INVOICES.**

CONSULTANT shall include a statement and release with each invoice, satisfactory to SBCTA, that CONSULTANT has fully performed the Work invoiced pursuant to this 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 subconsultants for Work during the period will be satisfied upon the making of such payment. SBCTA shall not be obligated to make payments to CONSULTANT until CONSULTANT furnishes such statement and release.

##### **B. JUNE INVOICES.**

The invoice for Work performed in the month of June shall be submitted by July 10<sup>th</sup>.

#### **ARTICLE XL. 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 XLI. 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.h

#### **ARTICLE XLII. CONFLICT OF INTEREST CODE**

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 and SBCTA's Conflict of Interest Code shall timely file Statements of Economic Interest with the SBCTA Clerk of the Board as required for the term of the Contract.

#### **ARTICLE XLIII. NOTIFICATION**

All notices hereunder and communications regarding the interpretation of the terms of this Contract and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

<b>To CONSULTANT</b>	<b>To SBCTA</b>
	<b>1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor</b>
	<b>San Bernardino, CA 92410-1715</b>

<b>Attn:</b>	<b>Attn: Henry Stultz</b>
	<b>cc: Procurement Manager</b>
<b>Phone:</b>	<b>Phone: (909) 884-8276</b>

#### **ARTICLE XLIV. STOP WORK ORDER**

Upon failure of CONSULTANT or its subconsultants 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 the "TERMINATION" provisions in Articles VI and XXXVII.

#### **ARTICLE XLV. 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 XLVI. 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 costs resulting from errors or deficiencies in Work furnished under this Contract, including but not limited to any fines, penalties, damages, and costs associated with a modification to a construction contract required because of an error or deficiency in the Work provided by CONSULTANT under this Contract.

#### **ARTICLE XLVII. 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 CONSULTANT shall promptly reimburse SBCTA for all expenses and costs incurred.

#### **ARTICLE XLVIII. 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 under this Contract and all representatives of CONSULTANT shall be and remain the employees or agents of CONSULTANT or of CONSULTANT's subconsultant(s) at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of SBCTA.

#### **ARTICLE XLIX. ATTORNEYS' 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 L. 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 LI. 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 LII. PRECEDENCE**

- A. The Contract consists of the Contract Articles, Exhibit A "Scope of Work," Exhibit B "CONSULTANT's Approved Cost Proposal," SBCTA's Request For Proposals and CONSULTANT's Proposal, all of which are incorporated into this Contract by this reference.
- B. The following order of precedence shall apply: first, the Contract Articles, second, Exhibits A and B; third, SBCTA's Request For Proposals; and last, CONSULTANT's Proposal.
- C. 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 LIII. 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 LIV. 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 LV. DRUG FREE WORKPLACE**

CONSULTANT agrees to comply with the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.).

#### **ARTICLE LVI. 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 LVII. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT**

CONSULTANT shall comply with all applicable provisions of the Americans With Disabilities Act (42 U.S.C. § 12101 et seq.) in performing Work under this Contract.

#### **ARTICLE LVIII. CLEAN AIR**

CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387) as amended. CONSULTANT shall report each violation to SBCTA, who will in turn report each violation as required to assure notification to the Federal Awarding Agency and the appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its subcontracts which exceed \$100,000.

#### **ARTICLE LIX. ENTIRE DOCUMENT**

- A. 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.
- B. 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.
- C. 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 LX. CONTRACT**

The two Parties to this Contract, who are the CONSULTANT and SBCTA, hereby agree that this Contract constitutes the entire agreement which is made and concluded in duplicate between the two Parties. Both of these Parties for and in consideration of the payments to be made, conditions mentioned, and Work to be performed, each agree to diligently perform in accordance with the terms and conditions of this Contract as evidenced by the signatures below.



-----*SIGNATURES ARE ON THE FOLLOWING PAGE*-----

**IN WITNESS WHEREOF**, the Parties hereto have executed this Contract on the day and year written below.

**CONSULTANT**

**SBCTA**

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

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

By: \_\_\_\_\_  
Curt Hagman  
President, Board of Directors

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

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Julianna K. Tillquist  
General Counsel

**CONCURRENCE**

By: \_\_\_\_\_  
Jeffery Hill  
Procurement Manager

**EXHIBIT A**  
**“SCOPE OF WORK” – ADDED TO FINAL CONTRACT**

**EXHIBIT B**

**“CONSULTANT’S APPROVED COST PROPOSAL” – ADDED TO FINAL CONTRACT**

For Construction Management Contracts—use SBCTA Form 351-10H

## **ATTACHMENT C RFP FORMS**

**CERTIFICATE OF COMPLIANCE WITH  
INSURANCE REQUIREMENTS**

This form must be completed in its entirety and submitted along with  
Consultant's response to the RFP.

**INSURANCE REQUIREMENTS (check appropriate boxes below):**

- ☐ Consultant has provided a copy of the insurance requirements contained in the San Bernardino County Transportation Authority (SBCTA) Contract to its agent/broker for review and discussion.

AND

- ☐ Consultant certifies that the company/individual is fully prepared to comply with the insurance requirements as detailed in the SBCTA Contract.

OR

- ☐ Consultant has identified areas of conflict with the insurance requirements and has provided a list of concerns in its response to the RFP, each referenced by section and page number of the SBCTA Contract.

\_\_\_\_\_  
Company/Individual Name

\_\_\_\_\_  
Print Name of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**Broker Information:**

Name:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Address

\_\_\_\_\_  
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.

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

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

If yes, please identify the Board member or alternate and date of contribution:

\_\_\_\_\_ 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

If yes, please identify the Board member or alternate and date of contribution:

\_\_\_\_\_ 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.

**BIDDER:**

---

Signature of Bidder

---

Date

---

Name

---

Title

---

Company

---

Address

---

City, State, and Zip



SBCTA BOARD OF DIRECTORS AND ALTERNATES

Agency	Board Representative	Alternate
City of Adelanto	Daniel Ramos	Gabriel Reyes
City of Barstow	Paul Anthony Courtney	Barbara Rose
City of Big Bear Lake	Rick Herrick	Randall Putz
City of Chino	Eunice Ulloa	Karen Comstock
City of Chino Hills	Ray Marquez	Cynthia Moran
City of Colton	Frank Navarro	Isaac Suchil
City of Fontana	Acquanetta Warren	John Roberts
City of Grand Terrace	Darcy McNaboe	Sylvia Robles
City of Hesperia	Cameron Gregg	Larry Bird
City of Highland	Larry McCallon	Penny Lilburn
City of Loma Linda	Rhodes “Dusty” Rigsby	Bhavin Jindal
City of Montclair	John Dutrey	Tenice Johnson
City of Needles	Edward Paget	Jeff Williams
City of Ontario	Alan Wapner	Debra Dorst-Porada
City of Rancho Cucamonga	L. Dennis Michael	Lynne Kennedy
City of Redlands	Paul Barich	Denise Davis
City of Rialto	Deborah Robertson	Andy Carrizales
City of San Bernardino	John Valdivia	Damon Alexander
City of Twentynine Palms	Joel Klink	Dan Mintz, Sr.
City of Upland	Carlos Garcia	Janice Elliott
City of Victorville	Debra Jones	Leslie Irving
City of Yucaipa	David Avila	Bobby Duncan
County of San Bernardino 1 <sup>st</sup> District	Paul Cook	N/A
County of San Bernardino 2 <sup>nd</sup> District	Janice Rutherford	N/A
County of San Bernardino 3 <sup>rd</sup> District	Dawn Rowe	N/A
County of San Bernardino 4 <sup>th</sup> District	Curt Hagman	N/A
County of San Bernardino 5 <sup>th</sup> District	Joe Baca	N/A
Town of Apple Valley	Art Bishop	Larry Cusack
Town of Yucca Valley	Rick Denison	Merl Abel

JH 03.2021

## EXHIBIT 10-A A&E CONSULTANT FINANCIAL DOCUMENT REVIEW REQUEST LETTER

(For Proposed A&E Consultant Contracts of \$150,000 or Greater)

Department of Transportation

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

Independent Office of Audits and Investigations, MS 2

Attention: External Audit Manager

Federal Project Number: \_\_\_\_\_

P.O. Box 942874

Sacramento, CA 94274-0001

[conformance.review@dot.ca.gov](mailto:conformance.review@dot.ca.gov)

Project Description: \_\_\_\_\_

To Caltrans Independent Office of Audits and Investigations:

The following applicable documents are attached for proposed A&E consultant contract number \_\_\_\_\_ at a proposed total contract amount of \$ \_\_\_\_\_ with [Prime Consultant's full legal name]:

Participation Amounts for Prime and all Sub-consultants on this contract are:

Consultant's Name	Participation Amount	Category 1, 2, 3, 4, or 5?

Note: add pages if necessary.

1. **Category 1:** For our Consultant with a **Cognizant Approval Letter** for the Indirect Cost Rate (ICR) Fiscal Year End (FYE) proposed, we are submitting the following:

- ☐ Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- ☐ Cognizant Approval Letter for FYE proposed, issued by cognizant state *(Based on Location of Accounting Records as stated on AASHTO ICQ)*
- ☐ Consultant Annual Certification of Indirect Costs and Financial Management System *(Exhibit 10-K). (If already submitted for the fiscal year, provide only a copy)*
- ☐ Local Agency and Consultant's Point of Contacts
- ☐ Prevailing Wage (PW) Policy for PW contracts

*\*PW contracts require written PW Policy. It must be on the company's letterhead, signed, and dated by company's official to show accounting methods used on delta base and delta fringe - refer to A&I's*

2. **Category 2:** For our Consultant with **Caltrans Acceptance Identification (ID) Number** for ICR FYE proposed, we are submitting the following:

- ☐ Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- ☐ Caltrans' ICR Acceptance ID(s) for FYE ICR proposed, as listed below:

Consultant's Name	ICR FYE Accepted	Acceptance ID #s

*Note: add pages if necessary.*

- ☐ Local Agency and Consultant's Point of Contacts
- ☐ Prevailing Wage (PW) Policy for PW contracts\*

3. **Category 3:** For our consultant requesting a Safe Harbor Rate (SHR), the following are submitted:

- ☐ Cost Proposals *(Examples at Exhibit 10-H1 through 10-H4)*
- ☐ Local Agency and Consultant's Point of Contacts
- ☐ Prevailing Wage (PW) Policy for PW contracts\*
- ☐ Safe Harbor Rate Consultant Certification of Eligibility Contract Costs and Financial Management System (Attachment 1R). *Firms using SHR can be reimbursed for the prevailing wage deltas either as an Other Direct Cost or as an Overhead/Indirect Cost - refer to A&I's PW Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).*
- ☐ Questionnaire for Evaluating Consultant's Financial Management System (Attachment 2R)
- ☐ Here is a list of consultants that are requesting use of the Safe Harbor Rate:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

4. **Category 4:** For contract amounts **greater than or equal to \$150,000 but less than \$1,000,000 with participating amount greater than or equal to \$150,000**, the following are submitted for all prime and subconsultants on this contract:

- ☐ Cost Proposals from all selected Prime and subconsultants. *(Examples at Exhibits 10-H1 through 10-H4)*
- ☐ Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) *(If already submitted for the fiscal year, provide only a copy)*
- ☐ Local Agency and Consultant's Point of Contacts
- ☐ FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Note. *\*\*FAR Compliant ICR schedule includes FAR References and Disclosure Notes. If the Disclosure Notes are not provided, A&I will provide a first year waiver of this requirement;*

however, the note will be required on future fiscal year ICR schedules. See AASHTO Guide Chapter 5, 8, and 11 for references. The fiscal year-end's indirect cost rate (ICR) to be applied to the Agreement is based on the submission package received by A&I. For financial document package received between January 1, 2018 and June 30, 2018, the FYE ICR of 2016 must be submitted or the FYE 2017 ICR if available. If the financial document package received date is between July 1, 2018 and December 31, 2018, the 2017 ICR must be submitted.

- ☐ AASHTO Internal Control Questionnaire (ICQ) Appendix B
- ☐ Prevailing Wage (PW) Policy for PW contracts\*

5. **Category 5:** For contract amounts **greater than or equal to \$1,000,000**, the following are submitted for all prime and subconsultants with **participating amounts greater than or equal to \$150,000** on this contract:

- ☐ Cost Proposals from all selected Prime and subconsultants. (Examples at Exhibits 10-H1 through 10-H4)
- ☐ Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) (If already submitted for the fiscal year, provide only a copy)
- ☐ Local Agency and Consultant's Point of Contacts
- ☐ FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Note \*\*  
(Prime Consultant must have a CPA Audited ICR Report if contract is  $\geq$  \$1M, regardless of Prime Consultant's participation amount).
- ☐ Prior year Indirect Cost Rate (ICR) Schedule
- ☐ AASHTO Internal Control Questionnaire (ICQ) Appendix B
- ☐ Post-Closing Trial Balance. (Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31)
- ☐ Vacation/Sick Policy
- ☐ Bonus Policy
- ☐ Executive Compensation Analysis (ECA). (Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31)
- ☐ Prevailing Wage (PW) Policy for PW contracts\*

Sincerely,

Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Department \_\_\_\_\_

Address \_\_\_\_\_

**Distribution:**

- 1) Original - Caltrans Independent Office of Audits & Investigations
- 2) Copy - Local Agency Project Files
- 3) Copy - Caltrans District Local Agency Engineer

**CALTRANS A&I FINANCIAL DOCUMENT REVIEW REQUIREMENTS  
FOR ARCHITECTURAL AND ENGINEERING (A&E) CONSULTANTS  
ON LOCAL GOVERNMENT AGENCY CONTRACTS**

					<i>If not Categories 1-3</i>	
Type of Financial Documents and Information for ICR FYE proposed *	CATEGORY 1:  Firms with Cognizant Approval Letter for ICR FYE proposed	CATEGORY 2:  Firms with Caltrans Acceptance ID Number for ICR FYE proposed **	CATEGORY 3:  Firms Requesting Safe Harbor Rate (SHR)		CATEGORY 4:  Contracts ≥ \$150K to < \$1M and participating amounts ≥ to \$150K	CATEGORY 5:  Contracts ≥ \$1M and participating amounts ≥ \$150K
<b>For all Prime and Sub-consultants</b>						
A&E Consultant Financial Document Review Request Letter and Checklist (Exhibit 10-A) (1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Cost Proposals from all selected Prime and subconsultants. (Examples at Exhibit 10-H1 through 10-H4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Cognizant Approval Letter for the FYE proposed (issued by cognizant state, which is based on Location of Accounting Records as stated in AASHTO ICQ)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Caltrans' ICR Acceptance ID #s for ICR FYE proposed **	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K) (if already submitted for the fiscal year, provide a copy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Local Agency and Consultant's Points of Contact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
FAR Compliant Indirect Cost Rate (ICR) Schedule including FAR References and Disclosure Notes (2) ★ <i>Prime Consultant must have a CPA Audited ICR Report if contract is ≥ \$1M, regardless of Prime Consultant's participation amount.(2)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	★
Prior Year ICR Schedule	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
AASHTO Internal Control Questionnaire (ICQ) Appendix B	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Post Closing Trial Balance (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Vacation/Sick Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Bonus Policy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Executive Compensation Analysis (ECA) (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Prevailing Wage (PW) Policy for PW contracts (4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	***	<input type="checkbox"/>	<input type="checkbox"/>
<b>When applicable, additional documents may be requested:</b>						
Supplemental reconciliation schedule (to tie the proposed ICR Schedule to Trial Balance) (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Chart of Accounts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Income Statement (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Labor Summary Report (5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Related Party Rent Analysis (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Vehicle, Equipment, and Other Direct Costs Schedules (3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
<b>Safe Harbor Rate Documents:</b>						
- Consultant Certification of Eligibility of Contract Costs and Financial Management System (Attachment 1R)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
- Questionnaire for Evaluating Consultant's Financial Management System (Attachment 2R)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
<b>Total Documents Required</b>	<b>6</b>	<b>5</b>	<b>6</b>		<b>7</b>	<b>12</b>

\*ICR FYE = Indirect Cost Rate Fiscal Year End. This list is not all inclusive and additional documentation may be required.

\*\* Caltrans ICR Acceptance ID # is an identification number issued by Caltrans upon review and acceptance of consultant's indirect cost rate(s) schedule for a specific fiscal year. This ID # can be referenced for use on future contracts using the same FYE ICR.

\*\*\* Firms using SHR can be reimbursed for the prevailing wage deltas either as an Other Direct Cost or as an Overhead/Indirect Cost - refer to A&I's PW Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).

Local Agencies are required to complete Exhibit 10-A and include all applicable required documents upon submission.

FAR Compliant ICR schedule includes FAR References, and Disclosure Notes. If the Disclosure Notes are not provided, A&I will provide a first year waiver of this requirement; however, the notes will be required on future fiscal year ICR schedules. See AASHTO Guide Chapter 5, 8, and 11 for references. The fiscal year-end indirect cost rate (ICR) to be applied to the Agreement is based on the submission package received by A&I. For financial document packages received from January 1, 2018 to June 30, 2018, the 2016 FYE ICR must be submitted or the FYE 2017 ICR if available. For financial document packages received from July 1, 2018 to December 31, 2018, the 2017 ICR must be submitted.

Accounts and balances must match costs proposed on the FAR Compliant ICR schedule, as per 48 CFR Part 31.

Prevailing Wage (PW) contract requires written PW Policy. It must be on the company's letterhead, signed, and dated by company's official to show accounting methods used on delta base and delta fringe - refer to A&I's PW Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).

Document/Report must summarize total labor costs that agree to total direct labor and total indirect labor amounts included in the fiscal year ICR schedule proposed on the contract. Uncompensated overtime must be presented for salaried/exempt employees that are not compensated for hours worked in excess of 8 hours a day/40 hours per week/2080 hours per year. Refer to Uncompensated Overtime Interpretive Guidance on [www.dot.ca.gov/audits](http://www.dot.ca.gov/audits).

## NON-LOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

I, \_\_\_\_\_ (Proposer Name) as the proposer certifies, by signing and submitting this proposal, to the best of my knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by 31 U.S.C. § 1352 before making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting its proposal that it shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Signature of Proposer's authorized official

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action or a material change to previous filing pursuant to 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action in item 1. If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g. RFP-DE-90-001.
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action. (b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item



- 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal official(s). Identify the Federal officer(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form and print his/her name, title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.
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## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material changes  For Material Change Only: year _____ quarter _____ _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: _____		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known: _____
<b>6. Federal Department/Agency:</b> _____		<b>7. Federal Program Name/Description:</b>  CFDA number, if applicable: _____
<b>8. Federal Action Number, if known:</b> _____		<b>9. Award Amount, if known:</b> \$ _____
<b>10. a. Name and Address of Lobbying Entity</b> (if individual, last name, first name, MI)   <div style="text-align: center;">(attach Continuation Sheet(s) SF - LLL - A if necessary)</div>		<b>b. Individuals Performing Services (including address if different from No 10a)</b> (last name, first name, MI):   <div style="text-align: center;">(attach Continuation Sheet(s) SF - LLL - A if necessary)</div>
<b>11. Amount of Payment (check all that apply):</b>  \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned		<b>13. Type of Payment (check all that apply):</b> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other specify: _____
<b>12. Forum of Payment (check all that apply):</b> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify                      nature: _____ value: _____		
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s) or Member(s) contracted for Payment indicated in Item 11:</b>     <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLL-A if necessary)</div>		
<b>16. Information requested through this form is authorized by Code 31 U.S.C. Section 1352.</b> This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.		Signature: _____  Print name: _____  Title: _____  Telephone No: _____ Date: _____

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WITH CALTRANS FEDERAL\_29093\RFP A&E TEMPLATE WITH CALTRANS  
FEDERAL.DOCX  
**DISCLOSURE OF LOBBYING ACTIVITIES** (Continuation Sheet)

Reporting Entity: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_

## INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION

### TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

Each proposer shall complete the “Certification of Debarment, Suspension and other Responsibility Matters” included in this RFP for itself and its principals, and submit the certification with its proposal. Failure to submit the certification may result in the rejection of the proposal.

If a proposer plans to use subconsultants on this project, the proposer shall have all subconsultants with contracts in excess of \$25,000 complete the certification entitled “Certification Regarding Debarment For Lower Tier Covered Transactions” and submit that certification within ten (10) working days after Notice of Intent To Award.

By signing and submitting a proposal, the prospective primary participant is providing the certification set out below. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the SBCTA’s determination whether to enter into this transaction. However, **failure of the Proposer to furnish a certification or an explanation shall disqualify such person from participation in this transaction.**

The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact SBCTA for assistance in obtaining a copy of those regulations.

The prospective primary participant agrees by submitting this proposal that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 2 CFR parts 180 and 1200 or 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 2 CFR part 180, subpart H or 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 2 CFR part 180, subpart H or 48 CFR part 29, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

## **INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION – LOWER TIER COVERED TRANSACTIONS**

*Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more – (2 CFR Parts 180 and 1200).*

By signing and submitting this proposal, the prospective lower tier (subconsultant) is providing the certification set out below.

The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

The prospective lower tier participant shall provide immediate written notice to SBCTA if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “primary covered transaction,” “participant,” “person,” “principal,” “proposal or bid,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

The prospective lower tier participant agrees by submitting a proposal that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under these instructions, if a participant in a covered

transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS**

The \_\_\_\_\_

Firm Name/Principal

Certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with: obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local), with commission of any of the offenses enumerated in paragraph 2 herein; and
4. Have not within a three-year period preceding this proposal had one or more public transaction (federal, state or local) terminated for cause or default.

If unable to certify to any of these statements in this certification, the primary participant (proposer) shall attach an explanation to this certification.

**THE PRIMARY  
PARTICIPANT**

\_\_\_\_\_  
Firm Name/Principal

**Certifies or affirms the truthfulness and accuracy of the content of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq., are applicable.**

**Signature and Title of Authorized  
Official:**

\_\_\_\_\_



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER  
INELIGIBILITY AND VOLUNTARY EXCLUSION –  
LOWER TIER COVERED TRANSACTIONS**

The \_\_\_\_\_  
Firm Name/Principal

Certifies by submission of this proposal that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

If unable to certify to any of the statements in this certification, such participant(s) shall attach an explanation to this Proposal.

<b>THE LOWER TIER PARTICIPANT</b>	
	<b>Firm Name/Principal</b>

**Certifies or affirms the truthfulness and accuracy of the content of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq. are applicable.**

**Signature and Title of Authorized Official:** \_\_\_\_\_

**CERTIFICATION OF CONSULTANT, COMMISSION & FEES –**

**FORM 333**

To be submitted with top ranked firm's Cost Proposal-

I HEREBY CERTIFY, that I am the \_\_\_\_\_, and duly authorized representative of the firm of \_\_\_\_\_, whose address is \_\_\_\_\_, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; nor
- (c) paid, or agreed to pay, any firm, organization or person (other than a bona fide employee working solely for me of the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this contract.

I acknowledge that this Certificate is to be made available to SBCTA in connection with this contract involving participation of federal-aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Distribution:     1) Contract Audit File  
                      2) Caltrans Local Assistance, if applicable

**ATTACHMENT D  
REFERENCE FORM**

**REFERENCE FORM**  
(Sample Cover Letter)

<ON COMPANY LETTERHEAD>

Date:

Name of Reference

Reference Title

Address, City, State, Zip Code

Telephone No., Email Address

SUBJECT: Request for Proposal RFP<Number>

Dear \_\_\_\_\_,

San Bernardino County Transportation Authority (SBCTA) has released Request for Proposal (RFP) xx-100xxxx for <RFP Title> to perform (Project Title).

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

Your firm has been identified as a reference and you are respectfully requested to complete and sign the attached questionnaire and submit it to SBCTA directly at [procurement@gosbcta.com](mailto: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 can possibly submit the questionnaire sooner it would be greatly appreciated.

The information 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



**RFP No. XX-XXXXXXX  
CONSULTANT REFERENCE CHECK**

**PROPOSING FIRM NAME** \_\_\_\_\_

**TO BE COMPLETED BY REFERENCE AGENCY/FIRM:**

**Project Owner/Agency Name**

**Address**

**City**

**State**

**Zip Code**

**Contact Name**

**Contact Title**

**Phone**

**Email Address**

**Name of Project:**

**Reference for:** ☐ Firm

☐ Key Personnel's Name \_\_\_\_\_

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

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

<b>Ratings:</b>	<b>3 - Excellent</b>	<b>2 - Good</b>	<b>1 - Satisfactory</b>	<b>0 - Poor</b>
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**(N/A IF NOT APPLICABLE - PROVIDE AN EXPLANATION IN THE COMMENTS SECTION)**

Question	Rating Definition		Rating
1. How do you rate the firm's/key personnel's overall performance and technical competence in providing similar work?	<b>Excellent (3)</b>	Took initiative, consistently demonstrated knowledge of the management consulting services on the "Project", consistently anticipated and solved issues.	
	<b>Good (2)</b>	Demonstrated knowledge of Project, solved unexpected issues promptly, few mistakes.	
	<b>Satisfactory (1)</b>	Demonstrated knowledge of the Project, occasional unanticipated issues arose, some mistakes.	

Question	Rating Definition		Rating
<b>If the rating is Poor, please provide an explanation here:</b>	<b>Poor (0)</b>	Knowledge of the Project was lacking, issues remained unresolved, frequent mistakes.	
2. What was the quality of the advice provided by the firm/key person?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	Consistently provided thorough and practical advice, anticipated issues we did not point out.	
	<b>Good (2)</b>	Rarely had to redirect the firm/key person and advice provided was valuable and responsive.	
	<b>Satisfactory (1)</b>	Usually provided helpful information and advice.	
	<b>Poor (0)</b>	Repeatedly had to be redirected and prompted to provide an adequate response.	
3. How was the firm's/key person's independence projected and communicated with the Agency?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	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.	
	<b>Good (2)</b>	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.	
	<b>Satisfactory (1)</b>	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.	
	<b>Poor (0)</b>	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.	
4. How do you rate the firm's/individual's knowledge with proposed work?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	Exceeded most expectations (knowledge of project requirements always apparent.).	
	<b>Good (2)</b>	Exceeded some expectations (knowledge of project requirements frequently apparent.).	
	<b>Satisfactory (1)</b>	Met expectations (knowledge of project requirement at times, but further research required).	

Question	Rating Definition		Rating
	<b>Poor (0)</b>	Failed to meet expectations (knowledge of project requirements lacking).	
5. How do you rate the firm's/key person's experience?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	Exceeded most expectations (always negotiated, resolved and processed change orders in a timely manner).	
	<b>Good (2)</b>	Exceeded some expectations (always negotiated, resolved and processed change orders and most of the time).	
	<b>Satisfactory (1)</b>	Met expectations (negotiated, resolved and processed change orders, but not always promptly).	
	<b>Poor (0)</b>	Failed to meet expectations (negotiated, resolved and processed change orders, but consistently late).	
6. Were the required Services completed on time and to your satisfaction?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	Always on time or ahead of schedule.	
	<b>Good (2)</b>	On time.	
	<b>Satisfactory (1)</b>	Occasionally late.	
	<b>Poor (0)</b>	Consistently late.	
7. Did the firm/key person's stay within budget?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	Always within budget.	
	<b>Good (2)</b>	Most often within budget.	
	<b>Satisfactory (1)</b>	Somewhat within budget.	
	<b>Poor (0)</b>	Consistently over budget.	
8. How do you rate the firm's/ key person's task management and scheduling abilities?  <b>If the rating is Poor, please provide an explanation:</b>	<b>Excellent (3)</b>	Exceeded most expectations.	
	<b>Good (2)</b>	Exceeded some expectations.	
	<b>Satisfactory (1)</b>	Met expectations.	
	<b>Poor (0)</b>	Failed to meet expectations.	

Additional Comments (Use additional sheets as necessary):

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Print Contact Name

Title

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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](mailto:procurement@gosbcta.com)**



## **ATTACHMENT E - DBE INFORMATION**

## **DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND INSTRUCTIONS**

### **1. CONTRACT DBE GOAL**

SBCTA has established a goal for the participation by DBEs of 0-20% of the total Contract value. If the awarded firm has a total DBE commitment in excess of the DBE goal, the firm will be held to the higher commitment amount.

Only DBEs who meet the definition contained within these provisions and who have been certified at the time of the proposal due date may be credited toward the goal when determining whether the proposer met the contract DBE goal.

If the DBE goal is not met, the firm must demonstrate that adequate good faith efforts were made to meet the goal.

### **2. SBCTA's RESPONSIBILITY**

SBCTA has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program that strongly encourages the participation of DBEs and other small businesses in the performance of the work that is the subject of this solicitation. It is SBCTA policy that any proposer should take the necessary and reasonable steps to ensure that no person or firm will be the subject of discrimination on the basis of race, color, national origin, or sex in the award and performance of the contract or subcontracts.

SBCTA will provide an equitable opportunity for DBEs and other small businesses to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs").

This Department of Transportation (DOT) assisted contract is subject to the regulations contained in 49 Code of Federal Regulations (CFR), Part 26. As a subrecipient to DOT-assisted funds under Caltrans, this contract is subject to the Caltrans DBE program requirements.

In the event of any conflicts or inconsistencies between the CFR and the SBCTA's DBE Program with respect to USDOT or Caltrans-assisted contracts, the CFR shall prevail.

The objectives of the program are:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program;

- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs; and
- To encourage the participation of small businesses in the performance of contracts.

### **3. PROPOSER's RESPONSIBILITY**

- A. It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the SBCTA DBE Program developed pursuant to the regulations. Particular attention is directed to the following:
  1. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
  2. A certified DBE may participate as a prime contractor, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
  3. The proposer, prior to submitting a proposal, must make adequate good faith efforts to meet the goal.
- B. A DBE firm proposing as a joint venture with a non-DBE will be required to document one or a combination of the following;
  1. The proposer is a DBE and will meet the goal by performing with its own forces.
  2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
  3. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces.
  4. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
  5. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid list of subconsultants.
  6. A prime contractor who is a certified DBE is eligible to claim all of the work in the agreement toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

7. In order to identify certified DBEs, you must only use the California Unified Certification Program Database (CUCP). Certifications from other agencies or organizations other than the CUCP will not be accepted.
8. Proposers are encouraged to use services offered by financial institutions owned or controlled by DBEs.
9. Proposers are hereby cautioned against knowingly and willfully using "fronts" or doing business with DBEs in a manner which could compromise the DBE's continued eligibility and ability to meet the DBE goal of this contract. Only legitimate DBEs are eligible to participate in any federally funded contract. The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Any indication of fraud, waste, abuse or mismanagement of federal funds should be immediately reported to SBCTA or to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline (800-424-9071).

#### 4. DEFINITIONS

The following definitions apply to the terms as used in these provisions:

- A. **"Code of Federal Regulations (CFR)"**- The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.
- B. **"United States Department of Transportation (DOT)"**- The DOT is a federal cabinet department of the United States government concerned with transportation.
- C. **"Federal Highway Administration (FHWA)"** - The FHWA is a division of the Department of Transportation (DOT) that specializes in highway transportation.
- D. **"California Department of Transportation (Caltrans)"** - Caltrans is an executive department within the State of California whose purpose is to improve mobility across the state.
- E. **"Disadvantaged Business Enterprise (DBE)"** - means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in 49 CFR 26.5.
- F. **"Small Business" or "Small Business Concern"** - a Small Business Concern is defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR, Part 121) that also does not exceed the cap on average annual gross receipts specified in Section 26.65(b) of 49 CFR.
- G. **"Socially and Economically Disadvantaged Individuals"** - means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged

by the Small Business Administration pursuant to Section 8(a) of the Small Business Act (15 U.S.C. § 637), or by SBCTA in accord with the provisions of 49 CFR section 26.65. Members of the following groups are presumed to be socially disadvantaged as identified in 49 CFR, Part 26.67:

1. “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
2. “Hispanic Americans,”;
3. “Native Americans,” which includes persons who are Alaska Native, Native Hawaiians, or enrolled members of a Federally or State recognized Indian Tribe;
4. “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China (including Hong Kong), Taiwan, Korea, Vietnam, Laos, Cambodia, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, the Philippines, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Mariana Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Republic of the Marshall Islands;
5. “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; and
6. Women, regardless of ethnicity or race.

“Economic disadvantage” is determined based on personal financial information.

**H. “Other Socially and Economically Disadvantaged Individuals”** - means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by the Small Business Administration to meet the social and economic disadvantage criteria described below: Evidence of Social Disadvantage must include the following elements:

1. At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar causes beyond the individual's control.
2. The individual present facts and evidence that by themselves establish that the individual has suffered social disadvantage that has negatively impacted his/her entirely into or advancement in the business world.
3. The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.
4. The individual's social disadvantage must be chronic, and substantial, not fleeting or insignificant.
5. The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.

**I. Economic Disadvantage is defined as:**

1. The impairment of a socially disadvantaged individual's ability to compete in the free

enterprise system due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.

2. The following factors will be considered when determining the diminished credit and capital opportunities of a person claiming social and economic disadvantage:
    - Income for the past three years (including bonuses and value of company stock received in lieu of cash)
    - Personal net worth
    - Fair market value of all assets, whether encumbered or not
  3. “Unconditionally and directly owned” is defined in 13 CFR 124.105.
  4. The term “Agreement” also means “Contract.”
  5. “Agency” also means SBCTA.
5. **DBE CERTIFICATION** - SBCTA is participating as a non-certifying member in the California Unified Certification Program (CUCP). SBCTA requires all DBEs listed by proposer for participation to be certified by the CUCP as eligible DBEs at the time of proposal submission. It is the responsibility of the proposer to verify the DBE certification status of all listed DBEs.
- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification’s toll free number (1-866-810-6346) for assistance. Proposers may call (916) 440-0539 for web or download assistance.
  - B. Access the CUCP database from Caltrans, Civil Rights, Business Enterprise Program website at: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)
    - Click on the link in the left menu titled Disadvantaged Business Enterprise.
    - Click on Search for a DBE Firm link.
    - Click on Access to the DBE Query Form located on the first line in the center of the page.
    - Searches can be performed by one or more criteria.
    - Follow instructions on the screen.
  - C. To obtain a list of certified DBEs without Internet Access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at:

**California Department of Transportation  
Publication Distribution Unit  
1900 Royal Oaks Drive  
Sacramento, CA 95815-3800**

**Please make checks payable to: Caltrans**

- D. A copy of the directory of certified DBE firms can also be downloaded at:  
[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)

## **6. DBE ELIGIBILITY AND COMMERCIALY USEFUL FUNCTION STANDARDS**

- A. A DBE must be a small business concern as defined pursuant to Section 3 of the U.S. Small Business Act (15 U.S.C. § 632) and relevant regulations promulgated pursuant thereto.
- B. A DBE may participate as a prime contractor, subconsultant, joint venture partner with a prime or subconsultant, vendor of material or supplies, or as a trucking company.
- C. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- D. A DBE must perform a commercially useful function in accordance with 49 CFR section 26.55 (i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.
- E. A DBE must be registered with the CUCP in the North American Industry Classification System (NAICS) or Work Codes appropriate to their Scope of Work.

## **7. DBE CREDITING PROVISIONS**

- A. When a DBE is proposed to participate in the contract, either as a prime contractor or subconsultant, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards DBE participation. If the contractor is a DBE joint venture participant, only the DBE's proportionate interest in the joint venture shall be counted.
- B. If a DBE intends to subcontract part of the work of its subcontract to a lower tier subconsultant, the value of the subcontracted work may be counted toward DBE participation only if the DBE subconsultant is a certified DBE and actually performs the work with his or her own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime contractor attainment.

## **8. GOOD FAITH EFFORTS**

If the proposer fails to meet the established contract-specific DBE goal, the proposer must document Good Faith Efforts to be deemed responsive to the DBE requirements set forth in this

solicitation. This means that the proposer must demonstrate that it took all necessary and reasonable steps to achieve the DBE goal that could reasonably be expected to obtain sufficient DBE participation, even if the proposer was not fully successful. The efforts employed by the proposer should be consistent with actively and aggressively trying to obtain DBE participation sufficient to meet the established DBE contract goal. Mere pro forma efforts are not Good Faith Efforts to meet the DBE contract requirements. SBCTA will make a fair and reasonable judgment whether a proposer that did not meet the goal made adequate good efforts to do so.

Proposers shall submit all Good Faith Efforts documentation (undertaken prior to proposal submittal) to SBCTA within four (4) working days from the date of proposal submittal identified in the RFP or subsequent addenda. At no time shall the awarded firm begin performance of work prior to submitting Good Faith Effort documentation.

Good Faith Efforts must be documented on Exhibit 15-H, which is attached herein. The following types of actions and documentation are necessary to evidence such efforts:

- A. Identifying efforts made to reasonably structure the contract scope of work for purposes of subcontracting with DBEs. Include documentation showing the portion of the scopes of work DBEs will be solicited to bid/propose and the associated dollar value of each item. Proposer should also identify the Scope of Work that the proposer intends to perform with its own workforce.
- B. Timely place advertisement(s) in one general circulation, one trade association publication and at least one disadvantaged/minority and women business focus medias. The advertisements must include, at a minimum, identification of specific subcontracting opportunities being solicited, project name, location, DBE goal, including identifying the SBCTA as Owner, proposer's contact person including name, address, phone, fax, Proposal solicitation due date, and statement that proposer intends to conduct itself in good faith with DBE firms for participation on the project. Advertisements should appear at least 15 calendar days prior to proposal due date to be considered timely.
- C. Provision of extending written notices to DBEs to solicit interest in all of the identified subcontracting areas toward promoting participation. There should be a sufficient number of written invitations to DBE firms for each subcontracting area identified.

Notices should be issued at least 15 calendar days prior to submittal due date to allow sufficient time for the DBEs to respond to the solicitation.

- D. Subsequent efforts to follow-up on initial solicitations to DBEs, including contract requirements, plans and specifications timely provided to DBEs for purposes of soliciting their proposals. Documentation should include:
  - Names, addresses and telephone numbers of DBEs contacted by each subcontracting area identified/solicited;



- Description of information timely provided to interested DBEs about the contract requirements, plans and specifications to assist DBEs in responding to the solicitation, and the dates and manner in which these documents were made available;
  - Statement of justification re: unsuccessful solicitation of DBEs; and
  - Negotiations in good faith with interested DBEs to facilitate DBE participation.
  - Utilization of a sound basis of selection and/or rejection of DBEs proposals.
- E. A proposer using good business judgment must consider a number of factors in negotiating with subconsultants, including DBE subconsultants, and must take a firm's price and capabilities as well as the contract goal into consideration. The fact that there may be some additional costs involved in using DBEs is not, in itself, sufficient reason for a proposer's failure to meet the established contract DBE goal. Also, the ability or desire of the prime contractor to perform the work of a contract with its own organization does not relieve the proposer of the responsibility to make good faith efforts toward meeting the objectives of the DBE goal. Evidence of a willingness to modify planned prime contractor scope or subcontract packaging to facilitate DBE participation will demonstrate serious effort.
- F. Barring lack of qualifications to perform work, only significant price differences (the relevant Federal regulations reference 10% or more as significant) between the selected firm and rejected DBE firms' proposed costs would be considered as valid cause for rejecting proposals. Additionally, union vs. non-union employee status is not a legitimate cause for the rejection or non-solicitation of proposals in the proposer's efforts to meet the project goal.
- G. Documentation of such negotiation includes the names, addresses, and telephone numbers of all subconsultants (DBEs and non-DBEs) that submitted a proposal, including copies of all proposals received for each portion of work solicited, and stated reasons for proposer's choice of the selected and/or rejected subconsultant proposal. Include in the negotiation document the reasons why additional agreements could not be reached with a DBE to perform the work.
- H. In determining whether a proposer has made Good Faith Efforts, SBCTA will take into account the performance of other proposers in meeting the established contract-specific DBE goal requirements. The individual proposer's effort/commitment in meeting the established contract DBE goal may be evaluated against the average DBE participation commitments by the other responsive proposers.
- I. Provide offer of assistance to interested DBEs in obtaining bonding, lines of credit, and/or insurance required by the Contractor. Provide a description of assistance extended and made available by proposer to interested DBEs in obtaining bonding, lines of credit and/or insurance. At minimum, proposer must provide evidence of the availability of assistance by providing copies of subcontracting advertisements and DBE solicitation letters.

J. Utilization of outreach services available within the DBE community including contractor groups, local, state and federal DBE offices and other organizations that provide assistance in the recruitment and placement of DBEs. Notices to community outreach services should be issued at least 15 calendar days prior to submittal due date. Copies of letters, faxes, telephone logs, etc., used to contact organizations, which include the names of organizations/groups, dates, names of contacts and telephone numbers, and copies of correspondence received from these entities acknowledging contact. The proposer must document outreach to a minimum of five organizations/groups.

K. Only those efforts made prior to proposal submittal due date will be considered in evaluating Good Faith Efforts. Failure to submit the required Good Faith Effort documentation within four (4) working days after proposal submittal will be grounds for finding the proposal non-responsive.

For additional assistance with Good Faith Efforts, please contact Jeffery Hill, Procurement Manager at (909) 884-8276.

## **SUBMISSION OF DBE INFORMATION WITH PROPOSAL**

The following forms must be submitted with the proposal. **Failure to submit the required forms will render the proposal non-responsive.**

- The proposer must provide the **“Proposer’s Good Faith Efforts Affidavit” Form** (to certify that it will exercise good faith efforts to meet or exceed the established DBE participation goal inclusive of amendments, modifications, options and change orders, prior to the commencement of work). A sample document is included in this Attachment.
- **“Local Agency Proposer DBE Commitment (Consultant Contract)”** (Exhibit 10-01)  
In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted toward the contract goal, and all DBE participation shall be collected and reported.
- **“Bidders List of Subcontractors” (Exhibit 12-B)**  
SBCTA is required to maintain a “Bidders List” containing information about all firms (DBE and non-DBE) that submit a bid, proposal or quote on SBCTA’s DOT-assisted contracts, in accordance with 49 CFR section 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 bid, proposal or quote, including the primary proposer, whether successful or unsuccessful in their attempt to obtain a contract.

## **REQUIRED DOCUMENTS TO BE SUBMITTED BY TOP RANKED FIRM WITH PRICE PROPOSAL:**

- **“Local Agency Proposer DBE Information (Consultant Contract)”** (Exhibit 10-O2)

The purpose of the form is to collect data required under 49 CFR Part 26. This form collects all DBE participation. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

- **Good Faith Efforts** (Exhibit 15-H)

Proposers shall submit Exhibit 15-H to document adequate good faith efforts. Proposers should submit Exhibit 15-H even if the “Local Agency Bidder – DBE Commitment” form (10-O1) indicates that the proposer has met the DBE goal. This will protect the proposer’s eligibility for award of the contract if the administering agency determines that the proposer failed to meet the goal for various reasons, e.g., a DBE firm was not certified by the proposal due date or the proposer made a mathematical error.

#### **REQUIRED DOCUMENTS TO BE SUBMITTED BY THE AWARDED FIRM MONTHLY:**

- **Summary of Disadvantaged Business Enterprise (DBE) – Subconsultants Paid Monthly Report** (Caltrans Form Exhibit 9-F)

The prime CONSULTANT must complete the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments and email it to [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) and SBCTA after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month. Submission of this Exhibit is required until all DBE subcontracting or material supply activity on the entire project is completed.

#### **REQUIRED DOCUMENTS TO BE SUBMITTED WITH DBE SUBSTITUTION:**

- **Notification of Disadvantaged Business Enterprises (DBE) Substitution Letter**

SBCTA must have prior written approval of any DBE subconsultant substitutions. If a listed DBE subconsultant is terminated, you must make good faith efforts to find another DBE subconsultant to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal. The substitute DBE must be certified as a DBE by the CUCP at the time of request for substitution. SBCTA does not pay for work or material unless it is performed or supplied by the listed DBE, unless the DBE is terminated in accordance with this section and California Public Contracts Code section 4107.

- **Disadvantaged Business Enterprises (DBE) Certification Status Change-** (Exhibit 17-O)

If a DBE subconsultant is decertified during the life of the Contract, the decertified subconsultant shall notify the Contractor in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify the Contractor in writing with the date of certification. Any changes should be reported in writing to SBCTA’s Project Manager within 30 days.

#### **REQUIRED DOCUMENT TO BE SUBMITTED AT THE CONCLUSION OF THE**

## **PROJECT:**

- **Final Report- Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants-** (Exhibit 17-F)

Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled “Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants,” (Exhibit 17-F), certified correct by the Consultant or the Consultant’s authorized representative and furnished to SBCTA’s Project Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 10% of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Contractor when a satisfactory “Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants” is submitted to the Project Manager.



## PROPOSER'S GOOD FAITH EFFORTS AFFIDAVIT

\_\_\_\_\_  
Proposer

The proposer recognizes that DBE participation dollar value associated with this project cannot be accurately determined prior to the selection and negotiation of a contract. However, the proposer certifies that it will exercise good faith efforts to meet or exceed the established DBE participation goal inclusive of amendments, modifications, options and change orders, prior to the commencement of work by either: proposing sufficient DBE participation to meet the respective DBE goal, or if the proposer is unable to meet sufficient DBE participation, the proposer will provide a showing of Good Faith Efforts undertaken to do so, in conformance with the contract special provisions and DBE regulatory requirements set forth under Title 49 CFR Part 26, Appendix A, to be deemed responsive and eligible to commence work under the individual Task Orders.

I certify under penalty of perjury under the laws of the State of California that the above statements are true.

\_\_\_\_\_  
By: Firm Name

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title (typed or printed)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the above named individual did execute the foregoing declaration in the State of California:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

### INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT (Exhibit 10-01)

*Consultant section: Consultant shall complete the following information:*

**1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.

- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Location** - Enter the project location as it appears on the project advertisement.
- 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See Local Assistance Procedures Manual (LAPM) Chapter 9 to determine how to count the participation of DBE firms.
- 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," adequate documentation of Good Faith Efforts (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

***SBCTA section: SBCTA shall complete the following information:***

- 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
- 20. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 21. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 23. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 24. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

## EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

(Inclusive of all DBEs at time of proposal)

1. Local Agency: \_\_\_\_\_
2. Contract DBE Goal: \_\_\_\_\_
3. Project Description: \_\_\_\_\_
4. Project Location: \_\_\_\_\_
5. Consultant's Name: \_\_\_\_\_
6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
<b>Local Agency to Complete this Section</b>		<b>11. TOTAL CLAIMED DBE PARTICIPATION</b>	<b>%</b>
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  20. Local Agency Representative's _____ 21. Date _____ 22. Local Agency Representative's _____ 23. Phone _____ 24. Local Agency Representative's Title _____			
		<b>IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.</b>	
		12. Preparer's Signature _____	13. Date _____
		14. Preparer's Name _____	15. Phone _____
		16. Preparer's Title _____	

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

## INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT (Exhibit 10-O2)

*The Consultant shall complete the following information:*

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
  - 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
  - 3. Project Location** - Enter the project location as it appears on the project advertisement.
  - 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
  - 5. Consultant's Name** - Enter the consultant's firm name.
  - 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
  - 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
  - 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
  - 9. Total number of ALL Subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
  - 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
  - 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
  - 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
  - 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
  - 14. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," adequately documentation of Good Faith Efforts (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
  - 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
  - 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
  - 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
  - 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
  - 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.
- SBCTA shall complete the following information:*
- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
  - 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
  - 22. Contract Execution Date** - Enter the date the contract was executed.
  - 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
  - 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
  - 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying



the consultant's DBE commitment form.

**26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.

**27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

## EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

(Inclusive of all DBEs listed at proposal submittal date)

1. Local Agency: \_\_\_\_\_ 2. Contract DBE Goal: \_\_\_\_\_
3. Project Description: \_\_\_\_\_
4. Project Location: \_\_\_\_\_
5. Consultant's Name: \_\_\_\_\_ 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: \_\_\_\_\_
8. Total Dollar Amount for **ALL** Subconsultants: \_\_\_\_\_ 9. Total Number of **ALL** Subconsultants: \_\_\_\_\_

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>			
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  _____ 23. Local Agency Representative's Signature  _____ 25. Local Agency Representative's Name  _____ 27. Local Agency Representative's Title			
14. TOTAL CLAIMED DBE PARTICIPATION			\$
			%
IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  _____ 15. Preparer's Signature  _____ 17. Preparer's Name  _____ 19. Preparer's Title			_____ 16. Date  _____ 18. Phone

DISTRIBUTION: 1. Original – Local Agency 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

## **INSTRUCTIONSEXHIBIT 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 submit a bid, proposal or quote on SBCTA's DOT-assisted contracts, in accordance with 49 CFR section 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 proposer's responsibility to verify that the DBE(s) are certified with the CUCP.

## EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

## PART I

The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2-1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code of Federal Regulations. This listing is required in addition to listing DBE Subcontractors elsewhere in the proposal. **Photocopy this form for additional firms.**

Firm Name/ Address/ City, State, ZIP		Phone/ Fax	Annual Gross Receipts	Description of Portion of Work to be Performed	Local Agency Use Only (Certified DBE?)
Name		Phone	<input type="checkbox"/> < \$1 million		<input type="checkbox"/> YES
Address			<input type="checkbox"/> < \$5 million		<input type="checkbox"/> NO
City State ZIP		Fax	<input type="checkbox"/> < \$10 million		If YES list DBE #:
			<input type="checkbox"/> < \$15 million		Age of Firm (Yrs.)
			<input type="checkbox"/> > \$15 million		
Name		Phone	<input type="checkbox"/> < \$1 million		<input type="checkbox"/> YES
Address			<input type="checkbox"/> < \$5 million		<input type="checkbox"/> NO
City State ZIP		Fax	<input type="checkbox"/> < \$10 million		If YES list DBE #:
			<input type="checkbox"/> < \$15 million		Age of Firm (Yrs.)
			<input type="checkbox"/> > \$15 million		
Name		Phone	<input type="checkbox"/> < \$1 million		<input type="checkbox"/> YES
Address			<input type="checkbox"/> < \$5 million		<input type="checkbox"/> NO
City State ZIP		Fax	<input type="checkbox"/> < \$10 million		If YES list DBE #:
			<input type="checkbox"/> < \$15 million		Age of Firm (Yrs.)
			<input type="checkbox"/> > \$15 million		
Name		Phone	<input type="checkbox"/> < \$1 million		<input type="checkbox"/> YES
Address			<input type="checkbox"/> < \$5 million		<input type="checkbox"/> NO
City State ZIP		Fax	<input type="checkbox"/> < \$10 million		If YES list DBE #:
			<input type="checkbox"/> < \$15 million		Age of Firm (Yrs.)
			<input type="checkbox"/> > \$15 million		

## EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

## PART I

The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2-1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code of Federal Regulations. This listing is required in addition to listing DBE Subcontractors elsewhere in the proposal. Photocopy this form for additional firms.

Firm Name/ Address/ City, State, ZIP		Phone/ Fax	Annual Gross Receipts	Description of Portion of Work to be Performed	Local Agency Use Only (Certified DBE?)
Name		Phone	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million		<input type="checkbox"/> YES <input type="checkbox"/> NO
Address			<input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million		If YES list DBE #:
City State ZIP		Fax	<input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		Age of Firm (Yrs.)
Name		Phone	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million		<input type="checkbox"/> YES <input type="checkbox"/> NO
Address			<input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million		If YES list DBE #:
City State ZIP		Fax	<input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		Age of Firm (Yrs.)
Name		Phone	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million		<input type="checkbox"/> YES <input type="checkbox"/> NO
Address			<input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million		If YES list DBE #:
City State ZIP		Fax	<input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		Age of Firm (Yrs.)
Name		Phone	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million		<input type="checkbox"/> YES <input type="checkbox"/> NO
Address			<input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million		If YES list DBE #:
City State ZIP		Fax	<input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		Age of Firm (Yrs.)
Name		Phone	<input type="checkbox"/> < \$1 million <input type="checkbox"/> < \$5 million		<input type="checkbox"/> YES <input type="checkbox"/> NO
Address			<input type="checkbox"/> < \$10 million <input type="checkbox"/> < \$15 million		If YES list DBE #:
City State ZIP		Fax	<input type="checkbox"/> < \$15 million <input type="checkbox"/> > \$15 million		Age of Firm (Yrs.)

## DBE INFORMATION – EXHIBIT 15-H GOOD FAITH EFFORTS

Federal-aid Project No. \_\_\_\_\_

Proposal Due  
Date: \_\_\_\_\_

SBCTA has established a Disadvantaged Business Enterprise (DBE) goal for this project as identified in this RFP. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest proposers shall submit the following information to document adequate good faith efforts. Proposers should submit the following information even if the "Local Agency Bidder – DBE Commitment" form (10-O1) indicates that the proposer has met the DBE goal. This will protect the proposer's eligibility for award of the contract if the administering agency determines that the proposer failed to meet the goal for various reasons, e.g., a DBE firm was not certified at proposal opening or the proposer made a mathematical error.

Submittal of only the "Local Agency Bidder DBE Commitment" form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following types of actions will be considered as part of the proposer's Good Faith Efforts to obtain DBE participation:

- a. The names and dates of each publication in which a request for DBE participation for this project was placed by the proposer. Attach copies of advertisements or proofs of publication:

Publications	Dates of Advertisement

- b. The names and dates of written notices sent to certified DBEs soliciting proposals for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested. Attach copies of solicitations, telephone records, fax confirmations, etc.

Names of DBEs	Date of Initial Solicitation	Follow-Up Methods & Dates

- c. The items of work which the proposer made available to DBE firms, including, where appropriate, any breakdown of the contract work items (including those items normally performed by the proposer with its

own forces) into economically feasible units to facilitate DBE participation. It is the proposer's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Items of Work	Proposer Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	% of contract

- d. The names, addresses and phone numbers of rejected DBE firms, the reasons for the proposer's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE.

1. Names, addresses and phone numbers of rejected DBEs and the reasons for the proposer's rejection of the DBEs:


2. Names, addresses and phone numbers of firms selected for the work identified above:


- e. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:


- g. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime consultant or its affiliate:


- h. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms. Attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.

Names of Agency/Organization	Method/Date of Contact	Results

- i. Please include any additional data to support a demonstration of good faith efforts here.


- j. Proposers are advised to attach all requested documents to this form. Include any and all supplemental materials necessary in order to demonstrate Good Faith Efforts.



**INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS (17-F)**

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 10. Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 19. Phone** - Enter the area code and telephone number of the person signing the form.
- 20. Date** - Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 23. Phone** - Enter the area code and telephone number of the person signing the form.
- 24. Date** - Enter the date the form is signed by the Local Agency Representative.

**EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS**

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount	
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment
				Non-DBE	DBE		
15. ORIGINAL DBE COMMITMENT AMOUNT      \$				16. TOTAL			

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

<b>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT</b>							
17. Contractor/Consultant Representative's Signature		18. Contractor/Consultant Representative's Name		19. Phone		20. Date	
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>							
21. Local Agency Representative's Signature		22. Local Agency Representative's Name		23. Phone		24. Date	

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

**INSTRUCTIONS - DISADVANTAGED BUSINESS ENTERPRISES (DBE)  
CERTIFICATION STATUS CHANGE 17-O**

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied. Not applicable for consultant contracts.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors/consultants.
- 10. DBE Certification Number** - Enter the DBE's Certification Identification Number.
- 11. Amount Paid While Certified** - Enter the actual dollar value of the work performed by those subcontractors/subconsultants during the time period they are certified as a DBE.
- 12. Certification/Decertification Date (Letter Attached)** - Enter either the date of the Decertification Letter sent out by the Office of Business and Economic Opportunity (OBEO) or the date of the Certification Certificate mailed out by OBEO.
- 13. Comments** - If needed, provide any additional information in this section regarding any of the above certification status changes.
- 14. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 15. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 16. Phone** - Enter the area code and telephone number of the person signing the form.
- 17. Date** - Enter the date the form is signed by the contractor's preparer.
- 18. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 19. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 20. Phone** - Enter the area code and telephone number of the person signing the form.
- 21. Date** - Enter the date the form is signed by the Local Agency Representative.

**EXHIBIT 17-O DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE**

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency		4. Contract Completion Date		
5. Contractor/Consultant			6. Business Address			7. Final Contract Amount		
8. Contract Item Number	9. DBE Contact Information		10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/Decertification Date (Letter Attached)	13. Comments		

If there were no changes in the DBE certification of subcontractors/subconsultants, indicate on the form.

<b>I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT</b>									
14. Contractor/Consultant Representative's Signature		15. Contractor/Consultant Representative's Name		16. Phone		17. Date			
<b>I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED</b>									
18. Local Agency Representative's Signature			19. Local Agency Representative's Name			20. Phone		21. Date	

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

# INSTRUCTIONS – SUMMARY OF MONTHLY DBE PAYMENTS –CALTRANS FORM 9-F

## Exhibit 9-F Instructions

### I. Purpose:

Title 49 of the Code of Federal Regulations (CFR), Part 26.37(c) requires recipients of federal-aid funding to "provide a running tally of actual attainments, including a means of comparing these attainments to commitments." This requirement does not apply to projects that do not have any federal funding.

### II. Policy:

- A. To comply with 49 CFR 26.37(c), the prime contractors/consultants must complete the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments and email it to [business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) and their local administering agencies after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month. Submission of this Exhibit is required until all DBE subcontracting or material supply activity on the entire project is completed.
- B. Save this form using the following naming convention, [yyyymm]-[Prime's DUNS Number]-[ss].xlsx. [ss] is two digit sequential numbering, applicable when consultant or contractor has more than one 9-F form to complete per pay period. For example, a valid saved file could read: 202001-123456789-01.xlsx

### III. Instructions:

- (1) **Reporting Period (mm-yyyy):** Indicate the month and year of payments being reported.
  - (2) **Federal Aid Project Number:** Enter the 7 digit federal-aid project number of the lead project on the contract. E.g. 5002(123) is a valid Federal-Aid Project Number.
  - (3) **Caltrans District:** Enter the appropriate Caltrans District number as 1 through 12.
  - (4) **Local Agency:** List the local agency's name.
  - (5) **Contract Number:** List the local agency assigned contract agreement number.
  - (6) **Total Contract Award Amount (\$):** Enter the total current contract award amount of the project.
  - (7) **DBE Goal Percentage (%):** Enter the contract DBE goal percentage as it appears on the project advertisement.
  - (8) **DBE Committed Percentage (%):** Enter percentage of the Prime contract committed to DBE firms.
  - (9) **Prime Contractor/Consultant DUNS Number:** Enter the unique nine-digit Data Universal Numbering System (DUNS) that Contractors/Consultants should have in order to participate in Federally-funded contracts.
  - (10) **Business Name:** List the name for the prime contractor/consultant as identified in Procedure 9 above.
  - (11) **Amount Prime's Invoice This Period (\$):** Enter the total invoice amount that prime submitted for reimbursement this period.
  - (12) **Amount Paid to Prime To Date (\$):** Enter the total payment that is paid to the Prime to date.
  - (13) **Prime certified DBE:** Enter "Yes" if Prime Contractor/Consultant is certified DBE and "No" otherwise.  
DBE Prime contractor needs to fill in from procedure (14) to (21) for payments to DBE Subcontractors and DBE Prime's self-performing.
- Note:** For Procedures (14) through (21) below, insert rows as needed to list all DBEs included on Exhibits 10-02 or 15-G, and any other DBEs that were utilized regardless of tier.
- (14) **DBE Firm name:** List the DBE's firm name.
  - (15) **DBE Cert. Number:** List the DBE's certification number as listed in the California Unified Certification Program (CUCP) database.
  - (16) **Contract Type:** Select the most appropriate Subcontractor's contract type (Agent, Consultant, Joint Venture, Manufacturer, Prime, Regular Dealer, Subcontractor, Truck/Haul, Service Provider from dropdown list.)
  - (17) **Date of Payment:** List current check date when a check is issued to the DBE for work performed by the DBE.
  - (18) **Amount of This Payment:** List the total amount paid to the DBE this period.
  - (19) **Amount Paid to Date:** List the total amount paid to this DBE to date. This should be a total of past payments plus payment for the current work just invoiced to the Local Agency.
  - (20) **Amount Committed to This DBE Firm:** Copy the information from the agency signed Exhibit 10-02 or 15-G. If the listed DBE was not originally committed to, type "0."
  - (21) **Comments:** Add appropriate notes if a DBE subcontract was terminated, a DBE subcontract was added, if change orders impacted the DBE's payments (include good faith efforts the prime contractor/consultant implemented), if task orders weren't issued, etc.
  - (22) **Prime Contractor/Consultant Manager's Name:** Enter the manager's name of the prime contractor/consultant of the project.
  - (23) **Business Phone Number:** Enter the manager's business phone number of the prime contractor/consultant.
  - (24) **Date:** Provide the date this form was prepared.
  - (25) **Copy Distribution:** The prime contractor/consultant will need to maintain a copy with the contract file (electronic and/or paper). The prime contractor/consultant will need to e-mail this form as provided in the Section II. Policy, paragraphs A as stated above. Local agency will need to keep a copy with the contract file.

## EXHIBIT 9-F: DISADVANTAGED BUSINESS ENTERPRISE (DBE) RUNNING TALLY OF PAYMENTS

Save this form using the following naming convention, [yyyymm]-[Prime's DUNS Number]-[ss].xlsx. [ss] is two digit sequential numbering, applicable when consultant or contractor has more than one 9-F form to complete per pay period. For example, a valid saved file could read: 202001-123456789-01.xlsx. Prime contractors/consultants are required to submit this form no later than the 10<sup>th</sup> of the following month, after submitting an invoice for reimbursement that includes a payment to a DBE. If no payments have been made, do not submit the form. Email this form to [Business.Support.Unit@dot.ca.gov](mailto:Business.Support.Unit@dot.ca.gov) with a copy to their local administering agencies. **Do not submit this form with the invoice, it will not be processed.**

(1) Reporting Period (mm-yyyy)	(2) Federal Aid Project Number	(3) Caltrans District			(4) Local Agency
(5) Contract Number	(6) Total Contract Award Amount (\$)	(7) DBE Goal Percentage (%)			(8) DBE Committed Percentage (%)
(9) Prime Contractor/Consultant DUNS Number	(10) Business Name	(11) Amount Prime Invoiced This Period (\$)			(12) Amount Paid to Prime To Date (\$)
					(13) Prime Certified DBE?
(14) DBE Subcontractor Name	(15) DBE Cert. Number	(16) Contract Type	(17) Date of Payment	(18) Amount of This Payment	(19) Amount Paid To Date
					(20) Amount Committed To This DBE
Totals			\$0	\$0	\$0
<p>List all DBEs regardless of tier, whether or not the firms were originally listed in Exhibit 10-O2 or 15-G as a DBE commitment. If the actual DBE utilization was different than that approved at the time of award, provide comments in box (21). All payments reported, including payments to contractor/consultant, are for the date listed. Select the most appropriate contract type (Agent, Consultant, Joint Venture, Manufacturer, Prime, Regular Dealer, Subcontractor, Truck/Haul, Service Provider) for the DBE from dropdown list.</p> <p>By executing this 9-F, Contractor represents and warrants, under penalty of perjury, that:  Contractor contracted with the Disadvantaged Business Enterprise companies (DBEs) as set forth in their awarded bid on Contract number _____  Contractor paid the full amounts listed on their 9-F to the DBEs set forth in Contractor's awarded bid, without reduction or offset.</p>					
(22) Prime Contractor/Consultant Manager's Name (Print)			(23) Business Phone Number		(24) Date
COPY DISTRIBUTION: Original - Prime Contractor/Consultant, Copy - E-mail: <a href="mailto:Business.Support.Unit@dot.ca.gov">Business.Support.Unit@dot.ca.gov</a> ; Copy: Local Administering Agency					

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats.  
For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

## **ATTACHMENT F**

### **Appendix E of the Title VI Assurances (US DOT Order 1050.2A)**

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the “CONSULTANT”) agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

#### **Pertinent Nondiscrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English

Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).