



**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY
REQUEST FOR PROPOSAL (RFP) (22-1002700)
FOR**

**ARROW MAINTENANCE FACILITY HYDROGEN FUEL UPGRADE
PROJECT: HYDROGEN FUEL SYSTEM (HFS)**

**SBCTA
1170 W. Third St., Second Floor
San Bernardino, CA 92410-1715**

**Procurement Contact:
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KEY RFP DATES

RFP Release Date:	Tuesday, May 11, 2022
Pre-Proposal Conference:	Tuesday, May 17, 2022 @9:00am
Question Submittal Deadline:	Monday, May 23, 2022 @4:00pm PST
Proposal Due Date:	Tuesday, June 21, 2022@2:00pm PST
Interview Date:	July 14 -15, 2022*Tentative
Contract Award Date:	September 2022
Notice to Proceed:	September 2022



May 10, 2022

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS (RFP) No. 22-1002700
“ARROW MAINTENANCE FACILITY HYDROGEN FUEL UPGRADE PROJECT:
HYDROGEN FUEL SYSTEM (HFS)”, (hereinafter referred to as “Project”)**

The San Bernardino County Transportation Authority (“SBCTA”) invites proposals from qualified firms to perform the work as identified in this RFP.

Firms intending to submit proposals should note the “Key RFP Dates” on the cover of this RFP. It is our intention, subject to approval by SBCTA’s Awarding Authority, to have the selected firm under contract by September 2022. Firms submitting proposals will be evaluated based the criteria detailed in Section 31 of this RFP.

The RFP and all RFP schedule updates and addenda, together with other important information, are due on or before **2:00 p.m., Tuesday, June 21, 2022.**

A Non-Mandatory Pre-Proposal Conference is scheduled for **9:00 a.m. on Tuesday, May 17, 2022** via **zoom** (<https://gosbcta.zoom.us/j/81387278283?pwd=SGpjOTBqazlwVlFuY3FNlUkYjZ0FiUT09>)

Interested firms are encouraged to attend the Pre-Proposal Conference, but no firm will be disqualified for failure to attend. 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. However, all proposers will be held accountable for any addenda issued related to information and instructions given at the Pre-Proposal Conference.

All questions related to this RFP must be submitted via SBCTA Vendor Portal on SBCTA’s website at: www.gosbcta.com, click on “Doing Business”, which will take you to the “Bids & RFPs” page. From the bids & RFP page, click on the tab “Vendor Portal” no later than **4:00 p.m., Monday, May 23, 2022.**

Questions received after the deadline may or may not be responded to at the sole discretion of SBCTA. Questions received by the deadline or responded to after the deadline at the discretion of SBCTA, and the written responses will be posted via Planet Bids.

The California Labor Code section 1770, et seq., requires that certain consultants on public works projects pay their workers based on the 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>).

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, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section 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 Section 1725.5 at the time the contract is awarded.

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

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

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

The award of this contract may be subject to Pre-Award Audit required by applicable funding agencies, including the California Department of Transportation (Caltrans), and/or SBCTA itself. The selected firm shall have a recent audit of their Indirect Cost Rate (ICR) for the most recent completed fiscal year.



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PART A: PROJECT INTRODUCTION

1. INTRODUCTION TO THE PROJECT

1.1 Project Overview

San Bernardino County Transportation Authority (“SBCTA”) presents this Request for Proposal (RFP) to prospective entities or groups of entities interested in undertaking the delivery of a Hydrogen Fueling System (HFS or “Project”) (on site storage and dispensing) to be located at the Arrow Maintenance Facility (AMF) in the City of San Bernardino. The goal of the Arrow Maintenance Facility Hydrogen Fuel Upgrade Project is to support the testing and operations of a zero-emission multiple unit (ZEMU) rail vehicle. The ZEMU vehicle is a hydrogen fuel cell and battery hybrid multiple unit rail vehicle and will be integrated into the SBCTA’s future Arrow service to reduce overall service emissions. SBCTA is procuring the HFS utilizing a design, build, operate and maintain methodology and intends to enter into a contract with the Preferred Proposer following the completion of the procurement process set out in this RFP (the “Contract”). Should SBCTA determine to proceed with, an award is expected to be made for delivery of an HFS that will fuel a single ZEMU rail vehicle operated for the purposes of testing and commissioning, and revenue transit service, including, but not limited to, design and construction of the HFS (as dictated by the final design solution) and required AMF safety improvements. In addition to the aforementioned scope, facilitation of operations training to vehicle operations and maintenance staff, maintenance of the HFS, and supplying hydrogen fuel to meet the daily demands of the ZEMU vehicle as defined in this RFP is requested. Fueling of the ZEMU vehicle will be performed by an SCRRA-designated contractor.

SBCTA is expanding its public transit network in the San Bernardino Valley by building the Redlands Passenger Rail Project (RPRP). The RPRP, known as the Arrow service, will be operated initially with Diesel Multiple Unit (DMU) rail vehicles and will serve the communities between the City of Redlands and the City of San Bernardino. The Southern California Regional Rail Authority (SCRRA) will operate and dispatch the Arrow service in coordination with SCRRA’s existing Metrolink service. In conjunction with this public transit expansion, SBCTA was awarded a 2018 Transit and Intercity Rail Capital Program (TIRCP) grant for the development and purchase of an additional rail vehicle that demonstrates the ability to provide zero emission service using multiple unit trainsets. A hydrogen-battery hybrid vehicle (ZEMU) was selected as the technology of choice and design and manufacturing of the vehicle is currently underway with a vehicle provider.

A key component for the planned Arrow service is the construction of a new rail vehicle storage and maintenance facility for the DMU rail vehicles, which will begin operations in 2022. This new Arrow Maintenance Facility (AMF) at 958 West 3rd Street (east of the San Bernardino Depot and west of the San Bernardino Freeway (I-215)) in the City of San Bernardino, San Bernardino County, California is being repurposed from the existing Inland Empire Maintenance Facility (IEMF).

SBCTA, in partnership with the SCRRA, presents this RFP to prospective entities or groups of entities interested in undertaking the Project. The Construction Management Consultant (CMC) will administer the Contract on behalf of SBCTA, including reviews of



all Contractor design submittals, inspections, and provision of oversight of the Contractor's construction operations and work product.

1.2 Site Description

The Project site is located at the existing AMF site at 958 West 3rd Street in the City of San Bernardino, San Bernardino County, California. The AMF site is an active railyard for Metrolink passenger rail service. The Project's proposed physical improvements will be within the confines of the AMF site. The AMF site is located within the southwestern part of the City of San Bernardino, near the intersection of North J Street and West 3rd Street. The Project site is located west of I-215 and east of the existing San Bernardino Santa Fe Depot (Depot) and Metrolink Station Platforms. The Project site abuts existing railroad track infrastructure to the north, west, and south. Vacant, industrial-zoned land borders the AMF site to the east and an active intermodal freight yard owned by the Burlington Northern Santa Fe (BNSF) Railway to the north. A small residential community is located to the south of the AMF site and 3rd Street along North J Street and Kendall Avenue.

Primary vehicle access to the site is via West 3rd street, which runs along the south end of the site. This entrance will be gated with security. A secondary entrance/exit is possible via an unpaved access road that connects West 3rd Street to the northeast section of the parcel. This access road is currently planned to remain closed during regular service operations. Rail vehicles will access the site via the yard lead from the Metrolink mainline track. Refer to the Exhibit A for more details.

The Project will occur within the southern portion of SBCTA's existing AMF site (Assessor Parcel Numbers [APN]: 013823113 and 013823114). For additional information about the environmental conditions of the existing AMF site, refer to Section 12 in this RFP.

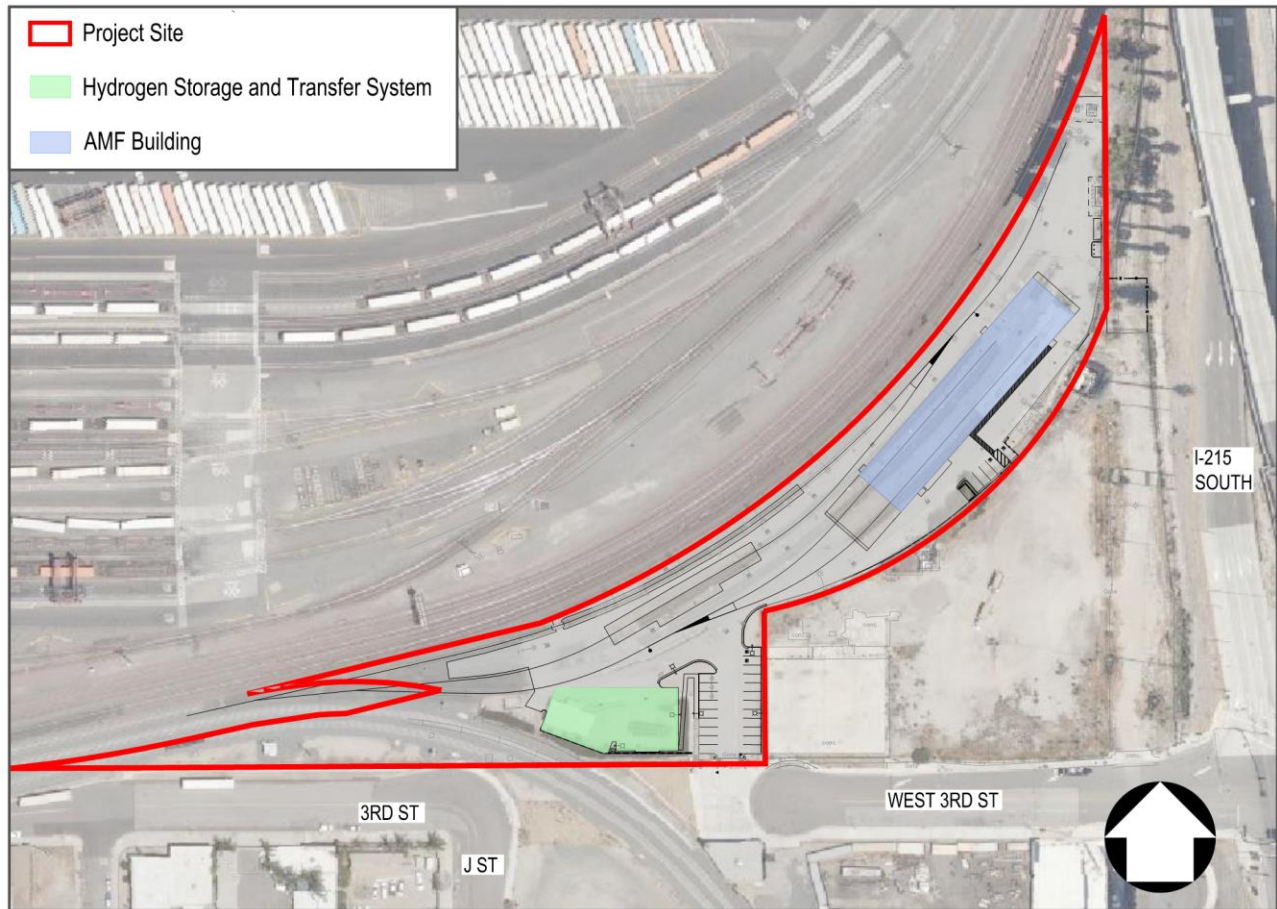


Figure 1 - Project Location Map (Arrow Maintenance Facility)



1.3 Project Purpose and Scope

- a. The purpose of the ZEMU Project is to reduce greenhouse gas (GHG) emissions and local air pollutants during Arrow service operations. The Project (as defined by this RFP) will support this purpose through the design, construction, operation, and maintenance of an HFS infrastructure to support integration of a ZEMU rail vehicle into the Arrow service's fleet. As part of Assembly Bill (AB) 398, the state's GHG reduction goals were extended to 2030, and the reduction goal was increased to 40 percent of 1990 emissions. Furthermore, per Executive Order (EO) N-79-20, off-road vehicles, including rail, shall be zero emission by 2035. The Project will construct the required hydrogen fueling infrastructure to support the demonstration of zero-emission railway technology consistent with state guidelines.
- b. For a detailed scope of services, refer to Part C of this RFP. The scope of the Project is to deliver an HFS at the AMF site and to supply hydrogen to support and facilitate the testing and operations of the ZEMU rail vehicle for a duration of three (3) years (from the in-service date) for the pilot program, with an option to extend for an additional two (2) years. The scope of the Project shall include:
 - i. Design, furnish and construct the HFS at the AMF, as well as associated site improvements required for installation of the system (as dictated by proposed system operations requirements)
 - ii. Design and construct necessary safety improvements onsite for hydrogen fuel use at the AMF
 - iii. Test, commission, and signoff of the HFS in order to achieve substantial completion, as mutually agreed to at time of contract, prior to turnover to SBCTA
 - iv. Coordinate with the necessary parties to obtain required permits to operate the HFS
 - v. Supply hydrogen to SBCTA/SCRRA to meet daily hydrogen demand of the ZEMU Vehicle
 - vi. Produce operating procedure(s) and manual(s) and facilitate relevant training on safe use of hydrogen fueling equipment to SCRRA operations staff who will be responsible for the daily fueling of the ZEMU vehicle
 - vii. Provide ongoing maintenance support, including maintenance manuals, for fueling station equipment for the duration of the maintenance and fuel delivery contract term, as further defined in Section 11.5 of this document.

1.4 State and Federal Law Position

SBCTA is issuing this RFP and carrying out the procurement as described below in accordance with the provisions of California Public Contract Code § 22160 et. seq. (the "DB Law"), other applicable provisions of Applicable Law, and SBCTA's Procurement and Special Risks Assessment Policy. Pursuant to the DB Law, the California Legislature has authorized regional transportation agencies to award design-build contracts for transit



capital projects. The contracts may be awarded on the basis of lowest bid or best value, as determined by the regional transportation agency.

2. PROCUREMENT PROCESS

SBCTA intends to procure this Project under the DB Law with the goal of delivering the Project via the alternative that provides the overall best value to SBCTA. The procurement process includes the following steps: (i) issuance of a request for proposals; (ii) evaluation of proposals; (iii) proposer selection; and (iv) award and execution of the Contract.

Subject to the terms of this RFP, SBCTA is proceeding with this process in line with the Project Goals set out in Section 1.3 and in accordance with the Procurement Schedule set out in Section **Error! Reference source not found.** of this RFP.

This procurement process begins with the issuance of this RFP. SBCTA invites entities or groups of entities interested in competing to design, build, facilitate and train SCRRA operations staff on fueling the ZEMU vehicle, and maintain the Project, to submit a proposal detailing, among other things, Proposer's qualifications and preparedness to formally bid for the Project. SBCTA will evaluate these proposals in accordance with criteria set out in Section 31 of this RFP.

Through the evaluation of the proposals, SBCTA intends to ultimately select a Proposer that, in SBCTA's sole discretion, represents the best value to SBCTA. Price and qualifications will be the primary factors in the evaluation, but SBCTA anticipates establishing a scoring system that will reward Proposers who convincingly propose adding value to the Project by means other than proposing the lowest price. Subject to the terms of this RFP, SBCTA anticipates awarding the Project to, and entering into a Contract with, a Proposer selected through the process set out in this RFP. Part F sets out the evaluation process and criteria that will be used to identify a Preferred Proposer.

The Preferred Proposer will be required to execute the Contract in substantially the form provided for in the RFP, subject only to limited modifications to account for approved alternative technical concepts and other Proposal commitments.

SBCTA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (18 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement will be afforded a fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration of an award.

3. PROCUREMENT SCHEDULE

Firms intending to submit a Proposal should note the "Key RFP Dates" on the cover of this RFP. It is SBCTA's intention, subject to approval by SBCTA's Awarding Authority, to have the selected firm under contract by September 2022. This Procurement Schedule is subject to modification at the discretion of SBCTA. Proposers will be notified of any change by an addendum to the RFP.



4. HOW TO USE THIS RFP

- a. For background information on the Project, see Parts A and B.
- b. For information on the procurement process and the rules that govern it, see Parts D and G.
- c. For scope and technical requirements that govern preparation of a proposal for submission in response to this RFP, see Parts C and E.
- d. For the process that will govern how SBCTA will evaluate proposals submitted in response to this RFP, see Part F.
- e. For definitions that give specific meaning to capitalized terms and standard rules of interpretation, see Part H.



PART B: BACKGROUND INFORMATION

5. KEY STAKEHOLDERS

5.1 City of San Bernardino

The Project will be located at the existing AMF site in the City of San Bernardino, California. Accordingly, the Project will adhere to Applicable Law and may require coordination with the City of San Bernardino for permitting, among other things. The Project will conform with City of San Bernardino Standard Plans and Standard Specifications, as applicable.

5.2 Southern California Regional Rail Authority (SCRRA)/Metrolink

During the construction and maintenance and fuel delivery period, the Contractor will be required to coordinate construction schedules, operations and maintenance of the facility, and health and safety requirements during construction and operations, depending on the particulars of the design and construction work with SCRRA/Metrolink.

5.3 California State Transportation Agency (CalSTA) and California Department of Transportation (Caltrans)

CalSTA/Caltrans is a funding partner for the ZEMU Project, including vehicle and infrastructure.

5.4 South Coast Air Quality Management District (SCAQMD)

SCAQMD is responsible for air pollution control in the South Coast Air Basin, which includes the urbanized areas of Los Angeles, Orange, Riverside, and San Bernardino Counties, including the majority of Metrolink operations. SCAQMD is a representative of the Mobile Source Air Pollution Reduction Review Committee (MSRC), which provided funding for this Project.

5.5 San Bernardino County Fire Protection District

The Project will require coordination with the San Bernardino County Fire Protection District and the local fire marshal for review and acceptance of the HFS design.

The Project may require coordination with the California State Office of Emergency Services, which manages the California Emergency Report Plan, and the San Bernardino Police Department and Sheriff's Department.

5.6 Burlington Northern Santa Fe (BNSF) Railway

BNSF Railway owns the intermodal freight yard which borders the AMF site and Project site to the north. The BNSF Railway site is a 1,781,199 square-foot Railyard occupying a vast parcel on the north side of the Santa Fe Depot. The Project may require coordination between the Contractor and BNSF Railway.



6. CONTRACT MODEL

The information regarding the Project's contractual and grant funding in this RFP reflects the Project terms anticipated by SBCTA at the time of RFP; however, SBCTA reserves the right to modify these anticipated terms based on ongoing analysis of the Project.

6.1 Anticipated Contract Structure

The Preferred Proposer will enter into a single agreement that will set forth, among other things, the obligations of the Preferred Proposer including the engineering design, construction, operations facilitation and training plan, and maintenance of the Project. The Project is intended to be delivered via a design-build, maintenance and fuel delivery, delivery methodology and the Contract will reflect best practices and risk allocation for such methodology, appropriately tailored for the particular needs of the Project, and pursuant to Applicable Law.

6.2 Approach

The Proposer shall deliver the proposed project scope under a not-to-exceed contract arrangement for the full turn-key scope of services including any capital (or leased) equipment costs and maintenance services for the initial three years and the two optional one-year extensions. As part of the bid process, each Proposer will be required to submit a written recommended approach that demonstrates an innovative solution and substantial value to SBCTA. The contract will also include supply of hydrogen provided by the Proposer to SBCTA at a cost per kilogram agreed to annually between both parties. It is anticipated that Low Carbon Fuel Standard (LCFS) Credits will be a factor when determining the price per kilogram of hydrogen. Proposer shall also offer two one-year term contract extensions for SBCTA to consider. Should both parties agree to the one-year extensions, the contract shall terminate at the end of the extension period.

If the Proposer cannot offer an approach meeting the requirements outlined in Part C of this document, a variance shall be requested to assist with the evaluation of the proposal.

6.3 Financing and Leased Equipment

Providing financing options to SBCTA for leased equipment for the term of the contract is an acceptable option and will not immediately disqualify the Proposer. If the Proposer chooses to offer a solution including leased equipment, the proposal shall specifically identify which equipment is proposed to be leased to SBCTA. The Contractor should indicate any applicable warranties for equipment being furnished as a part of their overall Proposal.

6.4 Contract Administration

Shaneka Morris is the Procurement Contact for this RFP. After award, changes to the Scope of Services, quality or delivery schedules shall be coordinated with the Project Manager and will be made official by a properly executed amendment. Any proposed change or amendment, and all correspondence that in any way concerns the terms and conditions of this contract, shall be submitted directly to the Project Manager.

Performance Interference: Contractor shall immediately notify the SBCTA Project Manager of any occurrence or condition that interferes with the full performance of the



contract. If notification is through telephone exchange, the Contractor is required to follow with a written notification within twenty-four (24) hours of occurrence.

6.5 Other Requirements

Proposer will be required to comply with the following requirements:

- a. The Davis-Bacon Act and the Labor Code of the State of California commencing at Section 1770 et seq.;
- b. Byrd Anti-Lobbying Amendment;
- c. Section 6002 of the Solid Waste Disposal Act;
- d. Energy Policy and Conservation Act (42 U.S.C. Section 6321 et seq.);
- e. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.; and
- f. Clean Air Act, as amended 42 U.S.C. § 7401 et seq.

7. PROJECT STATUS UPDATES

7.1 Construction Management Consultant (CMC)

SBCTA is seeking to procure a Construction Management Consultant (CMC) to assist with the implementation of the Project. The CMC, on behalf of SBCTA, will manage the Project, which includes, among other things, administering the Contract, coordinating with the Contactor and the Contactor's designer to provide responses to requests for information, and providing overall construction oversight.

7.2 Environmental Clearance

SBCTA is the lead agency for CEQA review of the Project. On September 1, 2021, the SBCTA Board of Directors adopted Resolution No. 22-005 to approve the Arrow Maintenance Facility Hydrogen Fuel Upgrade Project's Final Environmental Impact Report (EIR) in compliance with Public Resources Code (PRC) Section 21000 et seq. and the CEQA Guidelines (Section 15000 et seq.) for the Project. The Final EIR is accessible electronically at <https://www.gosbcta.com/wp-content/uploads/2019/09/Arrow-Maintenance-Facility-Hydrogen-Fuel-Upgrade-Project-%E2%80%93-Draft-Environmental-Impact-Report-05.05.2021.pdf> and as an attachment to this RFP. The Notice of Determination was filed on September 2, 2021.

Any determination by SBCTA to proceed with the Project is contingent upon receipt of all required environmental clearances and incorporation of any required mitigation measures or modifications to the proposed Project scope, as determined during such environmental reviews. The execution of a Contract at the conclusion of this procurement process will remain subject to the outcome of the environmental review processes, nor will it preclude SBCTA from considering alternatives to the Project or determining not to proceed with the Project.

7.3 Funding

The Project is currently funded with SCAQMD's MSRC grant and TIRCP funding.



8. PROJECT WEBSITE

8.1 Project Website

- a. SBCTA has assembled documents and information relating to the Project, which is available on the Vendor Portal on SBCTA's website at: www.gosbcta.com, click on "Doing Business", which will take you to the "Bids & RFPs" page. There, click on the tab "Vendor Portal". There, look under the heading "Current Open Bids". The Vendor Portal is the official means of notification to all prospective proposers. Firms are requested to check the Vendor Portal periodically, and no less frequently than weekly, for RFP schedule updates, addenda, and other information. All proposers will be held accountable for compliance with all updates, addenda and other information posted on the website. Please note that SBCTA will not be responsible for mailing any addenda, schedule updates or other information to any firm.
- b. Notwithstanding the public nature of the Project Website, SBCTA recognizes that a competitive and secure procurement process may require confidential communications and disclosures with and to the Preferred Proposer. As such, to the extent necessary to preserve confidentiality for such purposes, SBCTA reserves the right to establish a limited-access website, limit access to certain portions of the Project Website and/or conduct direct written or oral communications with Proposers. Information regarding such a resource will be provided to Proposers at a later date if needed.

9. DISCLAIMER OF RELIANCE ON PROJECT INFORMATION

- a. SBCTA does not make, nor will it be deemed to have made, any representation, warranty, or guarantee as to the accuracy, completeness, utility, or relevance of any Project Information or information on third party websites, whether referred to in the RFP, or otherwise made available by SBCTA. SBCTA has no obligation to update any Project Information, the contents of which may reflect information available as of the date that it was prepared or as of such other date indicated therein.
- b. Proposers will assume full responsibility for their use of any Project Information and will not be entitled to rely on any such Project Information. Proposers will be solely responsible or liable for any lack of accuracy, completeness, utility, or relevance of, or for any interpretations of or conclusions drawn from, any Project Information.



PART C: SCOPE OF SERVICES, TECHNICAL REQUIREMENTS AND SPECIFICATIONS

10. GENERAL SCOPE OF SERVICES

SBCTA intends to implement a new HFS to support integration of a ZEMU rail vehicle (while still considering options for future scalability to four ZEMU vehicles) in the south western portion of their existing AMF site. The system will include the necessary hydrogen fueling infrastructure, mobile or semi-permanent onsite hydrogen storage and the required safety improvements to the site to meet all applicable codes and standards. An award is anticipated to be made for the HFS based on the evaluation of proposals submitted for this RFP.

This RFP Scope of Services covers the hydrogen storage and transfer system to be used for the fueling of a single ZEMU rail vehicle operated for the purposes of both testing & commissioning, and revenue transit service. This RFP requests a proposal, commercial terms, and technical data for the HFS to be located on the AMF site. The HFS will be located on site in an outdoor location and will be required to meet the technical requirements as defined in this RFP document. This RFP provides for the furnishing of the following for a complete assembled HFS:

- i. Engineering design
- ii. Labor
- iii. Equipment and materials (can be leased to SBCTA as part of the overall contract)
- iv. Construction/Fabrication
- v. Permitting and approvals
- vi. Hydrogen fuel supply and delivery
- vii. Startup, testing and commissioning
- viii. Ongoing facility maintenance and technical support
- ix. Training

Contractor shall respond to this RFP by clearly identifying their proposed overall approach and scope of hydrogen supply; as well as any exceptions to the requirements that will not be met in their proposal. In addition, the Contractor should also clearly outline any proposed innovations or alternative solutions to meet hydrogen demand of the ZEMU vehicle if applicable. The HFS will need to meet the requirements for one single ZEMU vehicle per the technical specifications set out in this RFP, however SBCTA is open to proposed innovations which would decrease overall capital or operating costs and/or allow for easier scalability in the future should additional ZEMU vehicles be procured.

Contractor shall provide a narrative in its Proposal of its general approach to management oversight of the Project during the Design & Construction (D&C) and Maintenance and Fuel Delivery Period. In addition, the Contractor shall prepare and submit with its Proposal an anticipated schedule for design phase activities, including design development, drawing submittal, equipment sizing and specifications, and purchase and delivery of all major components and significant bulk materials. Contractor shall also prepare and submit with its proposal a construction/installation schedule, including anticipated manpower



loading. Upon award of the Project, the Contractor's schedule will be reviewed and commented upon by SBCTA before approval. Throughout the Project's phases, the Contractor will be expected to provide routine project management and schedule reporting.

11. MATERIALS AND SERVICES TO BE FURNISHED BY THE CONTRACTOR

Contractor shall provide all engineering design, labor, supervision, material and equipment necessary to provide an operationally integrated equipment package to meet the performance requirements, and to provide maintenance of the supplied fueling equipment for the duration of the Project as identified in this RFP. Contractor shall provide delivered hydrogen (liquid or gas) for filling a fixed storage tank, mobile trailer storage, or a combination of both. Direct truck-to-train filling, "trackside fueling", of the ZEMU vehicle will also be required for instances that the proposed fueling equipment at the primary fueling location is not available or fueling is required in another location (i.e., on the mainline). For this scenario, the Contractor shall indicate if any technical performance requirements cannot be achieved (i.e., flowrate, delivery pressure, estimated fueling time etc.) and provide any other specific requirements associated with this arrangement. The Contractor shall also design and construct a defueling station as part of the overall scope of work.

As a minimum, the AMF site facility must include a system capable of supplying fuel cell grade hydrogen pursuant to the technical specifications of the ZEMU vehicle outlined in Section 13.5a. Contractor must include all required storage tanks, buffer storage, manifolds and truck connections, vaporizers and compressors (if any) and any other equipment required to meet operating requirements, as well as provide for a backup supply if that may be required (such as in the case of a shortage or delay of delivery from the primary hydrogen source).

11.1 100% Design of Hydrogen Fueling System (HFS)

All information contained within this RFP document shall be considered as conceptual only. The Contractor shall be responsible for the engineering design and supply of the HFS, including all necessary systems and auxiliaries for proper operation of the system as required and defined by this RFP. The Contractor's execution team shall include engineers licensed in the State of California for the appropriate disciplines to seal and certify the engineering design for construction.

11.2 Construction, Testing and Commissioning

The Contractor shall be responsible for construction of the new HFS, as well as any site improvements required for the installation of the system. Once the installation is complete, the Contractor shall be responsible for all testing, commissioning, and signoffs of the system in order to achieve substantial completion, as mutually agreed to at time of contract, prior to turnover to SBCTA.



11.3 Hydrogen Delivery

The Contractor shall provide a reliable supply of renewable hydrogen to support SBCTA's testing and operational requirements for the ZEMU vehicle per the hydrogen requirements outlined in this RFP. Failure to meet the hydrogen source requirements during the lifetime of the contract will result in penalties which will be defined during contract negotiations with the successful proposer.

11.4 Permitting and Approvals

A construction permit from City of San Bernardino may be required following submittal and approval of final Issue for Construction documents. The Contractor shall provide all necessary assistance and documentation to SBCTA in support of the issuance of the construction permit. The Project may require fugitive dust and operating permits through coordination with the SCAQMD. The Contractor will be responsible for air emissions permitting if any is required. In addition, the Contractor is responsible for coordination with the Authority Having Jurisdiction (AHJ) in order to obtain the necessary permits to operate the HFS.

11.5 Maintenance and Fuel Delivery Period

Fueling operations of the new ZEMU rail vehicle will be performed by an SCRRA-designated contractor. The Contractor shall design, develop, and deliver an operations training plan for HFS operations and to fuel the new ZEMU rail vehicle by a SCRRA-designated contractor, as well as facilitating the necessary training and materials. The Proposer shall include all associated costs for the training plan and training of operations staff in their Proposal.

The Contractor's scope will include performing ongoing maintenance for the HFS. The Contractor shall include pricing for a five-year maintenance period which includes a three (3) year initial term and two optional one-year extensions. The successful Contractor will provide an Operations & Maintenance (O&M) plan for SBCTA's review, comment and approval prior to initial operation, including maintenance manuals.

Contractor shall hold and maintain adequate spare parts and consumables to maintain specified operational performance of the HFS. The maintenance portion of the work will include replacement of any parts or consumables as they are used in the work such that no delays cause unnecessary downtime of the system. The target availability of the HFS shall be 98% and a monetary penalty shall be assessed on a monthly basis if the availability is below 98%. Availability will be calculated by days in service (e.g., 30 days - day out of service) / (30 days) on a monthly basis. Should the HFS fail to meet the availability criteria on a consistent basis (i.e., two months in a row), trackside fueling shall be available to SCRRA's contractor as an alternative for fueling (while the issues with the primary HFS are resolved) to ensure service is not impacted.

Contractor must be prepared to respond to unanticipated technical support needs within two (2) hours of notification. Notification shall be automated so that on-call personnel are



notified as soon as a defective parameter, emergency stop, or unplanned shutdown has been identified that will impair regular fueling operations.

11.6 Hazardous Materials Business Plan

A Hazardous Materials Business Plan (HMBP) that includes a detailed hazardous materials inventory shall be provided for the HFS in accordance with Chapter 6.95 of Division 20 of the California Health and Safety Code (HSC) and California Code of Regulations, Title 19, Division 2, Chapter 4. The HMBP shall also satisfy the federal program under the Emergency Planning and Community Right-to-Know Act (EPCRA) 312 Reporting Requirements. Material Safety Data Sheets (MSDSs) for hazardous materials used in the HFS station shall be provided in compliance with the federal and state Occupational Safety and Health Administrations (OSHA and Cal-OSHA) Hazard Communication Standard.

11.7 Progress Review Meetings

Contractor will attend and participate in regularly scheduled progress review meetings. During the Design phase, meetings will be held monthly at SBCTA's offices in San Bernardino County, unless otherwise agreed. Formal design review meetings will be held at 30%, 60% and 100% milestones in the same format as the monthly progress review meetings, unless otherwise mutually agreed. During the construction, testing and Commissioning phases, meetings shall be held weekly on site. During operations, meetings may be required.

12. ENVIRONMENTAL CONDITIONS

The HFS equipment will be installed outdoors on the AMF site. Ambient temperatures in the San Bernardino, California area range from 20° F to 120° F with humidity, wind, dust and barometric pressure typical of the Inland Empire region in Southern California. All equipment proposed for the new HFS shall be within the environmental conditions present within the San Bernardino, California area, as listed in Table 1 below.

Table 1: Environmental Conditions in the San Bernardino, California, Area¹

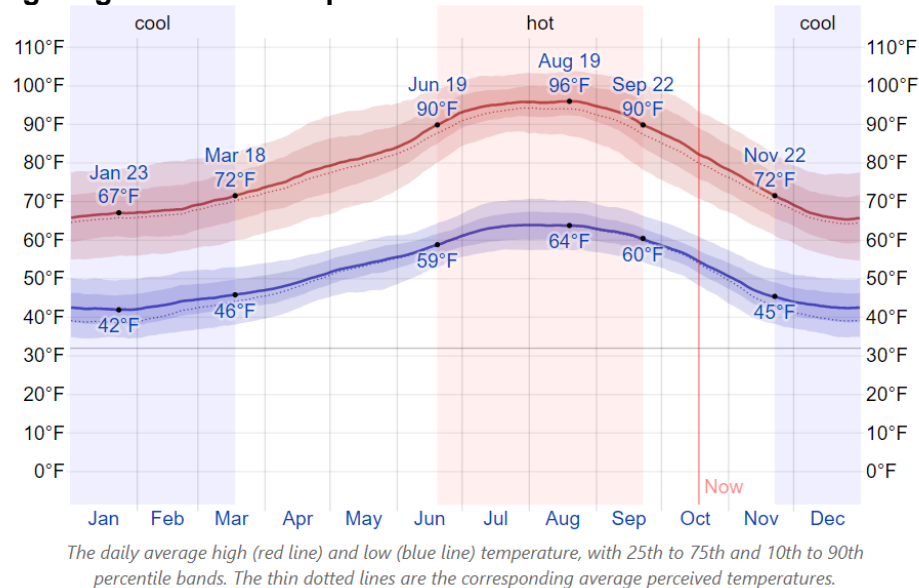
Condition	Maximum	Minimum
Ambient Temperature	120° F (49 C)	20° F (-15° C)
Relative Humidity	100%	5%
Wind:		-
Operating - 1-min wind	40 mph (64 km/h)	-
Operating - 3-sec gust	70 mph (113 km/h)	-
Storage - 3-sec gust	100 mph (161 km/h)	-

¹ The information provided in Table 1 (above) is based on environmental conditions present on the San Bernardino County Transportation railroad system within the greater San Bernardino, California area.



As shown in the graph below, the average temperature at the nearby San Bernardino International Airport typically varies from 42° F to 99° F. Further, the rainy period lasts for about 5.4 months, from November 1 to April 13, with a sliding 31-day rainfall of at least 0.5 inches. The month with the most rain is February, with an average rainfall of 2.2 inches.² The Proposer shall provide an HFS that can operate within the temperature ranges and relative humidity range, non-condensing, of the Inland Empire region in Southern California. While fueling needs to be possible at any point within the average temperature range for San Bernardino County, the technical fueling requirements (i.e., target refueling time) only need to be met for a limited temperature range as outlined in Section 13.3. This is to reduce overall energy and operating costs. The site is in a Seismic Design Category E area. The design of the HFS should consider all applicable seismic code requirements.

Average High and Low Temperature at San Bernardino International Airport



Source: Weather Spark

² The typical weather in the City of San Bernardino is based on a statistical analysis of historical hourly weather reports and model reconstructions from January 1, 1980 to December 31, 2016: <https://weatherspark.com/y/1969/Average-Weather-in-San-Bernardino-California-United-States-Year-Round>



13. PROJECT TECHNICAL REQUIREMENTS

The following section of this RFP describes the technical requirements and performance specifications for the HFS, including the hydrogen supply and fueling parameters. The Contractor will be responsible for meeting all technical requirements as outlined in this RFP document. To assist with proposal responses, basic design information for the ZEMU vehicle has been provided below. As elements of the vehicle design are proprietary, detailed technical information related to the vehicle design will be provided to the preferred Proposer upon award for further collaboration during design.

13.1 General Requirements

- a. The Contractor will be responsible for providing an onsite hydrogen storage and transfer system which meets the operating conditions outlined in this RFP. This includes other applicable ambient concerns of the site like adjacent infrastructure (active rail yard and diesel fueling) and designing to meet relevant California earthquake codes and standards.
- b. A defueling station shall also be designed and constructed as part of the overall scope of work. The system should be located adjacent to or close to the refueling area for efficiency of operations. It should allow for safe and controlled defueling of the rail vehicle into the atmosphere based on the specifications provided from the vehicle provider. The defueling station should be considered in the Contractor's overall HAZOP.

13.2 Daily Demand of Hydrogen for One ZEMU Vehicle

- a. The Contractor will be responsible for providing onsite hydrogen storage at the AMF. The hydrogen storage can be mobile or semi-permanent as dictated by their proposed HFS and equipment.
- b. Per the specifications of the ZEMU vehicle and the anticipated duty cycles for the Arrow service, the daily demand of hydrogen is expected to be up to 300 kilograms per day (2100 kilograms per week) of gaseous hydrogen during planned revenue service.
- c. The Contractor shall be responsible for ensuring the supply and onsite storage meet the daily demand of the single ZEMU vehicle (300kg), in addition to having a minimum of 65% additional spare usable capacity of hydrogen. Where possible, the Contractor shall seek to maximize onsite storage to reduce the frequency of hydrogen deliveries while considering efficiencies in storage costs and energy usage.
- d. It is anticipated that during testing and commissioning of the ZEMU vehicle, the daily demand of Hydrogen will be less than or equal to 300 kilograms per day. The anticipated period for testing and commissioning is six (6) months from the start of testing. The expectation is that the Contractor will consider the increase in H2 demand following the testing and commissioning in the overall annual cost per kg.



- e. The storage capacity, equipment and hydrogen source should be sized accordingly to meet the demand of one ZEMU vehicle while still considering options for future scalability to a maximum of four ZEMU vehicles. The Contractor should provide information pertaining to the ease of future expansion or ability to accommodate increased storage capacity and capability to fuel four ZEMU vehicles (sequentially). The Contractor can assume an increase in the total daily consumption of hydrogen for the future operations of a full fleet of ZEMU vehicles on the Arrow Service only. If there are significant costs or upgrades associated with increasing the demand, this should be noted in the RFP responses.

13.3 Target Fill Rate and Fueling Protocol

- a. SBCTA's target fueling time for the ZEMU vehicle is 30 minutes to fill all tanks from the minimum tank pressure of 15 bar to a full fill state considered as 350 bar at 20°C (68°F) tank temperature, under normal operating/ambient conditions. For the purpose of the 30 minute fueling time for this RFP, normal ambient condition will be defined as 95°F. Proposers shall assume that fueling will primarily occur in the evenings after the daily Arrow service is complete, however, it is possible that fueling could occur at any time of day. Proposers shall assume that the target refueling time needs to be achieved for an ambient temperature range between 20°F to 95°F (-15°C to 35°C).
- b. This target fueling rate assumes that fueling is occurring in both receptacles on the vehicle simultaneously (dual fueling) and that fueling is occurring in Fueling Location A at dispensing Location A.1 or A.2 (refer to Section 13.6).
- c. Based on a preliminary analysis of the HFS, it is anticipated that cooling/compression equipment may be required to achieve this fueling rate. The Contractor will be responsible for selection and sizing of any vaporizing, cooling or compression equipment as needed to meet the target refueling times identified above. Similar to the storage capacity, the Contractor shall size the equipment accordingly to meet the demand of one ZEMU vehicle while considering provisions for future scalability to four ZEMU vehicles. The Contractor should provide information pertaining to the ease of future expansion or ability to accommodate subsequent fueling of the additional three ZEMU vehicles. If there are significant costs associated with meeting the demand of more ZEMU vehicles, this should be noted in the RFP response.
- d. The Contractor shall propose a cost and energy efficient solution that will meet the fueling targets for one ZEMU vehicle. SBCTA may consider accepting longer fueling times if it can be demonstrated to provide significant cost and/or energy savings (e.g., above 20% savings).
- e. Contractor shall describe at a high-level their recommended approach to fueling protocol, to be further developed after award in collaboration with the vehicle supplier. This protocol will be developed in close collaboration with the vehicle supplier and shall, at a minimum, comply with SAE J2601/2_201409 'Fueling Protocol for Gaseous Hydrogen Powered Heavy Duty Vehicles' and shall prevent over-pressurization, overheating, density discrepancies, or other damage to the



on-board hydrogen storage system components as described in Section **Error! Reference source not found..**

- f. Contractor shall incorporate hydrogen detection and monitoring systems to ensure issues such as leaks during fueling or loss of pressure in storage tanks is detected immediately and fueling is halted.

13.4 ZEMU Vehicle Technical Specifications and Interface

The following Section 13.4 has been removed from public version of RFP document as it contains sensitive information on the ZEMU vehicle design which is considered proprietary. This information will be available upon request only. Proposers wishing to obtain this information will be required to sign a non-disclosure agreement.

13.5 Hydrogen Source Requirements

Liquid vs. Gaseous Supply: The Contractor shall design the HFS based on the most practical storage phase as determined by the restrictions and requirements of this RFP. The design will consider the availability of the Contractor's hydrogen supply to deliver a reliable supply of liquid or gaseous hydrogen to support SBCTA's fueling requirements. The hydrogen must be dispensed into the ZEMU vehicle in a gaseous state at the pressures and temperatures specified. The Contractor shall be responsible for supplying any vaporizers, compression, chilling, or other equipment to achieve these conditions.

- a. Hydrogen Purity (SAE Standards): Hydrogen must be fuel cell grade and meet ISO SO14687:2019, grade D (EC) / SAEJ2719_201511. Contractor shall provide a hydrogen quality assurance plan meeting the requirements of the latest version of ISO 19880-8 for the fueling process.
- b. Percentage Renewable: Hydrogen must initially be a minimum of 33.3% renewable in order to comply with California SB662, and increasing thereafter to maintain compliance with SB662. Proposer shall provide options to achieve 100% renewable upon commencing operations, if available from Proposer's supply, should SBCTA choose.
- c. Delivery Distance and Delivery Method: It is anticipated that hydrogen will be delivered to the site via West 3rd Street. Refer to the AMF Site Plan included in Part I: Exhibits for additional information on site access and delivery to site. The distance between the AMF site and the hydrogen source(s), as well as the delivery distance, should be minimized wherever possible to reduce travel time and the risk of delays. Information on the hydrogen production site(s)/source(s) and delivery route/source should be provided as part of the Proposal.
- d. Delivery Vehicle Constraints Per Existing Site: Initial analyses suggest that a maximum allowable delivery vehicle size will be restricted to a WB40 truck. Refer to the conceptual truck turning templates included in Part I: Exhibits for more details on the delivery vehicle routing within the AMF property. Larger vehicles may be considered if the Contractor can demonstrate that this is technically feasible and safe for daily operations and fuel delivery.



- e. Frequency of Delivery: Hydrogen fuel deliveries to the AMF site will be limited and strictly regulated for safety reasons. The delivery window for hydrogen fuel will be dictated by SCRRA operations within the AMF property. The Contractor or Contractor's fuel delivery provider shall coordinate and schedule all deliveries with SCRRA operations and provide a minimum 1-hour notice prior to arrival at the AMF.
- f. Backup Supply: The Contractor should have access to a reliable back-up hydrogen source in the event the primary source is not available. Information regarding the back-up source and supply distance should be provided in the Proposal. The back-up supply should adhere to the same hydrogen standards as the primary source as indicated above.

13.6 Site Layout and Logistics

- a. Hydrogen Storage and Transfer System Location
 - i. One location within the southern portion of the AMF site has been identified as a potential location to accommodate the hydrogen storage and transfer system during preliminary site layout evaluations. The location is identified in Part I: Exhibits and labeled as Hydrogen Storage Location A.
 - ii. Location A has been identified due to ease of accessibility, limited impact to existing infrastructure and operations within the site, large square footage and flexibility with dispensing locations. The Contractor may propose a solution at an alternate location within the AMF site as long as the proposed layout is feasible, meets required codes and standards, and is safely and easily accessible for regular hydrogen delivery.
- b. Hydrogen Dispensing and Fueling Track Location
 - i. Fuel dispensing into the ZEMU vehicle should occur while the vehicle is parked on a track which is near the HFS under normal fueling operations.
 - ii. Two potential dispensing locations have been identified within the AMF site adjacent to Hydrogen Storage Location A (A.1 and A.2). These locations are identified in Part I: Exhibits and are labeled as Hydrogen Dispensing Locations. Contractor will be required to submit site arrangement drawings to SBCTA in electronic format for review, comment, coordination and approval during the detailed design process.
 - iii. SBCTA requires flexibility in the dispensing location because the tracks provide access to the maintenance facility, wash bay and storage areas. Based on preliminary conceptual planning and engagement with SCRRA, dispensing location A.2 has been identified as the primary dispensing location as it provides the best operational flexibility and can accommodate a longer fueling time, if necessary. SBCTA also requires the option to fuel in Location A.1 as an alternate location, given the close proximity to Hydrogen Storage Location A.
 - iv. The Contractor shall supply interconnecting piping and tubing between the HFS and the dispenser for fueling operations. Interconnecting piping/tubing



shall be supplied by Contractor and routed underground/overhead to eliminate crossing the rail tracks with hoses to reach dispensing Location A.2. The routing of underground piping/tubing shall be determined by Contractor to avoid clashes with existing underground utilities.

- v. Contractor will provide additional site infrastructure as appropriate based on-site conditions and to meet NFPA 2 requirements. This may include a canopy, fencing, fire barrier walls, bollards, lighting upgrades, etc. Refer to Section 13.9 for additional site civil requirements.

13.7 Materials and Equipment

- a. All materials and equipment delivered by the Contractor shall be new and all workmanship, materials and equipment used in all portions of the work shall be of the best quality and shall be free of all defects which would affect the performance or service life of the equipment, or which would cause unsightly or unworkmanlike appearance. Materials are also required to be compatible with hydrogen and not susceptible to hydrogen embrittlement. Contractor shall submit data sheets for all major equipment and drawings of components to SBCTA in electronic format for review, comment, coordination and approval. Materials should meet all applicable hydrogen standards as specified by the National Renewable Energy Laboratory. Applicable codes and standards are also indicated in Section 13.10.
- b. Material delivered or installed that is not in accordance with the drawings and specifications shall be removed and replaced at Contractor's expense. If the progress of the work is such that removal is impractical, SBCTA shall have the right to deduct from the final payment/contract value, the amount of money it considers equivalent to the difference in value received.
- c. The Contractor shall, if requested to do so, furnish satisfactory evidence as to the kind and quality of all materials furnished by it as well as compatibility of materials with hydrogen. This includes evidence of pressure retaining capacity of piping and fittings by mill certifications identifying the heat and lot of the metal and relating the part to any fabrication tests used to document safety at high pressures.
- d. Shop testing of all major components shall be witnessed by the Contractor and an SBCTA representative in the fabrication facility of origin. Shop test plans describing the procedures to be followed, the activities to be witnessed, and the form of documentation of acceptance shall be submitted to SBCTA for approval at least two (2) weeks prior to any witnessed shop tests.
- e. Contractor shall select equipment and components that are code compliant, and meet the following requirements:
 - i. Cabinets: Each dispenser cabinet shall be free standing and include sufficient support to remain fully functional in typical weather for the Inland Empire Region. The Gas Management Panel (GMP) cabinet may be attached to a wall with Contractor specified attachments. All components and cabinets shall be suitable to withstand seismic events without physical damage in the Seismic Design Category E area where it will be installed.



Each dispenser shall include a pit frame to simplify installation by a general Contractor who may not have experience with hydrogen dispensers.

- ii. Gas Management Panel: All onboard electronics in the GMP shall be suitable for installation and use in a Class I Division II Group B environment. Contractor shall clearly state in their proposal if fail-safe solenoid or ball valves are used for hydrogen isolation and/or flow control. A ground lug shall be provided inside the cabinet for connection to the site ground system. This ground shall be permanently tied to the ground connection that also connects to the vehicle as a permissive prior to fueling.
- iii. Piping and Tubing: Piping and tubing materials selected shall be compatible with the hydrogen fluid in either the gaseous or liquid state, depending on the stage in the process. All pressurized hydrogen piping shall be designed and installed per B31.12, Hydrogen Piping. Piping shall be designed for a minimum 30-year life. Compression connections shall not be used; cone and threaded connection may be accepted; however, welded connections are preferred wherever possible to minimize potential for leakage. Connection details are subject to approval by SBCTA.
- iv. Valves: Process valves shall be ball-type, non-lubricated with materials compatible with hydrogen fluid in either the gaseous or liquid state, as well as other petroleum products. Valves shall be of fire-safe design meeting the requirements of API 607.
- v. Pressure Relief and Gauges: Pressure relief devices and all pressurized hydrogen piping shall be designed and installed per B31.12, Hydrogen Piping. Relief valve vent piping height and separation distance shall comply with the IFC NFPA 2 and CGA G-5.5. All gauges shall comply with ANSI/UL 404 – Gauges indicating Pressure for Compressed Gas Service. Gauges shall be liquid filled, a minimum of 2.5 inches in diameter, and have a blowout back panel.
- vi. Storage Tanks: Hydrogen storage tanks shall be designed to meet the seismic conditions at the site and be ASME code-stamped pressure vessels meeting the requirements of ASME Section VIII Division 1 or 2. All tanks must include relief valves per ASME Section VIII and CGA (for gaseous hydrogen storage). The total recommended storage volume of any tanks shall be determined by Contractor based on daily fueling rates, hydrogen state for delivery, and planned delivery schedule. The Contractor is responsible for the ongoing maintenance and inspection requirements for the tanks for the duration of the maintenance and fuel delivery period. The Contractor must also specify the anticipated lifecycle of the storage tanks in their proposal.
- vii. Compression: If required for Contractor's proposed design, compressor design shall be coordinated with the overall HFS proposed operating philosophy, including flow rates and pressures to properly fuel the ZEMU vehicle in 30 minutes, while also not exceeding the maximum allowable working pressure of any storage tanks in Contractor's design. Each



compressor shall be skid-mounted, electric-motor-driven, fully suitable for the temperature extremes of the site, and enclosed or containerized with interior lighting and HVAC, lubrication, interstage and aftercooling, leak monitoring, and fire safety suitable for mounting on an equipment pad designed for the seismic conditions at the site. Compressors may be diaphragm, reciprocating, ionic fluid or other hydrogen compression technology that meets the technical requirements for fuel delivery to the ZEMU vehicle. All controls, including interface and wiring connections to allow for remote monitoring and control, shall be included.

13.8 Inspection and Acceptance

- a. No equipment, supplies, and/or services received shall be deemed accepted until SBCTA has had reasonable opportunity to inspect the equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective, or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection), may be rejected.
- c. SBCTA's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the SBCTA may have.

13.9 Site Civil and Electrical Infrastructure

- a. Contractor to design and construct any site re-grading and paving as well as curb alterations as required to accommodate the HFS, fuel delivery and fueling operations.
- b. Contractor will be required to design and construct any mitigations identified as part of the recent CEQA process.
- c. Protective infrastructure: Contractor shall determine if the HFS layout requires additional protective infrastructure to be installed (i.e., canopies, bollards and/or fire barrier walls) based on NFPA, fire marshal, federal, state and other local requirements. Contractor shall take into account the on-site storage volumes and proximity to other equipment, buildings, vehicles or electrical utilities when making this determination.
- d. Site Lighting: The Contractor shall be responsible for any lighting modifications required for the HFS location and dispensing locations. This includes extending cable and conduit runs for any new light fixtures required. All new light fixtures and accessories shall be rated for a class 1, division 2 installation. The hydrogen fueling equipment shall be illuminated to a minimum of 5 ft.-candles and 50 lux for the permanent working area for the hydrogen fueling equipment. Any additional lighting requirements at the interface location between the fueling



system and the ZEMU vehicle for fueling operations will be the responsibility of others.

- e. Utilities: The drawings provided show the location of existing utilities based on information provided by the current AMF site civil constructor. This information may not reflect the latest as-built conditions and therefore, the Contractor shall be responsible for field verification and identification as required, in coordination with SBCTA's engineer. The Contractor shall detail as needed the required relocation of all utilities as part of the design phase work. Any utility connections required by the Contractor for mobilization or construction shall be the responsibility of the Contractor, but shall be coordinated with SBCTA. During the construction phase of the work, final connection of utilities to Contractor-supplied equipment shall be made by Contractor.
- f. Power Requirements: As part of the upgrade of the AMF maintenance facility and installation of the new hydrogen storage and transfer system, SBCTA will be replacing the existing transformer or installing a separate second service to the site to provide increased electrical capacity. Coordination with the local electrical utility (Southern California Edison) is already underway. For the pilot phase of the facility operations, Contractor shall assume a 480 V three-phase power feed with a maximum connected electrical load of 665 kVA has been allocated for the HFS. The final allocated electrical capacity shall be confirmed by Southern California Edison. An upgrade to the onsite emergency generator is also planned based on the same loading assumptions for the HFS. For any 208 VAC and 120 VAC electrical loads, Contractor shall include a stepdown transformer. Contractor shall include with the proposal a preliminary electrical load list for all anticipated loads and indicate whether these are continuous or intermittent loads to assist with coordination with Southern California Edison.
- g. Grounding: Contractor shall include grounding reels or other means for grounding the hydrogen delivery trucks when parked in the offloading areas. All other equipment that is a part of the HFS shall include ground tabs or lugs for connecting to an existing ground grid within the AMF facility.
- h. Operator Communications: SCRRA's current fueling operations implements FuelForce (Product of Multiforce Systems) as a centralized SCADA to automatically monitor Diesel dispensing transactions from terminals at two existing maintenance facility locations. The Contractor will be required to pursue installation of FuelForce-compatible terminal at the AMF to allow for integrated data to automatically capture hydrogen fueling. The Contractor shall prepare an I/O list as part of the detailed design of the HFS that includes the recommended signals and alarms to be communicated in real-time to SCRRA's FuelForce SCADA system.

The fuel dispenser shall communicate the following data:

- i. Vehicle ID
- ii. Grounding confirmation
- iii. Initial pressure at ZEMU fueling interface point



- iv. Initial temperature of supplied hydrogen gas
- v. Ambient temperature
- vi. Fill rate (kg/min) or pulse counter
- vii. Real-time data and final pressure of onboard hydrogen gas storage tanks
- viii. Real-time data and final temperature of supplied hydrogen gas

The dispenser must be capable of processing this data to control and terminate the fill, as well as pass it along to SCRRA's SCADA system along with other dispenser data, including the following:

- i. Date
- ii. Time of day
- iii. Time – start of fueling event and end of fueling event
- iv. Pressure ramp rate (data sampled every 1/10 seconds)
- v. Tank temperature (data sampled every 1/10 seconds)
- vi. Inlet gas temperature (data sampled every 1/10 seconds)

All signals and alarms to be communicated from the hydrogen storage and transfer system, as well as the fueling dispenser, shall be brought back to a common control cabinet within the HFS area. Interconnection of this controls cabinet to the SCRRA's SCADA system will be a requirement and coordination with SCRRA will be required to ensure the system is compatible with their existing FuelForce system. The Contractor should expect to engage with the vehicle supplier regarding fueling protocols during detailed design.

- i. Water and Sewer: Contractor shall refer to the as-built utility documents for locations of existing sewer system inlet catch basins in the vicinity of the proposed hydrogen storage and transfer system. Any equipment drains that may contain oils shall have secondary containment, either within the equipment or a curbed containment to allow SBCTA operations to visually inspect the drains prior to discharging to the sewer system. Utility water hose stations will be provided by others in the hydrogen storage and transfer system area. Utility water consumption for normal operation of the hydrogen storage and transfer system is highly discouraged. Any utility water required for proper operation of the hydrogen storage and transfer system shall be identified in Contractor's proposal.

13.10 Codes and Standards

Reference Standards – The latest edition of the following listed codes and standards, as applicable, shall govern design, manufacture, and quality assurance of equipment and material to be supplied. All devices shall comply with nationally published applicable codes. In general, this includes, but is not limited to:

- a. Applicable Federal, State and Local laws, ordinances, and codes for the equipment being provided and installed.



- i. For example – California Building (Part 1 & 2), Electrical (Part 3), Energy (Part 6), and Fire Codes (Part 9) - Title 24
- b. American Society of Mechanical Engineers (ASME) B31.3 and B31.12
- c. American Society for Testing Materials (ASTM)
 - i. ASTM A-53 – Material Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless
 - ii. ASTM 106 – Specification for Seamless Carbon Steel Pipe for High-Temperature Service
 - iii. ASTM A269- Seamless and Welded Austenitic Stainless-Steel Tubing for General Service
 - iv. ASTM A 312 – Seamless and Welded Austenitic Stainless-Steel pipe
- d. American National Standard Institute (ANSI)
 - i. ANSI B16.11 - Forged Steel Fittings, Socket - Welding and Threaded
 - ii. ANSI B16.5 – Pipe Flanges and Flanged Fittings
 - iii. ANSI B16.42 – Ductile Iron Pipe Flanges and Flanged Fittings, Class 150 and 300
 - iv. ANSI NGV 4.1-2018 – Natural Gas Vehicle (or updated equivalent)
 - v. ANSI HGV 4.1-2020 – Hydrogen-Dispensing Systems
- e. Institute of Electrical and Electronics Engineers (IEEE)
- f. Certified Welding Inspectors (CWI)
- g. American Welding Society Standard for Qualification and Certification of Welding Inspectors (AWS – QC1)
- h. National Fire Protection Association (NFPA)
 - i. NFPA 2 – Hydrogen Technologies Code
 - ii. NFPA 70 (Chapter 5) – National Electric Code
- i. Society of Automotive Engineers (SAE)
 - i. SAE J2601-1 - Fueling Protocols for Light Duty Gaseous Hydrogen Surface Vehicles
 - ii. SAE J2601-2/3 - Fueling Protocols for Heavy Duty Gaseous Hydrogen Surface Vehicles
 - iii. (Optional) SAE J2799 - Hydrogen Surface Vehicle to Station Communications Hardware and Software
- j. National Renewable Energy Laboratory: Hydrogen Vehicle and Infrastructure Codes and Standards
- k. Occupational Safety and Health Standards (OSHA)



- I. Tubular Exchangers Manufacturing Association (TEMA) Standards
- m. International Standards Organization 14687: 2019 Hydrogen Fuel Quality – Product Specification
- n. International Standards Organization 19880-8: 2019 Gaseous Hydrogen – Fueling Stations – Part 8: Fuel Quality Control
- o. Standard under development for hydrogen rail vehicle fueling
 - i. Technical Committee TC 9/PT 63341-2
 - ii. IEC 63341-2

Contractor shall include specific identification of compliance for individual components or subassemblies when specific design, fabrication or installation standards are applicable. Contractor shall identify working group documents and/or ANSI Hydrogen Vehicle standards that have been met to show knowledge of, and likely conformance with, standards that are yet to be issued final in the U.S. Similarly, the fill rates specified herein will dictate and may result in eliminating some of the requirements of otherwise applicable standards. Please confirm by a narrative in the proposal that the designs will conform to all applicable U.S. and California Codes and Standards. Codes and standards from other jurisdictions are not acceptable.

Failure to mention any governing codes in this Specification does not relieve the Seller from adhering to all applicable codes and standards which apply to their equipment and services.

In the event of variance between this Specification and the governing code, the stricter requirements shall take precedence unless explicitly stated otherwise herein.

13.11 Health and Safety Requirements

- a. Contractor shall provide an overarching safety plan: Submit two (2) detailed safety plans (Construction Safety Plan and O&M Safety Plan), after award, including a fire and hydrogen leak detection plan, describing the operation of alarms, the evacuation plan, and any training materials that may be necessary. Contractor shall fully describe the operation and capabilities of its response to incidents, including hydrogen alarms, integration with fire alarms, and coordination with the local fire department. The intent of the Safety Plan is also to ensure that necessary safety issues have been considered by all participants across the entirety of the Project (design, construction, operation and maintenance).
- b. Hazard and Operability (HAZOP) Review: Safe practices in the production, storage, distribution, and use of hydrogen are essential to protect people, equipment, and the environment. The Contractor shall prepare and lead a HAZOP review early in the design stage, followed by a final HAZOP once the design has been substantially completed to validate safe practices. This will be a Contractor facilitated meeting in which the design will be analyzed by a qualified board of experts to identify possible failure modes that could result in unacceptable damage to equipment, people or facilities. Following the HAZOP review, a code



compliance assessment should be completed by the Contractor in the early or mid-stage of the design phase to ensure all necessary code requirements have been met. This should also include a variety of code checklists to verify NFPA 2 siting requirements, HAZOP safeguard action items, and operational readiness inspections (ORI), among many others. These are used to ensure vulnerabilities have been identified and corrective action items are completed prior to startup. The HAZOP compliance checklists will be owned by the Contractor's Project Engineer who ensures their completion for the HFS. Finally, an Operational and Readiness Inspection is completed prior to startup and owned by the Contractor to verify all checklist items are completed before startup.

- c. Hydrogen Safety Panel (HSP) Coordination: The HSP provides support to SBCTA with a review of the Contractor's proposed design and fueling protocol. The HSP will participate in some project meetings as a stakeholder to further contribute safety inputs from the hydrogen industry, including HAZOP meetings (as appropriate). The HSP will also participate in the review of the HAZOP. The Contractor should not assume any additional meetings or interface with the HSP for purposes of the bid.
- d. Leak and Flame Detection: Consultant shall consider monitoring of internal HFS piping pressure and flows as a means to achieve leak detection. In addition, the HFS must include provisions for a safe shutdown of hydrogen handling equipment by untrained site personnel in the case of a hydrogen leak. An integrated UV/IR detector or multiband IR detector and hydrogen leak detections shall be provided to fully monitor enclosed spaces where hydrogen may leak, including where transfer operations take place, outside spaces and/or equipment producing or containing hydrogen. The Contractor is allowed to propose a preferred method of leak and flame detection if the system meets code requirements and fueling protocol safety standards. The Contractor will need to coordinate with Stadler on any integrated detection systems and to ensure that monitoring during fueling is coordinated between the infrastructure side and vehicle side.
- e. Contractor will be responsible for ensuring that the HFS and fueling areas meet code requirements for ventilation and clearances. Should overhead canopies be added for weather protection, Contractor will need to consider the potential for pooling of H₂ in these areas.
- f. Maintenance and Vehicle Access: The Contractor shall be fully capable of responding to unanticipated equipment problems over the life of the contract and discuss in their Proposal how emergency hydrogen supplies can be brought online quickly if the system experiences a problem. Notifications of unanticipated maintenance needs shall be automated so that on-call personnel are notified as soon as a defective parameter, Emergency Stop (ESTOP) or unplanned shutdown occurs that impacts regular fueling of the ZEMU. In addition, all notifications of a leak, fire, or other event requiring an emergency response shall be communicated to local workers on-site, including audible and visual notification devices at strategic on-site locations. The Contractor shall discuss emergency response times (two (2) hours or less) and how this will be accomplished with consideration of access and egress of emergency response vehicles at both the



HFS and within the AMF site. For additional information about the AMF site, refer to Section 1.2 in this RFP.

- g. In the case of an emergency response/incident, the Contractor shall collect/dispose the large amount of spent fire water per existing environmental discharge requirements.

13.12 Other Site-Specific Requirements

- a. The Contractor shall be responsible for all health and safety requirements and coordination during equipment installation and construction. The Contractor will be required to submit a site-specific Health and Safety plan to SBCTA for review and approval prior to commencing construction. Coordination on the construction safety requirements with SCRRA will also be required to ensure safe installation and construction of equipment during regular Arrow service operations.
- b. The Contractor should be prepared to install and construct equipment within an active operating rail yard. Specific training will be required for personnel to facilitate installation, construction, operations and maintenance and hydrogen delivery; this should be included as part of the overall proposal.
- c. Site Access: The Contractor shall coordinate site access for Contractor personnel and deliveries with SBCTA and/or SCRRA security and maintenance staff. Contractor shall be responsible for maintaining access for Contractor personnel, including providing shuttles for off-site employee parking, if necessary.
- d. Work Schedule: Work may be conducted on-site at hours established by SBCTA and coordinated with SCRRA. Currently rail operations are most active at the site before and after service periods. Contractor will be encouraged to work hours that minimize congestion and interference with rail operations at the site during construction and maximize overlap with SCRRA operations during the maintenance and delivery period. Changes in work schedule must be approved by SBCTA in writing at least 48 hours in advance of any change.
- e. Environmental Protection: Contractor shall provide protective measures to control pollution during construction and remedial activities. Construction activities must avoid polluting surface water and groundwater, in accordance with all applicable regulations. Contractor shall drain, collect, transport and properly dispose of any liquids contained in pipelines, conduits or any other components supplied by the Contractor. In addition, Contractor must comply with the mitigation measures outlined in the Arrow Maintenance Facility Hydrogen Fuel Upgrade Project's Final EIR. The Final EIR is accessible electronically at <https://www.gosbcta.com/wp-content/uploads/2019/09/Arrow-Maintenance-Facility-Hydrogen-Fuel-Upgrade-Project-%E2%80%93-Draft-Environmental-Impact-Report-05.05.2021.pdf>.



PART D: PROCUREMENT RULES

14. WRITTEN QUESTIONS/REQUESTS FOR CLARIFICATION

All questions about and/or requests for clarification of this RFP, including questions that could not be specifically addressed at the Pre-Proposal Conference, must be submitted electronically to the vendor portal “Planet Bids”, and they must be received by SBCTA no later than 4:00 p.m., on Monday, May 23, 2022. Questions received after the date and time specified may or may not be responded to, at the sole discretion of SBCTA. 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, will be posted on the Vendor Portal on SBCTA’s website at www.gosbcta.com: click on “Doing Business”, which will take you to the “Bids & RFPs” page. There, click on the tab “Vendor Portal”.

15. ADDENDA

Any changes to this RFP will be made by written addendum and posted on vendor portal “Planet Bids” and 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. Any addenda that is not acknowledged may result in your proposal being deemed non-responsive.

16. COMMUNICATIONS AND CONTACTS

16.1 Proposer Contacts

Following a Proposer’s submission of a Proposal, all future communications by SBCTA will be made to that Proposer’s “Official Representative” whose contact information is included in the Proposal.

16.2 Rules for Communications and Contact

16.2.1 Application of the Rules

- a. The rules of contact specified in Section 16.2.2 will apply during the procurement for the Work, effective as of the date of issuance of this RFP through the execution of the Contract (the “Restricted Contact Period”).
- b. These rules are designed to promote a fair, competitive, and unbiased procurement process.
- c. Contact includes face-to-face, telephone, facsimile, e-mail, or written communication, either directly or indirectly by an agent, representative, promoter or advocate of a Proposer.

16.2.2 Rules of Contact

The specific rules of contact during the Restricted Contact Period (unless another period is otherwise noted) are as follows:

- a. After release of the RFP, no Restricted Person will communicate with another Proposer or its team members with regard to the RFP, the RFP or either team’s



Proposal; provided, however, that subcontractors that are shared between two or more Proposer teams (subject to the restrictions in Section 18.3) may communicate with their respective team members so long as those Proposers establish reasonable protocols to ensure that the subcontractor will not act as a conduit of information between the teams. In addition, contact among Proposer organizations is allowed during SBCTA-sponsored informational meetings.

- b. SBCTA will be the sole contact for purposes of this RFP procurement. Proposers will correspond with SBCTA regarding the RFP only through SBCTA's designated representative which initially will be:

Ms. Shaneka Morris, Procurement Manager
San Bernardino County Transportation Authority
1170 W. 3rd St., Second Floor
San Bernardino, CA 92410
Phone: 909.884.8276
smorris@gosbcta.com

- c. Any official information regarding the Work and the Project will be disseminated from SBCTA, either from an official email account or on agency letterhead, and in either case from the RFP Procurement Contact. SBCTA will not be (and will be deemed not to be) responsible for, and Proposers may not rely (and will be deemed not to have relied) on, any oral or written communication or contact or any other information or exchange that occurs outside the official process specified in this RFP.
- d. Commencing with the issuance of this RFP and continuing until the earliest of (i) award and execution of the Contract, (ii) rejection of all Proposals by SBCTA, or (iii) cancellation of the procurement, no Proposer or representative thereof will have any communications regarding the RFP, the Contract, or the procurement described in this RFP with:
 - i. any SBCTA Board member; and/or
 - ii. any SBCTA staff, advisors, contractors or consultants involved with the procurement (including those referenced in this Section 16), except for communications expressly permitted by the RFP or except as approved in writing in advance by the RFP Procurement Contact, in his sole discretion.

The foregoing restriction will not, however, preclude or restrict communications with regard to matters unrelated to the Work, the Project, this RFP, the Contract or the procurement or limit participation in public meetings or any public or Proposer workshop related to the Work, the Project, or this RFP.

- e. Proposers will not directly or indirectly contact or communicate the following identified stakeholders regarding the Work, the Project, or this RFP, including employees, representatives, members, consultants, and advisors of the stakeholders listed below (provided that, with respect to consultants and advisors, such restrictions on contact and communications only apply to the extent any such



consultant or advisor provides or has provided services related to the Project, or this RFP):

- i. Stadler US;
 - ii. SCRRA,
 - iii. City of San Bernardino; and
 - iv. CalSTA/Caltrans.
- f. In order to ensure that, among other things, the procurement is implemented in a fair, competitive and transparent manner, SBCTA will provide any necessary intermediary coordination during the procurement process between Proposers, on the one hand, and the stakeholders and related Persons who are the subject of the restrictions in Section 16.2.2, on the other hand, provided that Proposers are permitted to submit written requests to SBCTA, via the RFP Procurement Contact, for its approval, to be given in its discretion, to:
- i. engage a consultant or advisory firm that also acts for any such stakeholder in connection with the Project or this RFP, subject to such firm's implementation of Information Barriers; and
 - ii. engage in SBCTA-monitored contacts or communications with any such stakeholder or related Person.

Any such requests should identify the anticipated benefits to the Project and/or the procurement process that may result from the requested engagement, contact or communication.

16.2.3 Violation of Rules of Contact

Any communications or contacts determined to be prohibited by the rules outlined in Section 16.2.2 or otherwise improper, at the sole discretion of SBCTA, may result in disqualification of one or more Proposers.

17. ORGANIZATIONAL CONFLICTS OF INTEREST

17.1 General Requirements

- a. Proposers are required to comply with SBCTA conflict of interest policy requirements for the Project, as more fully set forth in Section 17.2 below.
- b. This Section 17.2 provides information regarding conflict-of-interest policies and requirements applicable to Proposers and their team members. SBCTA's goals in adopting these policies and requirements include:
 - i. protecting the integrity, transparency, competitiveness and fairness of the planning, procurement, design, construction and development of the Project;
 - ii. avoiding circumstances where a potential Contractor obtains, or appears to obtain, an unfair competitive advantage as a result of work performed by a consultant;



- iii. providing guidance to potential Contractors in establishing teams for the procurement of the Project; and
- iv. ensuring compliance with applicable legal requirements.

17.2 SBCTA Requirements and Prohibitions

- a. Proposers are required to comply with SBCTA's Conflict of Interest Policy for the Project, which is available at <http://www.qosbcta.com/about-sbcta/do-biz-contracting.html>.
- b. Without an exception granted by SBCTA with respect to SBCTA's Conflict of Interest Policy, it is SBCTA's policy that any Person under contract, or previously under contract, with SBCTA to prepare procurement documents, preliminary plans, planning reports or other project development products for the Project will not be allowed to participate in any capacity on a Proposer or Contractor team. Exceptions to this policy may be granted by SBCTA, consistent with Applicable Law, upon written request from such Person, if it is determined that the Person's involvement is in the best interest of the public and would not constitute an unfair advantage. Proposer teams seeking such exception will submit such written request as soon as possible. No extension of the Proposal Submission Deadline will be given, nor will SBCTA be responsible for any inability or failure to respond to any such request prior to the Proposal Submission Deadline.
- c. Proposers are also advised that SBCTA's guidelines relating to organizational conflicts of interest in this RFP are intended to augment applicable federal and state law, including federal organizational conflict of interest laws and rules and the laws and rules relating to NEPA. Such Applicable Law will also apply to Proposer teams and teaming and may preclude certain firms and their entities from participating on a Proposer team.

17.3 Disclosure of Conflicts

- a. Proposer will provide information concerning organizational conflicts of interest and disclose all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest (i) at any time during the Restricted Contact Period, as soon as such conflict is discovered, and (ii) in its Proposal (which requirement may be satisfied by inclusion of a confirmation that no such organizational conflicts of interest exist in relation to such Proposer).
- b. With regard to each disclosure pursuant to PART A: 17.3a, Proposer will state how its interests or those of any of its team members, consultants, contractors or subcontractors, including the interests of any chief executives, directors or Key Personnel thereof, may result in, or could be viewed as, an organizational conflict of interest.
- c. By submitting its Proposal, each Proposer agrees that, if an organizational conflict of interest is discovered, Proposer must make an immediate and full written disclosure to SBCTA that includes a description of the action that Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational



conflict of interest that Proposer knew, or should have known about, but failed to disclose is determined to exist during the procurement process, SBCTA may disqualify Proposer. If an organizational conflict of interest that Proposer knew, or should have known about, but failed to disclose exists and Proposer has entered into a Contract, SBCTA may terminate the Contract. In either case, SBCTA reserves all legal rights and remedies. Proposers should not view the list in Section 17.4 as an exhaustive list of those firm(s) that have or may have conflicts of interest.

17.4 Persons with Organizational Conflicts of Interest

Proposer is prohibited from teaming with, including on a Proposer team (as contractor, subcontractor, consultant or subconsultant), receiving any advice from, or discussing any aspect relating to the Work or the Project or the procurement of the Work or the Project with any Person or entity with an organizational conflict of interest, including, but not limited to:

- a. Mott MacDonald Group, Inc.;
- b. Stadler Inc.;
- c. HDR Inc.;
- d. Jacobs Engineering Group;
- e. DB Engineering & Consulting USA Inc.;
- f. any other Person that, to the best of Proposer's knowledge and belief:
 - i. was or is engaged by SBCTA or any of the above listed entities in connection with the Project, this RFP; or
 - ii. had access to non-public information regarding the same by virtue of an otherwise unrelated engagement; and
- g. Affiliates of the foregoing.

18. LIMITATIONS ON PROPOSER TEAM MEMBERSHIP

18.1 Proposer Team Members On More Than One Team

- a. If Proposer has any team members participating in this RFP process that are involved with more than one team, such potential conflict-of-interest shall be clearly identified and disclosed to SBCTA per the requirements of Section 17.3.

18.2 Licensing Requirements

- a. Proposer will not be required to be licensed by SBCTA as a condition of submitting a Proposal. However, Key Personnel must be licensed in the State at the time of Contract award and provide evidence that the Key Personnel have, or at the time of Contract award will have, all licenses, registrations, and credentials required to design and construct the Project, including date(s) obtained or anticipated to be obtained, type, number, classification, issuing agency, and expiration date.



- b. In addition, members of Proposer team and individuals (including professional engineers) that will be undertaking work that requires a California license must be prequalified and licensed prior to performing the applicable work assigned to such member. For those individuals that are currently licensed and/or certified, identification of such professional licenses and certifications (including the state within which the license or certificate is granted and license or certificate number) must be referenced on resumes. Identify the person who is a licensed Professional Engineer (PE) in the State of California and include a copy of PE's license.
- c. Proposer's attention is directed to California Public Contract Code Section 20103.5, which provides:

"The first payment for work or material under any contract will not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed will be subject to all legal penalties imposed by Applicable Law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board."

18.3 Other Limitations on Proposer Team Membership

- a. To ensure a fair and competitive procurement process, entities that are under direct or indirect common ownership or have the same upstream parent may not be on separate Proposer teams or act as Lead Contractors, Lead Designers, or Financially Responsible Parties on separate Proposer teams.

19. CHANGES IN PROPOSER ORGANIZATION

19.1 General Restrictions on Changes

Subject to Section 19.2, no Proposer will:

- a. add, delete or substitute a Major Participant, Key Personnel, or other Persons specifically identified in its Proposal as being part of its team;
- b. materially alter the relationships or responsibilities among any of the Major Participants, Key Personnel, or other Persons specifically identified in its Proposal, or with any Affiliate of a Major Participant, the experience of which is included in its Proposal; or
- c. otherwise reorganize its team to the extent that such reorganization would render the organizational charts and descriptions provided in its Proposal inaccurate or incomplete,

19.2 Organizational Changes for Preferred Proposer

- a. The Preferred Proposer may make Organizational Changes with SBCTA's consent, to be given in SBCTA's discretion. As a condition to making any such Organizational Change, a Preferred Proposer must submit to SBCTA a description of the proposed change and any relevant documentation related to the change.



- b. While SBCTA reserves the right to withhold its consent to any Organizational Change under Section 19.2.a in its discretion, SBCTA expects that it will base its decision as to whether to accept a proposed Organizational Change on whether the proposed Organizational Change would:
 - i. render Proposer materially different from or less qualified than Proposer originally selected as the Preferred Proposer;
 - ii. result in any actual or potential organizational conflict of interest;
 - iii. cause the Preferred Proposer to be in violation of another provision of this RFP; and/or
 - iv. any other factors that SBCTA considers relevant or material.

20. DISQUALIFICATION FOR NON-COMPLIANCE

Any violation by any Proposer or other Person (including any Major Participant or Key Personnel) of, or failure to comply with, Sections 14, 16.2, 18.3 or 19 may, in SBCTA's discretion, result in the relevant (a) Proposer, (b) Person and/or (c) Proposer with which such Person is affiliated, being disqualified from further participation in the procurement or the Project.



PART E: SUBMISSION REQUIREMENTS

21. DELIVERY TIMING AND PROCEDURE

21.1 Location and Manner of Delivery

- a. Proposals will be submitted electronically through SBCTA's Vendor Portal PlanetBids. Proposals submitted via email or paper delivery will not be accepted. To propose for this Project, Proposers must be registered with SBCTA's PlanetBids Vendor Portal website.³
- b. A firm must accept the terms and conditions in order to proceed. Proposers will have a series of tabs and may save their Proposal at any time as a draft. Proposers may edit the Proposal as often as they need to until the Proposal Submission Deadline. Proposals received after the Proposal Submission Deadline will be returned to the Proposer without further consideration or evaluation.

21.2 Timeliness of Delivery

Proposals must be submitted by the Proposal Submission Deadline. Time is of the essence and late submittals will not be accepted.

21.3 Responsibility for Delivery

- a. Proposers are solely responsible for assuring that SBCTA receives their Proposals by the Proposal Submission Deadline pursuant to Section 21.1.a.
- b. SBCTA will not bear any responsibility for any delays in delivery, including those caused by weather, difficulties with internet or servers, improper, incorrect or incomplete uploading of documents.

22. GENERAL REQUIREMENTS FOR PREPARATION AND SUBMISSION

22.1 General

- a. It is SBCTA's expectation that Proposals submitted in response to this RFP will provide enough information about the requested items so as to allow SBCTA to evaluate Proposers based on the criteria in this RFP. Proposers will not electively include in Proposals any information or materials in addition to the information and materials specifically requested in this RFP. SBCTA expects that Proposals will be developed to address the Project-specific Proposal submission requirements. As such, standard corporate brochures, awards, licenses and marketing materials should not be included in a Proposal, although reference can be made to awards and licenses where reasonably relevant or expressly requested.

³ **Note to Proposers:** SBCTA's Vendor Portal website can be accessed at <https://www.planetbids.com/portal/portal.cfm?CompanyID=20136>.



- b. Proposals will be submitted exclusively in the English language inclusive of United States customary units of measure and metric units of measure, and financial terms in United States dollar denominations.
- c. If any Major Participant is expected to be a Joint Venture, or a newly formed or special purpose entity, then all members or partners of that Joint Venture or other entity will collectively be considered to be a Major Participant on a joint and several basis. Therefore, any information that is required to be submitted as part of the Proposal by such Major Participant must be submitted by each member or partner of the Joint Venture or other entity unless otherwise expressly provided. These requirements apply regardless of whether the relevant Joint Venture or other entity considers itself a partnership.
- d. If any Major Participant is expected to be a Joint Venture, and the obligations of the members and partners of such Joint Venture will not be joint and several, then such Proposer must clearly and specifically identify and explain the anticipated structuring of member and partner liabilities for such Joint Venture in its Proposal. Proposers should note, however, that SBCTA may, in its discretion, based upon its review of a Proposer's Proposal or Proposer's form of organization, require all members or partners of any Major Participant that is a Joint Venture to assume joint and several liability as a condition precedent to a Proposer being selected.
- e. All references to currency will use U.S. dollars. Notwithstanding such requirements, additional references may be made to the International System of Units and to monetary amounts in a different base currency provided that any such amounts are also specified in US dollars at an appropriate rate of conversion specified in the Proposal.
- f. Any reference in the Proposal submission requirements in this RFP or in any Form to a prior time period (e.g., the past 10 years, the past 12 months, etc.) is to such period ending on the date of this RFP's initial issuance, provided Proposers will have an obligation to promptly disclose any subsequent events or circumstances that occur prior to SBCTA's notification of award to the extent that such events would otherwise result in the Proposal containing an untrue statement of a material fact or an omission of a material fact necessary to make the Proposal's contents true and otherwise not misleading.
- g. In scoring individual qualifications presented for evaluation, SBCTA will generally (but not necessarily) score higher those qualifications that meet many of the following attributes, in no particular order:
 - i. project references;
 - ii. projects completed under budget and on an expedited schedule;
 - iii. qualifications that demonstrate quality;
 - iv. qualifications that demonstrate cohesiveness of the proposed team;
 - v. recent projects; and
 - vi. completed projects.



22.2 Submission Format

22.2.1 Electronic Copies

- a. Each Proposer will submit an electronic copy of each of:
 - i. the Proposal; and
 - ii. the Proposal with confidential information redacted,in searchable and printable format compatible with portable document format (.pdf) (except that the original executed letters need not be searchable).
- b. Proposer will submit one clean and one redacted copy of its Proposal and will clearly mark “Clean” or “Redacted”, as applicable, in the .pdf file name.
- c. Proposer will bear sole responsibility for ensuring successful delivery of the electronic submission, by e-mail or other means, by the Proposal Submission Deadline.

22.2.2 Redacted Proposal

- a. Each Proposer that submits a Proposal containing Public Records Exempt Materials must prepare and submit one digital copy of a redacted version of each volume of the Proposal that contains Public Records Exempt Materials. This redacted version must be identical to the corresponding volumes of the Proposal other than redactions that only exclude Public Records Exempt Materials.
- b. The redacted Proposal will be included as a fourth chapter of the Proposal (divided into sub-chapters, as needed) which will include:
 - i. as the first page, the Confidential Contents Index in the form of Form 3; and
 - ii. the redacted contents from each of Chapters 1 through 3, with each redaction containing a footnote cross reference to the corresponding entry in the Confidential Contents Index.

22.2.3 Pages and Numbering

- a. Submissions must be prepared on 8.5” x 11” sized white paper, except as noted in Paragraph “c” below.
- b. Font sizes will be no smaller than 11-point font, provided the font in organizational charts, graphics and tables may be smaller than 11-point provided it is legible, and that such graphics and tables are not produced for the primary purpose of working around the 11-point font restriction for narrative text.
- c. 11” x 17” pages are only allowed for schematics, organizational charts, and other drawings and schedules, but not for narrative text.
- d. All pages will be sequentially numbered within each chapter.
- e. The proposal is limited to a 40-page cap. 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 limited does not include the following:

Documents Not Included in Page Count
Table of Contents
Cover Letter
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22.2.4 Signatures

All signed documents included in a Proposal may be executed in one or more counterparts, the originals of which together will be deemed to be an original.

23. OWNERSHIP OF PROPOSALS

SBCTA will retain full title to, and ownership of, all Proposals made pursuant to this RFP. Notwithstanding the foregoing, Proposers may use and reproduce any elements of a Proposal that are standard and not unique to the subject of the submission and the Project. This excludes the use of vehicle supplier information, average total costs (ATCs), average fixed costs (AFCs), design submissions and development plans except to the extent provided in an executed Agreement to Purchase Intellectual Property.

24. SUBMISSION CONTENTS AND ORGANIZATION

Proposers must organize their Proposal in the order outlined below in Sections 25 to 29. Proposers are responsible for submitting with the Proposal all materials required by this RFP. Additional material is subject to any applicable page limitation. Each chapter (Chapters 1 – 4) may be subdivided as needed, so long as Proposers tab the content of their Proposal to correspond to the section reference for ease of SBCTA's review.

25. CHAPTER 1 – ADMINISTRATIVE SUBMISSION

25.1 General Information

Proposer will provide general information regarding Proposer in the form of Form 1 for each of:

- a. Proposer;
- b. the Lead Contractor;



- c. the Lead Designer;
- d. Key Original Equipment Manufacturers proposed;
- e. the Lead Maintainer
- f. Hydrogen Provider (if different from maintainer); and
- g. Other key team participants as appropriate.

25.2 Conflict of Interest Statement

Taking into account Section 14, Proposer will provide either:

- a. confirmation of absence of any organizational conflicts of interest and any potential organizational conflict of interest; or
- b. narrative description of any organizational conflicts of interest or potential organizational conflict of interest.

25.3 Participant Disclosure Form

Proposer will provide completed participant disclosure forms in the form of Form 2. Form 2 should be completed for each Major Participant that is part of a Proposer team.

25.4 Legal Disclosures/Certifications

Proposer will provide completed legal disclosures in the form of Form 1. Form 1 should be completed for each Major Participant that is part of a Proposer team.

25.5 Iran Contracting Act of 2010

All proposers shall submit written certification, in accordance with Public Contract Code Section 2204(a), 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 existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code Section 2205.

Proposer will provide a completed Iran Contracting Act of 2010 Certification Form in the form of Form 6.

25.6 Safety Record

Proposer will provide a completed safety record questionnaire in the form of Form 5 for the Lead Contractor only.

25.7 Insurance

The Contract will require the Contractor to furnish insurance for the Project satisfying the requirements of Applicable Law for insurance typically provided for or otherwise appropriate for projects of a similar size and scope and providing insurance adequate to



protect the interests of SBCTA in connection with all risks, including all aspects of the Contractor's Work. Without limiting the generality of the foregoing, the Contractor will be required to verify that subcontractors engaged or employed to provide work for the Project will carry and maintain similar insurance set forth in the Contract.

Proposer shall review the insurance language and insurance limits in the sample contract. Proposer shall be fully prepared to secure the necessary insurance coverage and limits as detailed in the Contract and comply with all insurance requirements or the Proposer must identify areas of conflict with the insurance requirements and provide a list of concerns in its response to the RFP as exceptions. Furthermore, submitting Form 4 "Certificate of Compliance with Insurance Requirements" as part of the proposal certifies the Proposer's understanding and compliance of the insurance requirements, without exceptions.

25.8 Surety Letters

Each letter from an Eligible Surety submitted by a Proposer will be addressed to SBCTA and will state that the Lead Contractor is capable of obtaining both a performance bond (or bonds) and a payment bond (or bonds), each in a minimum aggregate stated amount of at least 100% of the total contract price, provided that:

- a. If the Lead Contractor is a Joint Venture, limited liability company or other association, separate letters for one or more of the individual Joint Venture members or partners or equity owners are acceptable, as is a single letter covering all members or partners or equity owners; provided that each such letter will reference the specific dollar figure portion of the total required amount that the Eligible Surety is indicating it is willing to provide;
- b. any such letter must not indicate unspecified "unlimited" bonding capacity;
- c. each letter will specifically acknowledge that the Eligible Surety has received and reviewed the relevant terms of this RFP and evaluated the Lead Contractor's and/or another relevant Person's backlog and work-in-progress in determining its bonding capacity; and
- d. in instances where there has been or is anticipated to be any material change in the financial condition of an entity, a certification (to be included in each letter) that the Eligible Surety's analysis specifically incorporates a review of the factors surrounding such change(s) and identifying any special conditions which may be imposed before it would be prepared to issue surety bonds in respect of the Project.

26. CHAPTER 2 – TECHNICAL SUBMISSION

26.1 Cover Letter

Proposer will provide a Cover Letter, in the form of a narrative which should include:

- a. Identification of all proposed subconsultants including description of the work to be performed by the firm and each subconsultant proposed for the Project and an estimate of the percentage of work to be performed by each subconsultant.



- b. Indicate the location of the office from which the work will be performed.
- c. A memorandum from a principal of each subconsultant indicating the specific portion of the Work the subconsultant will be performing.
- d. Acknowledgement of all addenda.
- e. A signed statement by an officer of the prime firm attesting that all information in the proposal is true and correct.
- f. A signature of an authorized person within the prime firm who can bind the firm to the terms and conditions of the RFP.
- g. A statement that the proposal is valid for 180 calendar days from the date of submission.
- h. A list of all prime contracts (if any) awarded to the proposer by SBCTA for the last five (5) years. The list shall include a short description of the project, the award date, completion date, name of assigned Project Manager, and contract value.

26.2 Section 1 – Team Background

26.2.1 Narrative of Organizational and Management Structure

Proposer will provide a narrative of its proposed organizational and management structure for the Project as it relates to technical expertise and execution, including an explanation as to how:

- a. Proposer anticipates constructively integrating and effectively utilizing the collective experience of all its team members; and
- b. Such structure will facilitate implementation of the Project.

26.2.2 Organizational Chart

Proposer will provide an organizational chart depicting the structure of the Project team, depicting the Contractor, each of the Major Participants, and the proposed teaming relationships between each. The organizational chart will identify Key Personnel and their management structure for the purposes of delivering the Project.

26.3 Section 2 – Project Approach

26.3.1 Project Management Approach (D&C)

Proposer will provide a narrative of its general approach to management and oversight of the Project in a D&C arrangement, which may include:

- a. day-to-day project management and reporting;
- b. schedule and cost management;
- c. resource management;
- d. quality control/assurance;
- e. safety management;
- f. construction management



- g. ongoing management of hydrogen delivery and maintenance of equipment
- h. document management; and
- i. risk management.

26.3.2 Overview of Materials and Services to be Furnished

Proposer will provide its approach to ensuring all engineering design, labor, supervision, material and equipment necessary to provide an operationally integrated equipment package to meet the performance requirements, and to provide operation and maintenance of the supplied equipment for the duration of the Project as identified in Section 13 of this RFP.

26.3.3 Technical Approach and Experience

Proposer will provide a narrative describing its approach to and experience with the Project's technical requirements as provided in Section 13 of this RFP. The narrative should describe how the proposed solution will meet all technical requirements and provide information on the anticipated equipment and layout of the HFS and dispensing areas. The proposer shall also submit a Process Flow Diagram showing expected flow rates (and/or refueling times), temperatures, and pressures of all hydrogen and related systems. In addition, the proposer shall include an electrical load summary or single line diagram with anticipated electrical power loads shown. Proposer's approach shall address drawings required for submission and approval after award, including:

- a. HFS and dispensing plan drawings
- b. Hydrogen delivery vehicle route drawings w/ truck turning templates as required
- c. Equipment outline and detail drawings
- d. Utility connection drawings
- e. Supporting data and calculations for drawings

26.3.4 Permitting Approach and Experience Narrative

Proposer will provide a narrative describing its approach to and experience with obtaining permits for similar projects, with an emphasis on projects in Southern California (as applicable) with the same or similar permitting requirements as those Proposer expects to be applicable for completion of the Project in accordance with Applicable Law.

26.3.5 Project Management Approach (maintenance, and fuel delivery)

Proposer will provide a narrative of its general approach to management and oversight of the Project during the maintenance and fuel delivery period, which may include:

- a. day-to-day project management;
- b. daily reporting, including:
 - i. fuel deliveries
 - ii. daily fuel consumption
 - iii. daily maintenance log



- c. schedule and cost management;
- d. quality control/assurance;
- e. safety management;
- f. risk management.

26.3.6 Overview of Conceptual Approach to Project Operations Narrative

Proposer will provide its conceptual approach to the fueling operations and maintenance of the Project, including:

- a. **Reliability:** Proposer shall describe its commitment to providing a highly reliable supply of hydrogen to support SBCTA's fueling requirements. This means that hydrogen must be available to support Arrow service operations every day of the year. The Proposal must include a discussion of how this reliability will be met. All required maintenance must be able to be completed before the onsite storage drops below useable levels. If off-site generated hydrogen is to be delivered to the site, Proposer should discuss where the off-site hydrogen supply will be generated and how it will be delivered. Include the size, pressure, weight and number of trucks that will be needed to satisfy the specified demand. Discuss any safety risks that have been considered for this delivery method in your recent past experience.
- b. **Maintenance Capability:** Proposer shall include a description of their existing maintenance organization within the area. This shall include resumes of key personnel, and where they are currently based. Include a discussion of expected manpower requirements, availability of staff to respond to problems, as well as key staff, and Contractor's plans and requirements for maintaining a local inventory of required spare parts and consumables. Please also discuss what training is required and how training will be provided to operation staff (including staff who will be responsible for fueling the ZEMU vehicle) to insure they are fully capable of responding to unanticipated equipment problems over the life of the contract. Discuss how emergency hydrogen supplies can be brought online quickly if the system experiences problems. Discuss emergency response times (2 hours or less) and how this will be accomplished.
- c. Proposer will provide a narrative detailing its approach to operating and maintaining the HFS, including inspection, monitoring, scheduling, preventative maintenance, capital maintenance, and repair work with respect to the HFS over a five (5) year maintenance term.

26.4 Section 3 – Project Schedule

Proposer will provide an estimated baseline schedule for the Project, identifying durations for the Work to be completed. Work identified in the schedule should include design development, drawing submittal, equipment sizing and specification, purchase/delivery of major components, and construction/installation with anticipated manpower loading. Proposer will also describe its plan and management approach for schedule and cost control on the Project. Proposer's description will, at a minimum, include its approach to



managing the proposed schedule under anticipated project constraints as it relates to design, construction, operations, and maintenance, including maintaining a highly reliable supply of hydrogen to support fueling requirements and meeting emergency response times (2 hours or less) during the operations.

26.5 Section 4 – Approach to Health and Safety

Proposer will provide a narrative describing their approach to health and safety during the design, construction, and implementation of the Project and how they intend to meet the requirements outlined in Section 13.11. Proposer should highlight any relevant experience, including completion of a HAZOP process or safety plans.

27. CHAPTER 3 – PROJECT EXPERIENCE/QUALIFICATIONS

27.1 Project Experience Narrative

Proposer will provide a narrative detailing the prior experience of Proposer team and the Major Participants. Proposers should emphasize experience that is directly relevant to the scope and technical requirements identified in this RFP.

27.2 Relevant Project Experience

Proposer shall provide at least three (3) and no more than five (5) sample or reference projects. Each reference project will be of analogous complexity and demonstrate the requisite design, construction, operations training and maintenance experience. To the extent possible, reference projects should demonstrate the relevant past experience of key personnel proposed for this Project.

27.3 Key Personnel Information

Proposer shall identify Key Personnel, attaching resumes and certifications as applicable. 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.

27.3.1 Key Personnel Capacity and Availability

- a. SBCTA understands that personnel who possess the qualifications required for this Project are likely fully or mostly committed to other project work today. Through delivery of the following information, SBCTA seeks a realistic assessment of each Key Personnel’s current and future expected project assignment and availability, and a realistic comparison to that Key Personnel’s expected demand from this Project.
- b. For each of the proposed Key Personnel, Proposer will provide:
 - i. a narrative of current and expected workloads and ability to perform the work.
 - ii. a list of the Key Personnel’s current assignments, current percent commitment to each current assignment, and current percent availability.



- iii. a list of any other known assignments not listed under paragraph (i) above, and to which the Key Personnel has made a previous commitment to fulfill; and
- c. If the Key Personnel will need to reduce their expected involvement on other projects to sufficiently free up time to fulfill his/her expected role on this Project, Proposer will also explain its approach to achieving this while honoring the Key Personnel's previous commitments to their other projects and clients.
- d. If Proposer expects a Key Personnel to rely significantly on a deputy to assist them in fulfilling their role for this Project, Proposer will provide the name and brief qualifications of such deputy and provide examples of where the Key Personnel and this particular deputy have successfully delivered similar projects under a similar arrangement.

27.3.2 Skilled Labor Force Availability

Proposer will provide a demonstration of skilled labor force availability, including reference to the existence of an agreement with a registered apprenticeship program as provided for in California Public Contract Code § 6824(c)(2).

27.4 Client References

Provide completed reference forms for work of a similar nature to what is in this RFP. References may also be supplied from other work not cited in this section as related experience.

Proposing firm and the Project Manager shall each have a total of 3 but no more than 5 completed Reference Forms (See Form 7) submitted directly from current or past clients. It is the responsibility of the Proposer to ensure timely return of any/all Reference Forms to smorris@gosbcta.com and cc: procurement@sbcta.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.

28. CHAPTER 4 – REDACTED SUBMISSION

28.1 Public Records Law Requirements

28.1.1 Property of SBCTA

Once submitted, after the Proposal Submission Deadline the Proposals will become the property of SBCTA and may not be returned to Proposers.

28.1.2 Compliance with Public Records Law

RFP Questions and Proposals are subject to the California Public Records Act (Chapter 3.5, commencing with Section 6250, of Division 7 of Title I of the Government Code) (the "Public Records Law"). Proposers are encouraged to familiarize themselves with the Public Records Law.



28.2 Confidential and Proprietary Information

28.2.1 Submission of Confidential and Proprietary Information

- a. In the event a Proposer submits any information that Proposer believes is not subject to disclosure pursuant to the Public Records Law ("Public Records Exempt Materials"), it must:
 - i. if the submission is made part of the Proposal, include an index of such information in the form of Form 3 (the "Confidential Contents Index") and provide a redacted copy of the Proposal in accordance with Section 22.2.2; and
 - ii. if the submission is made other than as part of the Proposal, conspicuously mark the affected document "CONFIDENTIAL" or "CONFIDENTIAL TRADE SECRETS" in the header or footer of each such page affected.
- b. Blanket designations that do not identify the specific information deemed confidential by Proposer will not be acceptable and may be cause for SBCTA to treat the entire Proposal as public information.

28.2.2 SBCTA Assessment of Confidential and Proprietary Information

- a. SBCTA will not advise a Proposer as to the nature or content of documents entitled to protection from disclosure under the Public Records Law or other Applicable Law, as to the interpretation of such laws, or as to the definition of trade secret.
- b. Nothing contained in this Section 28 will modify or amend requirements and obligations imposed on SBCTA by the Public Records Law or other Applicable Law.
- c. SBCTA reserves the right to disagree with Proposer's assessment regarding confidentiality or proprietary nature of information in the interest of complying with the Public Records Law. The provisions of the Public Records Law or other Applicable Law will control in the event of a conflict between the procedures described above and the Applicable Law.

28.3 Review by Key Stakeholders

Information submitted by Proposers, including Public Records Exempt Materials, may be made available to representatives of SBCTA as necessary to facilitate review and evaluation of Proposals during the procurement. To the extent reasonably possible, SBCTA intends to follow procedures that will preserve confidentiality relating to Public Records Exempt Materials during the procurement.

28.4 Preparation and Release of Redacted Proposal

Any Proposer that submits a Proposal containing any Public Records Exempt Materials must prepare and submit one digital copy of a redacted version of the Proposal. This redacted version must be identical to the Proposal other than redactions that only exclude Public Records Exempt Materials.



The Redacted Proposal will include a fourth volume of the Proposal (divided into sub-volumes, as needed) which will include:

- a. as the first page, an index of such information (the “Confidential Contents Index”) in the Form 3; and
- b. the redacted contents from each of Chapters 1 through 3, with each redaction containing a footnote cross reference to the corresponding entry in the Confidential Contents Index.

SBCTA may review each Redacted Proposal for compliance with Public Records Law, provided that the results of such review will not constitute a definitive determination as to whether the Redacted Proposal (and, consequently, the designations in the Confidential Contents Index) complies with Public Records Law and other Applicable Law.

28.5 Disputes and Liability

28.5.1 Disclosure Disputes

In the event of any proceeding or litigation concerning the disclosure of any material submitted by Proposer, SBCTA will be the custodian retaining the material until otherwise ordered by a court or such other authority having jurisdiction with respect thereto, and the submitting party will be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk; provided, however, that SBCTA reserves the right, in its respective sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. All costs and fees (including attorneys’ fees and costs) incurred by SBCTA in connection with any litigation, proceeding, or request for disclosure will be reimbursed and paid by Proposer objecting to the disclosure. Each Proposer will be responsible for all of its own costs in connection with any litigation, proceeding, or request for disclosure.

28.5.2 No Liability for Disclosure

In no event will SBCTA or any of its agents, representatives, consultants, directors, officers or employees be liable to a Proposer or Proposer team member for the disclosure of all or a portion of a Proposal submitted under this RFP.

28.5.3 Dispute Resolution

In case any disagreement, difference or controversy shall arise between the parties, with respect to any matter in relation to or arising out of or under this Agreement or the respective rights and liabilities of the parties, and the parties to the controversy cannot mutually agree thereon, then such disagreement, difference, or controversy shall be determined by binding arbitration, according to the rules of the American Arbitration Association.

29. CHAPTER 5 – COST PROPOSAL

- i. The Proposer shall deliver the proposed project scope under a not-to-exceed (NTE) contract arrangement for the full turn-key scope of services for the initial 3-year term of the project as two fee estimates: One for the initial capital costs, and the second for the ongoing maintenance costs inclusive of hydrogen fuel consumption. Additionally, Proposer shall



provide cost proposal for the two one-year options. Proposals should be submitted in the fee proposal table provided in Form 8.

29.2 Initial Capital Costs

The Proposer shall provide a not-to-exceed (NTE) contract amount for the full turn-key scope of services for the initial upfront capital cost which includes any design, construction, and capital (or leased) equipment costs with the following breakdown:

- a. Engineering design (includes Safety Plan and HAZOP)
- b. Provision of equipment at the site,
- c. Construction/installation and
- d. Testing, Commissioning and Training.

Section 31.2 provides a milestone payment schedule for this upfront capital cost for reference.

29.3 Hydrogen Fuel Cost per Kilogram

Proposer shall also provide a second proposal for the ongoing maintenance costs inclusive of hydrogen fuel and energy consumption. The maintenance and fuel delivery price should be submitted per the breakdown provided in the cost proposal table (Form 8) which includes an all-in cost for delivered hydrogen for that time period, from start of HFS operations.

PART F: EVALUATION PROCESS AND CRITERIA

30. OVERVIEW OF EVALUATION PROCESS

The evaluation process will consist of the Substantive Evaluation of each Proposal in accordance with Section 31.

30.1 SBCTA's Rights During Evaluation Process

- a. SBCTA anticipates using one or more evaluation committees to review and evaluate the Proposals in accordance with the above criteria. The evaluation committees may include members of other public agencies as well as technical experts.
- b. At various times during the deliberations, SBCTA may request additional information or clarification from Proposer or may request Proposer to verify or certify certain aspects of its Proposal as contemplated by Section 30.2. The scope, length, and topics to be addressed in any such clarification response will be prescribed by, and subject to, the sole discretion of SBCTA.
- c. Evaluations of Proposals are subject to the sole discretion of SBCTA and its staff, with assistance from such professional and other advisors as SBCTA may designate.



- d. SBCTA may contact the firm and personnel references supplied by Proposer as well as other potential references not listed, including internal personnel of SBCTA.
- e. Upon review of the proposals, a shortlist of firms within the competitive range will be invited to an interview tentatively scheduled for the week of July 14-15, 2022, at SBCTA's office located at 1170 W. 3rd Street, San Bernardino, CA 92410 or virtually. The contract will be awarded to the most technically qualified firm 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. The determination of the competitive range is at the sole discretion of SBCTA's Evaluation Committee.
- f. At the conclusion of this evaluation process, Proposers may be required to submit written confirmation of any new information and clarifications provided during an interview. If required, follow-up interviews may be scheduled at a later date. Upon receipt of requested clarifications and additional information as described above, if any, the Proposals will be re-evaluated to include the clarifications and additional information.

30.2 Requests for Additional Information

- a. SBCTA may, at any time following submission of a Proposer's Proposal:
 - i. request written clarification or additional information from a Proposer;
 - ii. request a Proposer to verify or certify certain aspects of its Proposal, including through an oral presentation or interview (in person or remotely held); or
 - iii. contact firm and personnel references supplied by a Proposer, as well as request additional references not initially provided by a Proposer.
- b. The scope and length of, and topics to be addressed in, any response to such a request from SBCTA will be subject to SBCTA's discretion.

30.3 Exercise of Discretion in Evaluation Process

- a. Evaluation and scoring of Proposals and ranking of Proposers are subject to the discretion of SBCTA (with assistance from the committees referred to in Section 36.2b and such professional and other advisors as SBCTA may designate).
- b. SBCTA retains discretion to select a Proposer based on its assessment of the best interests of the Project, its stakeholders, and SBCTA.
- c. Proposers should note that, unless expressly permitted by this RFP:
 - i. any failure to fully disclose requested information;
 - ii. any incomplete, inaccurate, materially misleading or non-responsive submissions; or
 - iii. any conditional or qualified submissions (i.e., "to our knowledge", "to the extent of available information", "such information is not readily available",



“such information is not maintained in the manner requested”, etc.) to requests or questions posed, may, in the discretion of SBCTA, lead to: disqualification of a Proposer or a relevant Major Participant from the procurement process; and/or a relatively lower score under the Substantive Evaluation.

31. SUBSTANTIVE EVALUATION CRITERIA

31.1 Evaluation Criteria

- a. SBCTA's evaluation and scoring of the Proposals under Section 31 will be conducted with reference to the following “Substantive Evaluation Criteria” listed in the table below. For purposes of these Substantive Evaluation Criteria:
 - i. although individual criteria may state that the evaluation will be based on a specific part of a Proposer's Proposal, such evaluation may also take into account relevant information (if any) that forms part of Proposer's Proposal; and
 - ii. evaluation criteria are not necessarily listed in order of priority or importance.
- b. For purposes of the Substantive Evaluation Criteria, demonstrated performance means the record of past legal, financial, commercial, technical, workforce, safety, community or other negative or positive performance of Proposer, including of Major Participants and Key Personnel, which record SBCTA has required to be documented through the submission of information documenting past performance in accordance with the Proposal Submission Requirements.
- c. SBCTA shall select the highest ranked firms to participate in the interview process. The number of firms so invited shall be at the discretion of SBCTA, but shall not be less than two. Firms who are invited to the interview will be asked a series of questions which will be scored. The maximum score for the interviews is 100 points. Upon completion of the interview, the Evaluation Committee shall compile their interview scores. The interview will be weighted - 40 %, and the technical proposal will be weighted - 60%.



<u>Substantive Evaluation Criteria</u>		<u>Maximum Points</u>
1	<p>Technical Submission (Chapter 2):</p> <p>Ability to meet the outcomes and standards identified in the Technical Specifications, including:</p> <ul style="list-style-type: none"> • Delivery of required quantities of hydrogen • Rate of fueling • Understanding of rail vehicle fueling requirements and development of fueling protocol • Proposal fit within existing space and architecture per concept drawings • Volume of H2 storage onsite (spare capacity) • Scalability of proposed system • Energy efficiency • Renewable hydrogen component • Hydrogen Delivery logistics • Existing local maintenance capability • Maintenance staffing plan • Cost (Overall NTE and price per kilogram of H2) • Understanding of key technical challenges and safety considerations <p>Detailed description of the understanding of the Scope of Services, including the extent to which Proposer will incorporate and deliver innovation in the Project, including an explanation of how the innovation leads to added Project value and shared benefits.</p>	35
2	<p>Schedule</p> <p>Schedule for delivery and implementation. Include milestone timeline and identify major project phases and critical path activities:</p> <ul style="list-style-type: none"> • Design • HAZOP Process • Construction • Testing and Commissioning • Staff Training • Permitting and approvals with AHJs 	5



<u>Substantive Evaluation Criteria</u>		<u>Maximum Points</u>
3	Safety <ul style="list-style-type: none"> Understanding of Health and Safety requirements for Hydrogen infrastructure Experience with completing Safety Plans and a HAZOP process.	20
4	Project Experience/Qualifications (Chapter 3): <ul style="list-style-type: none"> Completed projects within the last three (3) years of a similar nature (ex. Heavy or light duty hydrogen fueling) Experience with maintenance and fuel delivery contracts Years in business as a current entity Years in Hydrogen business Experience with warranty claims 	20
5	Cost (Chapter 5): <ul style="list-style-type: none"> Proposed Not-to-Exceed amount for capital costs per the requirements specified in Section 29 Proposed ongoing maintenance costs per the requirements specified in Section 29 Proposed Commercial terms Suitability for additional grant funding 	20



31.2 Milestone Payment Schedule

The following milestone payment schedule has been proposed by SBCTA for the Proposer to abide by when developing their proposal. Note that actual dates will depend on actual date of Notice to Proceed (NTP). Days are in calendar days:

<u>Item⁴</u>	<u>Equipment/Services Description</u>	<u>Deliverables</u>	<u>Payment Milestone</u>	<u>Target Date</u>
B.1.1	Notice to Proceed	N/A		-
B.1.2	Site and Station Design Plans and Construction Safety Plan and O&M Safety Plan	Basic engineering completed and Safety process and plans. Deliverables: Preliminary P&IDs, basic site drawings, summary of initial safety reviews, construction and O&M safety plans	15% of initial capital costs	60 days after NTP
B.1.3*	Completed Equipment Drawings & Permit Pack	Receive Equipment Drawings. Deliverables: Transmittals of drawings from OEM and supplier invoice	10% of initial capital costs	120 days after NTP
B.1.4	Equipment Manufactured	Equipment has been manufactured. Deliverables: Photographs of completed units showing evidence that equipment has been completed and is ready for shipping.	30% of initial capital costs	180 days after NTP
B.1.5*	Construction Complete	HFS equipment has been installed and all power, gas and telecommunications have been completed.	25% of initial capital costs	280 days after NTP

⁴ Items identified with a (*) below denote Key Milestones that are subject to Liquidated Damages for failure to timely complete in accordance with the Contract documents.



<u>Item⁴</u>	<u>Equipment/Services Description</u>	<u>Deliverables</u>	<u>Payment Milestone</u>	<u>Target Date</u>
		Deliverables: Construction completion report.		
B.1.6*	Commissioning and Training Complete	Deliverables: Commissioning completion report; training curriculum, agendas and rosters; HFS acceptance sign-off by SCRRA and AHJ issued permits.	20% of initial capital costs	300 days after NTP
B.1.7	Subtotal (Initial Capital Costs)		[\$Sum of items B.1.1.1 to B.1.1.6]	
B.2.1	Hydrogen Fuel Charges for Deliveries During the Maintenance and Fuel Delivery Period (Maximum Not to Exceed Price for usage of fuel on a monthly basis, including all other operational costs.)		[\$To be inserted from Proposer's proposal] per kg of H2 fuel consumed	Monthly
B.2.2	Subtotal (Initial Maintenance and Fuel Delivery Period, Years 1-3)		[\$Sum of items B.2.1 for three year initial term]	
B.2.3	Hydrogen Fuel Charges for Deliveries During the First Option Term, Year 4		[\$To be inserted from Proposer's proposal] per kg of H2 fuel consumed	
B.2.4	Hydrogen Fuel Charges for Deliveries During the Second Option Term, Year 5		[\$To be inserted from Proposer's proposal] per kg of H2 fuel consumed	
	TOTAL (CONTRACT PRICE)		[\$Sum of items B.1.7, B.2.2, B.2.3, and B.2.4]	



32. SUBSTANTIVE EVALUATION PROCESS

- a. Subject to Section 30 and SBCTA's reservation of rights under Section 36, SBCTA will substantively evaluate each Proposal by considering the merits of each Proposer's overall qualifications, experience and approach by reference to the Substantive Evaluation Criteria.
- b. This evaluation will conclude with a scoring process. Under this scoring process SBCTA may award an aggregate maximum of 200 points to any Proposal and interview, with the maximum number of points that may be awarded in relation to any subcriteria within the Substantive Evaluation Criteria being as set out against such subcriteria in Section 31.1.

33. CONTRACT AWARD

- a. SBCTA will make the final determination of the selected Proposer, as it deems appropriate, in its sole discretion, and in the best interests of the Project and the Work.
- b. Each Proposer will be notified in writing whether or not it has been awarded the contract.

PART G: PROTESTS, DEBRIEFS AND RESERVED RIGHTS

34. PROTESTS

34.1 Applicability and Process

- a. This Section 34 sets forth the sole and exclusive protest remedies available with respect to this RFP.
- b. Only Proposers and Major Participants are permitted to file protests regarding the RFP process in accordance with this Section 34.
- c. Any protests regarding the RFP process, including the award of contract, will be addressed to SBCTA and hand delivered to the RFP Procurement Contact no later than 14 calendar days after the public announcement by SBCTA of the identity of the awarded Contractor. Any Proposer or Major Participant submitting such a protest is responsible for obtaining proof of delivery.

34.2 Required Early Communication for Certain Protests

Protests may be filed only after Proposer has informally discussed the nature and basis of the protest with SBCTA, following the procedures prescribed in this Section 34. Informal discussions will be initiated by a written request for a one-on-one meeting delivered to the RFP Procurement Contact as specified in this Section 34. The written request will include an agenda for the proposed one-on-one meeting. SBCTA will meet with Proposer as soon as practicable to discuss the nature of the allegations. If necessary, to address the issues raised in a protest, SBCTA may make appropriate revisions to the RFP documents by issuing addenda.



34.3 Content of Protest

Any protest must include the following in order to be considered complete and delivered by the deadline specified:

- a. the full legal name and address of Proposer or Major Participant(s) that is/are making the protest; and
- b. a succinct statement of the grounds, legal authority and factual basis for such protest; and
- c. all documentation required to establish the merits of the protest.

34.4 Burden of Proof

The protestor has the burden of proving its protest by clear and convincing evidence. SBCTA may discuss the protest with the protestor and other Proposers. No hearing will be held on the protest. The protest will be decided on the basis of written submissions.

34.5 Decision on the Protest

SBCTA's Director of Special Projects and Strategic Initiatives or designee will issue a written decision regarding the protest within 30 calendar days after the filing of the detailed statement of protest. If necessary to address the issues raised in a protest, SBCTA may make appropriate revisions to this RFP by issuing an addendum.

The written decision of SBCTA's Director of Special Projects and Strategic Initiatives will be final and non-appealable.

34.6 Protestor's Payment of Costs

If a protest is denied, Proposer filing the protest will be liable for SBCTA's costs reasonably incurred to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by SBCTA as a consequence of the protest.

34.7 Rights and Obligations of Proposers

Each Proposer, by submitting its Proposal, expressly recognizes and agrees to the limitation on its rights to protest provided in this Section 34, and expressly waives all other rights and remedies that may be available to Proposer under Applicable Law. These provisions are included in this RFP expressly in consideration for such waiver and agreement by Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies provided in this Section 34, it will indemnify, defend and hold harmless SBCTA and its directors, officers, employees, agents, and consultants from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of such Proposer's actions. Each Proposer, by submitting a Proposal, will be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.



35. DEBRIEFINGS

35.1 Availability of Debriefings

All Proposers submitting Proposals will be notified in writing of the results of the evaluation process. Proposers not awarded the contract may request a debriefing within ten (10) days of notification of the contract award or, in the event a protest is filed prior to this date, upon the resolution of such protest, whichever is later. Debriefings will be provided at SBCTA's earliest feasible time after written notification of the contract award. The debriefing will be conducted by a procurement official familiar with the rationale for the contract award decision.

35.2 Content of Debriefings

Debriefings will:

- a. Be limited to discussion of the unsuccessful Proposer's Proposal and may not include specific discussion of a competing Proposal nor disclose or discuss any confidential information relating to any other Proposer or its Proposal;
- b. Be factual and consistent with the evaluation of the unsuccessful Proposer's Proposal; and
- c. Provide information on areas in which the unsuccessful Proposer's Proposal had strengths, weaknesses, or deficiencies.

Debriefing may not include discussion or dissemination of the thoughts, notes, or rankings of individual evaluators.

36. RESERVED RIGHTS

36.1 Waiver

By requesting and participating in any debriefing session, a Proposer and its Major Participants will be deemed to have waived any right to use any information provided by SBCTA in good faith during such a debriefing against SBCTA or its representatives in any way whatsoever, including in any protest or legal action.

36.2 SBCTA's Reserved Rights

In connection with the procurement described in this RFP, SBCTA reserves to itself any and all of the rights set out in Sections 36.2 a. through h., and any other rights available to it under applicable law (any of which rights will be exercisable by SBCTA in its sole discretion, with or without cause and with or without notice). The rights referred to in the preceding sentence include the right to:

- a. modify the procurement process described in this RFP (including as previously modified in accordance with this Section) to address:
 - i. Applicable Law;
 - ii. the best interests of SBCTA;
 - iii. changes to the preferred alternative that arise from any CEQA, NEPA, or other environmental review process; and/or



- iv. any concerns, conditions or requirements of SBCTA or any other State or Federal department or agency;
- b. in reviewing and/or evaluating Proposals:
 - i. terminate evaluation of Proposals received at any time;
 - ii. appoint evaluation committees to review Proposals and make recommendations, and seek the assistance of outside technical, financial, legal and other experts and consultants;
 - iii. waive deficiencies, nonconformities, irregularities, and apparent clerical mistakes in a Proposal, permit clarifications or additional information to be submitted with respect to a Proposal;
 - iv. make independent calculations with respect to numbers and calculations submitted in a Proposal for purposes of its evaluation;
 - v. require confirmation of information submitted by a Proposer, require additional information from a Proposer concerning its Proposal or require additional evidence of qualifications to perform the work described in this RFP;
 - vi. seek or obtain data from any source that has the potential to improve SBCTA's understanding and evaluation of a Proposal; and/or
 - vii. if:
 - A. only one Proposal is received;then SBCTA may take such steps as appear to be appropriate to it under the circumstances, including:
 - 1. evaluating factors relative to the competitive process, including adequacy of notification to qualified competitor;
 - 2. evaluating the amount of time provided to respond to the RFP;
 - 3. terminating this procurement; or
 - 4. moving forward with the single proposal
- c. in otherwise conducting the procurement process under this RFP:
 - i. modify any and all dates set in this RFP;
 - ii. add or delete Proposer responsibilities from the information contained in this RFP;
 - iii. reject any and all submissions, responses, Proposals received at any time;
 - iv. engage in negotiations with the highest-ranked Proposer or with any other Proposer;
 - v. suspend and terminate Contract negotiations at any time;



- vi. elect not to commence Contract negotiations;
- vii. negotiate with a Proposer without being bound by any provision in this Proposal;
- viii. disqualify any Proposer from the procurement process that changes its submission after the Proposal Submission Deadline without SBCTA's approval or for violating any rules or requirements of the procurement specified in (A) this RFP, (B) any other communication from SBCTA or (C) Applicable Law; and/or
- ix. accept, reject or seek additional information regarding a Proposer's request to make any Organizational Change;
- d. procure and develop the Project, including any portion thereof, in any manner that it deems necessary, including the right to:
 - i. modify the scope, structure, schedule and/or specific terms of, or cancel, this RFP, in whole or in part, at any time prior to the execution by SBCTA of a Contract, without incurring any cost obligations or liabilities;
 - ii. modify the scope of the Project or the Work during the procurement process;
 - iii. issue addenda, supplements and modifications to this RFP;
 - iv. issue a new request for qualifications or request for proposals after cancellation of this RFP;
 - v. elect not to commence or continue Contract negotiations with the then Preferred Proposer or any other high-ranked Proposer, and/or suspend or terminate Contract negotiations at any time; and/or
 - vi. develop some or all of the Project itself or through another State or local governmental entity;
- e. if SBCTA is unable to negotiate a Contract to its satisfaction with the Preferred Proposer, to:
 - i. negotiate with the next highest-ranked Proposer;
 - ii. seek amended, revised or supplemented proposals from any or all Proposers;
 - iii. terminate the procurement;
 - iv. pursue the development of the Work and/or the Project through a procurement or contracting approach not expressly anticipated by this RFP; and/or
 - v. exercise such other rights under the DB Law and other provisions of California law as it deems appropriate;
- f. exercise any other right reserved or afforded to SBCTA under this RFP or applicable laws and regulations;



- g. exercise its discretion in relation to the matters that are the subject of this RFP as it considers necessary or expedient in the light of all circumstances prevailing at the time which SBCTA considers to be relevant; and/or
- h. exercise the right to transfer the responsibility for the maintenance and fuel delivery component of this RFP and the subsequent contract to the eventual operator of the ZEMU, which in this case would be SCRRA.

36.3 No Commitment or Liability

- a. This RFP does not commit or bind SBCTA to enter into a contract or to proceed with the procurement described in this RFP, or to any other definite course of action. SBCTA does not assume any obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP and all such costs will be borne solely by each Proposer.
- b. In no event will SBCTA be bound by, or liable for, any obligations with respect to the Project or any portion thereof, until such time (if at all) as the CEQA process is completed for the Project, in form and substance satisfactory to SBCTA, has been executed and authorized by SBCTA and, then, only to the extent set out therein.



PART H: DEFINITIONS AND RULES OF INTERPRETATION

37. RULES OF INTERPRETATION

37.1 References to SBCTA Discretion

Any reference in this RFP to SBCTA having the right to exercise its “discretion” means SBCTA having the right to exercise its sole and absolute discretion in regard to a particular decision or action, including the ability to refrain from taking any action and the ability (where appropriate) to impose any conditions in the exercise of such discretion.

37.2 Interpretation of Certain References, Terms, Phrases and Types of Language

37.2.1 Headings and Other Internal References

- a. Headings are inserted for convenience only and will not affect interpretation of this RFP.
- b. Except as otherwise expressly provided in this RFP, a reference to any Section, Part, Form, Annex or Exhibit within this RFP, is a reference to such Section or Part of, or Form or Annex set out in, or Exhibit to, this RFP.

37.2.2 Common Terms

- a. When there are references to general words followed by a list, or a reference to a list, to make it clear that those general words “include” the matters set out in that list, then the contents of the list will not, and will not be deemed to, limit the generality of those general words.
- b. The singular includes the plural and vice versa.
- c. The word “promptly” means as soon as reasonably practicable in light of then-prevailing circumstances.

37.2.3 Professional Language and Terms of Art

Except as otherwise expressly provided in this RFP:

- a. words and phrases not otherwise defined herein:
 - i. that have well-known technical or construction industry meanings will be construed pursuant to such recognized meanings; and
 - ii. of an accounting or financial nature will be construed pursuant to GAAP, in each case taking into account the context in which such words and phrases are used; and
- b. all statements of or references to, dollar amounts or money, including references to “\$” and “dollars”, are to the lawful currency of the United States of America.

37.2.4 References to Agreements, Documents and Laws

Except as otherwise expressly provided in this RFP, any reference:

- a. to an agreement or other document will be construed to be a reference to such agreement or other document (including any schedules, annexes or exhibits)



thereto) as it may be amended, modified or supplemented from time to time in accordance with its terms; and

- b. to any Applicable Law will be construed as a reference to such Applicable Law, enactment, order, regulation or instrument as amended, replaced, consolidated or re-enacted from time to time.

38. DEFINITIONS

Except as otherwise specified herein or as the context may otherwise require, the following terms have the respective meanings set out below when used in this RFP.

“Affiliate” means in relation to any Person:

- a. any other Person having Control over that Person;
- b. any other Person over whom that Person has Control;
- c. any Person over whom any other Person referred to in (a) above also has Control;
- d. any Financially Responsible Party for that Person; or

in each case where “Control” of a Person by another Person means that other Person (whether alone or with others, and whether directly or indirectly at any tier): (i) holds the majority of voting rights in the controlled Person; (ii) has the right to appoint the majority of the board of directors (or equivalent) of that controlled Person; and/or (iii) exercises direct or indirect control over that controlled Person’s affairs.

“Applicable Law” means any:

- a. statute, law (including common law), code, regulation, ordinance or rule;
- b. binding judgment, judicial or administrative order or decree;
- c. written directive, guideline, policy requirement, methodology or other governmental restriction or requirement (including those resulting from an initiative or referendum process, but excluding those by SBCTA within the scope of their administration of this Contract); and
- d. similar form of decision of or determination by, or any written interpretation or administration of any of the foregoing by, any governmental authority, in each case that is applicable to or has an impact on the Project or the Work.

“Caltrans” means the California Department of Transportation, an executive department within the State of California whose purpose it is to improve mobility access across the State.

“CEQA” means the California Environmental Quality Act, including any applicable regulations or Guidelines implementing the Act.



“Contract” means the design-build-operate-maintain contract which is anticipated to be entered into by SBCTA and the Preferred Proposer following the conclusion of the Project procurement process in accordance with the terms of the RFP.

“D&C Work” means the design and construction work required for the Project.

“Eligible Surety” means a bonding surety:

- licensed in the State and at all relevant times listed on the U.S. Department of the Treasury’s annual Listing and Approved Sureties (Department Circular 570); and

having either:

- i. two or more of the following long-term unsecured debt credit ratings: (A) “A” by Standard & Poor’s Rating Services; (B) “A” by Fitch, Inc.; (C) “A2” by Moody’s Investors Service, Inc.; or (D) “A” by DBRS, Inc., in each case with an outlook of “stable” or better, and provided that such rating agency is at all relevant times a nationally recognized statistical rating organization registered with the Securities and Exchange Commission; or
- ii. a rating of at least A and X, respectively, or higher, according to A.M. Best’s Financial Strength and Financial Size Ratings.

“GAAP” means Generally Accepted Accounting Principles in the United States as in effect from time to time.

“Information Barriers” means, with respect to any Person, the implementation of internal safeguards and confidentiality protection protocols, including the exclusion of involvement of any individual who himself or herself has consulted or advised on, or otherwise has non-public knowledge of, the Project and/or this RFP, which barriers are customary and appropriate for the relevant industry of such Person and this Project and which barriers otherwise comply with such Person’s obligations under Applicable Law.

“Joint Venture” means a consortium, partnership, joint venture or any other unincorporated grouping acting together for a common purpose and, for purposes of Section 22.1c, each individual member or partner of such Joint Venture.

“Key Personnel” means the Project Director, Design Manager, Hydrogen Engineering Specialist, Procurement Manager, Quality Manager, Startup & Commissioning Manager, Operations Manager, and Safety and Security Manager.

“Lead Contractor” means the single entity or joint venture that will be primarily and directly responsible for construction of the Project. If this role will be performed by a Joint Venture, then all members or partners of that Joint Venture will be considered to be the Lead Contractor.

“Lead Designer” means the single entity or joint venture that will be primarily and directly responsible for design of the Project. If this role will be performed by a Joint Venture, then all members or partners of that Joint Venture will be considered to be the Lead Designer.

“OEM” means the original equipment manufacturer(s) required for the Project.



“Major Participant” means each of Proposer, Lead Contractor, Lead Designer, Startup and Commissioning Manager, OEM parties, Maintenance Manager, and any Financially Responsible Parties. One entity may fill more than one Major Participant role.

“PCM” or “Program Management Construction Management Consultant” means the entity contracted by SBCTA to manage the Project, which includes among other things, administering the Contract, providing design reviews for the Project, and providing construction management, and, providing verification of Contractor’s construction operations and product, all on behalf of SBCTA.

“Person” means any of a natural person, a corporation, a limited liability company, a trust, a partnership, a limited liability partnership, a joint stock company, a consortium, a Joint Venture, an unincorporated association or any other entity recognized as having legal personality under the laws of the State, in each case as the context may require.

“Preferred Proposer” means the Proposer that is selected by SBCTA to enter into the Contract following the evaluation of all Proposals submitted by Proposers in response to the RFP.

“Project Information” means any information provided to Proposers during the RFP stage of this procurement.

“Proposer” means firms, or Joint Ventures, partnerships or corporations formed for the purpose of responding to this RFP.

“Restricted Person” means Proposer, each Major Participant, and any Subcontractor otherwise engaged at the relevant time by Proposer or any Major Participant in connection with the Project, in each case including each such Person’s agents and representatives (including Key Personnel).

“SBCTA” means the San Bernardino County Transportation Authority.

“SCRRA” means the Southern California Regional Rail Authority.

“Proposal” means a statement of qualifications submitted by a Proposer in accordance with Part E for SBCTA’s evaluation in accordance with Part F.

“Proposal Submission Deadline” means the date and time indicated as such on the cover to this RFP.

“State” means the State of California.

“Work” means the work to be completed by the Proposer pursuant to the Contract.



PART I: EXHIBITS AND REFERENCE DRAWINGS

Separately provided. Confidentiality Agreement required.



PART J: FORMS

Separately provided.