



PART H: FORMS

Pre-SOQ Forms

Form 1: RFQ Comment Submission Template

SOQ Forms

Form 2: Proposal Letter

Form 3: Information Regarding Proposer

Form 4: Participant Disclosure Form

Form 5: Legal and Project Performance Certifications

Form 6: Reference Project Experience

Form 7: Safety Record Questionnaire

Form 8: Key Personnel

Form 9: Credit Ratings

Form 10: Form of Performance Bond



FORM 1: RFQ COMMENT SUBMISSION TEMPLATE

Instructions

Please generally see Section 9 of the RFQ. In addition:

- (1) Proposers should submit RFQ Comments in Microsoft Word format.
- (2) General comments should be provided first. Other, more specific, RFQ Comments should be ordered sequentially and organized by reference to the order in which they appear in the RFQ (or other document, if applicable).
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting any RFQ Comments using this Form.



Proposer Name: []
Date: []

Tunnel to Ontario International Airport Project
RFQ Comment Submission No. []¹

RFQ Comments [on RFQ [Addendum] dated []]

| <u>No.</u> | <u>RFQ Cross-Ref. (if any)</u> | <u>Category*</u> | <u>RFQ Comment</u> |
|------------|--------------------------------|------------------|--------------------|
| 1. | | | |
| 2. | | | |
| 3. | | | |

*** Categories:**

“Category A” – an issue that, if not resolved in an acceptable fashion, would likely preclude the Proposer from submitting a SOQ;
“Category B” – a substantive issue that does not qualify as a Category A or C issue; or
“Category C” – a drafting issue, a clarification or a comment concerning conflicts between or within documents, or the equivalent of one of these, in each case which a reasonable Proposer would not interpret as intentional.

¹ Please sequentially number each set of RFQ Comments submitted, continuing from any prior submissions.



FORM 2: PROPOSAL LETTER

Instructions

Please generally see Section 23.1 of the RFQ. In addition:

- (1) The Official Representative shall sign the Proposal Letter on behalf of Proposer.
- (2) An authorized representative of each Major Participant shall sign the certification set out at the end of the form of Proposal Letter.
- (3) All signature blocks on this Form 2 may be modified to properly reflect the authority of the person signing.
- (4) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form.

Proposer Name: []
Proposer Address: []
Date: []

SBCTA
 1170 W. 3rd St., Second Floor
 San Bernardino, CA 92410-1715
 Attention: Shaneka Morris, Procurement Manager

Re. Submission of SOQ in connection with the Tunnel to Ontario International Airport Project

1. Introduction.

- (a) The undersigned (the "Proposer") submits this Statement of Qualifications (this "SOQ") in response to the Request for Qualifications (RFQ 23-1002870 dated [] (as amended by [list all Addenda numbers and dates], the "RFQ"), issued by the San Bernardino County Transportation Authority ("SBCTA") for the Tunnel to Ontario International Airport Project (the "Project").
- (b) Capitalized terms not otherwise defined in this letter have the meanings given to them in the RFQ.
- (c) References to Sections and Parts herein are references to Sections and Parts of the RFQ.

2. Enclosures.

- (a) Enclosed, and by this reference incorporated herein and made a part of this SOQ, are Volume 1, Volume 2, Volume 3, and Volume 4 of the SOQ as required to be submitted in accordance with the RFQ. This letter itself constitutes the Proposal Letter.
- (b) For SBCTA's ease of reference (and acknowledging that SBCTA is not bound by such materials):
 - i. attached as Annex A to this letter is a reference chart indicating the conclusions of Proposer's evaluation of each element of the SOQ for compliance with the Proposal submission requirements; and



attached as Annex B to this letter, if applicable, is an index of Public Records Exempt Materials in the event the Proposer submits information that it believes is not subject to disclosure pursuant to the Public Records Law.

3. Representations and Warranties: Acknowledgments and Agreements.

- (a) Proposer represents and warrants to SBCTA that it has read the RFQ and agrees to abide by the contents and terms of the RFQ and the statements and commitments in Proposer's SOQ. Furthermore, Proposer agrees that SBCTA will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in the RFQ.
- (b) Proposer acknowledges access to all materials posted on the Project Website and otherwise provided to it by SBCTA with respect to the Project and the contemplated Work associated therewith.
- (c) Proposer acknowledges that it received all Addenda specifically listed above, together with those sets of RFQ Comments and published responses, if any, through the SOQ Submission Deadline.
- (d) Proposer understands and agrees that all costs and expenses incurred by it in preparing this SOQ and participating in the procurement process for the Project, except as is explicitly provided for in the subsequent RFP or Preconstruction Works Agreement, will be borne solely by the Proposer.
- (e) Proposer understands that SBCTA is not bound to shortlist any Proposer and may reject each SOQ that SBCTA may receive.
- (f) Proposer acknowledges and agrees that if it is selected as a Shortlisted Design-Build Team it will be required to identify an Operating System Provider to serve as a Major Participant on the Proposer's team; that such selection shall be from among the Prequalified Operating System Providers identified by SBCTA pursuant to the separate procurement (RFQ 23-1002878_ being undertaken concurrently by SBCTA; and Proposer will select a Prequalified Operating System Provider in its sole discretion (subject to any approval rights reserved by SBCTA with respect to such determination).
- (g) Respondent further acknowledges and agrees that SBCTA's determination of Prequalified Operating System Providers will not serve as a guarantee or endorsement of any specific Operating System technology or supplier, nor will it serve as any warranty of or guaranty by SBCTA of any Prequalified Operating System Provider's performance or ability to perform of any portion of the Work.
- (h) Proposer acknowledges and agrees that, under the terms of the RFQ, SBCTA has reserved a number of rights related to the selection process for the Project, including the Reserved Rights in Section 34 of the RFQ.
- (i) Proposer acknowledges and agrees to the protest provisions and understands that it limits Proposer's rights and remedies to protest or challenge the RFQ or any shortlisting determination thereunder.

4. Address and Contact.

For purposes of any future communications, the Proposer's address and Official Representative (who, under the terms of this RFQ, and if applicable, subsequent RFP, will be the single point of contact for the Proposer unless the communication is a notice) is:



Name: [Proposer to provide]
Title:² [Proposer to provide]
Employer: [Proposer to provide]
Address: [Proposer to provide]
Phone (office): [Proposer to provide]
Phone (mobile): [Proposer to provide]
Email: [Proposer to provide]
Fax (if any): [Proposer to provide]

5. Performance Security: by submitting its SOQ, Proposer understands and agrees that:
- (a) it will forfeit its Performance Security if: (i) the Proposer withdraws, repudiates, or otherwise indicates in writing that it will not meet any commitments made in its SOQ; or (ii) any of the following occur:
 - i. following notification from SBCTA that it is the Proposer selected to become a Shortlisted Design-Build Team (such determination to be made in SBCTA'S discretion), the Proposer fails to negotiate in good faith toward execution of the Preconstruction Works Agreement;
 - ii. following notification from SBCTA that it is the selected Proposer, the Proposer fails to timely provide the documents required under the RFQ, or timely satisfy the conditions precedent contained in the form of Preconstruction Works Agreement included with the RFQ; or
 - iii. any other forfeiture event or condition occurs pursuant to the terms of the Performance Security or under the express terms of the RFQ.
 - (b) SBCTA will retain and hold the Performance Security as the preconstruction security, and Proposer will make any substitutions or modifications to the Performance Security necessary for such Performance Security to subsequently satisfy the requirements under the Design-Build Contract.
6. Post-Selection Process Assurances:
- (a) Proposer agrees it will execute and deliver the Preconstruction Works Agreement in the form of the last version provided by SBCTA to Proposer prior to the SOQ Submission Deadline, which form of Preconstruction Works Agreement is expressly incorporated as a part of Proposer's SOQ.
 - (b) To the extent that there is any negotiation of the terms of the Preconstruction Works Agreement with SBCTA as provided for in the RFQ, Proposer agrees it will negotiate (A) in good faith and (B) in compliance with the requirements of the RFQ.
7. Indemnity. Proposer agrees that if it is identified by SBCTA as a Design-Build Team and subsequently selects any additional entity to participate as a Major Participant on such team in accordance with the RFP or the Preconstruction Works Agreement, the Proposer will

² List individual's current job title, other than "Official Representative".



indemnify, defend and hold SBCTA and its directors, officers, employees, agents, and consultants harmless from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of the statements and commitments made in this letter and the Proposer’s SOQ, including, but not limited to, any statements of commitments made to Proposer or any Major Participant thereof in making its determination to team with any Operating System Provider, Lead Operator, or other entity in pursuit of the Project.

- 8. Governing Law. This letter and the SOQ shall be governed by and construed in all respects according to the laws of the State of California.

Under penalty of perjury, I hereby:

- (a) certify on behalf of the Proposer that the representations, certifications, statements, disclosures, authorizations and commitments made, and information contained, in the SOQ in respect of the Proposer have been authorized by such entity, and is or are correct, complete and not materially misleading; and
(b) swear and affirm that I am authorized to act on behalf of Proposer in signing and delivering this letter and acknowledge that SBCTA is relying on my representation to this effect.

Proposer: [insert name]

By: _____

Title: [insert title]

Date: [insert date]

Under penalty of perjury, each of the undersigned:

- (a) certifies on behalf of the entity for which he or she signs that:
(i) the person named above is authorized by the relevant entity to sign this Proposal Letter on behalf of the identified Major Participant entity; and
(ii) the representations, certifications, statements, disclosures, authorizations and commitments made, and information contained, in the SOQ in respect of such entity for which he or she signs have been authorized by such entity, is or are correct, complete and not materially misleading, and
(b) swears and affirms that he or she is authorized to act on behalf of the entity for which he or she signs and acknowledges that SBCTA is relying on his or her representation to this effect.

On behalf of: [insert Major Participant name]³

By: _____

Title: [insert title]

³ Each Major Participant that is not itself the Respondent to countersign. For any Major Participant that is a Joint Venture, include signature by each joint venture member or partner.



Date: [insert date]

Under penalty of perjury, each of the undersigned:

- (a) certifies on behalf of the entity for which he or she signs that:
 - (i) the person named above is authorized by the relevant entity to sign this Proposal Letter on behalf of the identified Major Participant entity; and
 - (ii) the representations, certifications, statements, disclosures, authorizations and commitments made, and information contained, in the SOQ in respect of such entity for which he or she signs have been authorized by such entity, is or are correct, complete and not materially misleading, and
- (b) swears and affirms that he or she is authorized to act on behalf of the entity for which he or she signs and acknowledges that SBCTA is relying on his or her representation to this effect.

On behalf of: [insert Major Participant name]⁴

By: _____

Title: [insert title]

Date: [insert date]

NOTICE TO SIGNATORIES

A material false statement, omission or fraudulent inducement made in connection with this letter is sufficient cause for disapproval of the firm’s participation in the procurement. In addition, such false submission may subject the person or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence).

⁴ Each Major Participant that is not itself the Respondent to countersign. For any Major Participant that is a Joint Venture, include signature by each joint venture member or partner.



Release of November 21, 2022

Annex A to the Proposal Letter⁵

Pass/Fail Criteria Verification⁶

⁵ To be updated with the pass/fail checklist in a subsequent Addendum.

⁶ Proposer should check each box to confirm that it believes the relevant Pass/Fail Criteria have been satisfied.



Annex B to the Proposal Letter

Confidential Contents Index

| <u>Instructions</u> | |
|----------------------------|--|
| (1) | Include a brief explanation of the relevant Public Records Law exemption |
| (2) | Note that SBCTA will not accept blanket designations that do not clearly identify Public Records Exempt Materials with specificity. |
| (3) | SOQ references are to the unredacted volumes of the SOQ. Include SOQ page references only if the relevant materials are paginated. Otherwise, indicate "N/A" in the SOQ Page(s) column. |
| (4) | If a SOQ volume does not contain any Public Records Exempt Materials it is not necessary to include such volume in the redacted SOQ. Proposers should include a note below indicating that such volume does not include any Public Records Exempt Materials. |
| (5) | Include as "Other Identifying Information" other indications, if any, necessary to determine which information or materials constitute potentially Public Records Exempt Materials (e.g. information in a graphic or chart that cannot be referenced alone by a combination of Volume, heading, Section and page references). If not applicable, indicate "N/A" in the Other Identifying Information column. |
| (6) | For the "Duration of Exemption", indicate either "Permanent" or "Until [date/event]" and include a brief explanation of the basis for such belief. |
| (7) | Proposers should delete this instructions box and additional instruction notes prior to submitting this Form. |

Proposer Name: *[Proposer to provide]*

Volume 1[, Sub-Volume []]:

| No. | SOQ Heading(s) | SOQ Section(s) | SOQ Page(s) | Other Identifying Information (if any) | Applicable Public Records Law Exemption | Duration of Exemption |
|-----|----------------|----------------|-------------|--|---|-----------------------|
| (1) | | | | | | |
| (2) | | | | | | |
| (3) | | | | | | |

Volume 2[, Sub-Volume []]:

| No. | SOQ Heading(s) | SOQ Section(s) | SOQ Page(s) | Other Identifying Information (if any) | Applicable Public Records Law Exemption | Duration of Exemption |
|-----|----------------|----------------|-------------|--|---|-----------------------|
| (1) | | | | | | |
| (2) | | | | | | |
| (3) | | | | | | |



Volume 3[, Sub-Volume []]:

| No. | SOQ Heading(s) | SOQ Section(s) | SOQ Page(s) | Other Identifying Information (if any) | Applicable Public Records Law Exemption | Duration of Exemption |
|-----|----------------|----------------|-------------|--|---|-----------------------|
| (1) | | | | | | |
| (2) | | | | | | |
| (3) | | | | | | |



FORM 3: INFORMATION REGARDING PROPOSER

A. TEAM MEMBER AND ROLE

- 1. Name of firm: []
- 2. Name of Proposer team firm is a part of: []
- 3. (a) Role of firm:
 - Proposer
 - Lead Contractor
 - Lead Designer
 - Lead Tunneling Contractor
 - Financially Responsible Party for [Proposer to provide relevant entity]
- (b) Is firm a Joint Venture member of the role checked in 3(a) above?
 - Yes
 - No

B. LEGAL INFORMATION

- 1. Year established: []
- 2. Successor in Interest to Entity/Entities (if any, past five years):
- 3. State/county of organization: []
- 4. Type of Legal Entity (check one):
 - Corporation
 - Limited Liability Company
 - Joint Venture
 - Partnership
 - Other: [to provide]
- 5. If Joint Venture, is J.V. "joint and several":
 - Yes
 - No: [explain pursuant to Section 20.1.d]
 - Not Applicable
- 6. Firm's relevant licenses, registrations, and credentials: []
- 7. Business address: []
- 8. Headquarters address: []



- 9. **Location of office performing work:** []
- 10. **Federal Tax ID No.:** []
- 11. **North American Industry Classification Code:** [*Proposer to provide*]

If the Proposer organization has already been formed, provide as an attachment: complete copies of the organizational documents and, if available, evidence of the Proposer's right to conduct business in the State. If the Proposer organization has not yet been formed, provide draft copies of the underlying agreements, if available. If Proposer is a partnership, Joint Venture, limited liability company or other privately held company, include a statement that the Financially Responsible Party will be fully liable for performance under the Contract if the Proposer is selected as a Shortlisted Design-Build Team and/or ultimately as the Design-Builder.

- Attachment provided:**
- Yes
 - No: [*explain why*]



FORM 4: PARTICIPANT DISCLOSURE FORM

Instructions

- (1) The Proposer should make copies of this Form 4 and submit for itself and each Major Participant
- (2) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 4.
- (3) References to "Bidder" in this form shall be deemed to refer to the Proposer and any Major Participant.

Disclosure Form

Proposer Name: []

Major Participant Name: []

Role on Proposer Team:

- Proposer
- Lead Contractor
- Lead Designer
- Lead Tunneling Contractor
- Financially Responsible Party for [*Proposer to provide relevant entity*]

Is firm a Joint Venture member of the role checked above? Yes
 No



**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
DISCLOSURE OF CAMPAIGN CONTRIBUTIONS TO BOARD OF DIRECTORS**

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

No Member of the Board of Directors or alternates of the San Bernardino County Transportation Authority shall receive or solicit a campaign contribution of more than \$250 from Bidder or Bidder’s agent during the time of: 1) Bid solicitation; 2) Consideration of Bids received; and 3) Awarding of a contract or execution of a purchase and sale agreement based on a Bid (collectively referred to as the “Proceeding”), and for 12 months following the conclusion of the Proceeding. This prohibition does not apply to the awarding of contracts that are competitively bid. In addition, Directors and alternates cannot participate in any such matters if they have received more than \$250 in campaign contributions within the last year from anyone financially interested in the Proceeding, such as Bidder and/or Bidder’s agent.

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

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

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

For purposes of the below, “company” means the entity named above.

- | <u>No.</u> | <u>Question</u> | <u>Yes</u> | <u>No</u> |
|-------------------|--|--------------------------|--------------------------|
| (1) | Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any SBCTA Director or alternate in the 12 months preceding the date of issuance of this Request for Qualifications? <i>If yes, please identify the Board member or alternate and date of contribution</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) | Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any Board member or alternate? | <input type="checkbox"/> | <input type="checkbox"/> |



Release of November 21, 2022

| <u>No.</u> | <u>Question</u> | <u>Yes</u> | <u>No</u> |
|------------|---|------------|-----------|
| | <i>If yes, please identify the Board member or alternate and date of contribution</i> | | |



**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

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



FORM 5: LEGAL AND PROJECT PERFORMANCE CERTIFICATIONS

| <u>Instructions</u> | |
|--|--|
| Please see generally Section 30.2 of the RFQ. In addition: | |
| (1) | The certifications in Part B shall be provided for the Proposer, Lead Contractor, Lead Designer, Lead Tunneling Contractor and any Financially Responsible Parties. |
| (2) | References to an entity include relevant experience of such entity, any Affiliate of such entity, and any entity to which it is a successor or assign (but only to the extent the experience is legally deemed to be that of the firm as a result of the relevant succession or assignment). |
| (3) | The certifications in Part B of this Form 5 that are required in respect of Affiliates are limited to Affiliates that have engaged in business or investments in North America during the past 10 years. |
| (4) | Proposers and Major Participants are not required to include responses that are restricted from disclosure under any applicable Law. |
| (5) | Proposers should delete this instructions box and additional instruction notes prior to submitting this Form. |

Proposer Name: [Proposer to provide]

Form 5, Part A: Summary of Certifications

| No. | Entity Name for which a completed Part B is provided | Role of such Entity on Proposer team ⁷ | Answered Yes to One or More of Questions (1) through (17) of Part B? | |
|------|--|---|--|-----------------------------|
| (1) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (2) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (3) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (4) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (5) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (6) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (7) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (8) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (9) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (10) | | | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

⁷ E.g. Lead Contractor, Financially Responsible Party, Affiliate of [].



Proposer Name: []
Entity Name: [Major Participant to provide]

Form 5, Part B: Certifications

- Table with 3 columns: No., Certification Questions, Yes, No. Contains 6 numbered certification questions regarding legal and safety compliance.



- | <u>No.</u> | <u>Certification Questions</u> | <u>Yes</u> | <u>No</u> |
|------------|--|--------------------------|--------------------------|
| | <i>If yes, please identify the projects, provide an explanation of the circumstances, and provide owner contact information including telephone numbers:</i> | | |
| (7) | Has the entity or any Affiliate been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and any applicable California governmental agency) to have violated any laws or Executive Orders relating to employment discrimination or affirmative action within the past ten (10) years (measured from the date of issuance of this RFQ), including but not limited to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000 et. seq.); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar California law? <i>If yes, please explain:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (8) | Has the entity or any Affiliate been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the California Office of Labor Commissioner, federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state within the past ten (10) years (measured from the date of issuance of this RFQ) governing prevailing wages (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation? <i>If yes, please explain:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (9) | With respect to each of Questions 1-8 above, if not previously answered or included in a prior response on this form, is any proceeding, claim, matter, suit, indictment, etc. currently pending against the entity or any Affiliate that could result in the firm being found liable, guilty or in violation of the matters referenced in Questions 1-8 above and/or subject to debarment, suspension, removal or disqualification by the federal government, any state or local government, or any foreign governmental entity? <i>If yes, please explain and submit the information requested as to such similar items set out in Questions 1-8 above.</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (10) | In the past five (5) years (measured from the date of issuance of this RFQ), has there been any violation by the entity or any Affiliate of the Contractors' State License Law, as described in Chapter 9 (commencing | <input type="checkbox"/> | <input type="checkbox"/> |



No. Certification Questions

Yes **No**

with Section 7000) of Division 3 of the Business and Professions Code, including alleged violations of federal or state law regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contribution Act (FICA) withholding requirements settled against the entity or any Affiliate?

If yes, please explain:

- (11) In the past five (5) years (measured from the date of issuance of this RFQ), have there been any citations, assessed penalties or settlements against the entity or any Affiliate for any serious, willful or repeat violations of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596)?

If yes, please explain:

- (12) In the past five (5) years (measured from the date of issuance of this RFQ), has there been any instance where the entity or any Affiliate, or its owners, officers, or managing employees submitted a bid on a public works project, and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder/proposer?

If yes, please provide details identifying the owner and an explanation of the basis for the owner's determination:

- (13) In the past five (5) years (measured from the date of issuance of this RFQ), has there been any adverse claim, dispute, or lawsuit between the owner of a public works project (or any higher-tier contractor, project company, concessionaire, developer or the equivalent) and the entity or any Affiliate (including to the extent settled prior to completion of the proceeding) in which the claim, settlement, or judgment exceeded fifty thousand dollars (\$50,000) (excluding matters that were processed under a customary change order process under the terms of a contract)?

If yes, please provide details identifying all such projects by owner and include owner's contact details, and all other information necessary to fully explain the circumstances surrounding the claim, dispute, lawsuit, or settlement, and the outcome:

- (14) In the past ten (10) years (measured from the date of issuance of this RFQ), have there been change orders in excess of 10% of the contract value (at project award) on any contract between the owner and the entity or any Affiliate that were initiated by the entity or Affiliate (whether or not



| <u>No.</u> | <u>Certification Questions</u> | <u>Yes</u> | <u>No</u> |
|-------------------|--|--------------------------|--------------------------|
| | such change orders were processed under a customary process under the terms of a contract) for contracts in excess of one million dollars (\$1,000,000) in value? <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, the date of completion of the project, dollar amount of contractor-initiated changes and all other information necessary to fully explain these change orders:</i> | | |
| (15) | In the past five (5) years (measured from the date of issuance of this RFQ), has the entity or any Affiliate had liquidated damages assessed against it during or after completion of a contract in an amount in excess of twenty-five thousand dollars (\$25,000)? <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, the date of completion of the project, dollar amount of liquidated damages assessed, and all other information necessary to fully explain the rationale for project delays or others grounds for liquidated damages assessment:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (16) | In the past ten (10) years (measured from the date of issuance of this RFQ), has a surety or any Affiliate completed a contract on the entity's behalf or paid for completion, either because the entity or any Affiliate determined to terminate its involvement in a project for any reason, or was terminated by the project owner? <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, the date of termination, and all other information necessary to fully explain the relevant occurrences:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (17) | In the past ten (10) years (measured from the date of issuance of this RFQ), has a surety made payments on behalf of the entity of any Affiliate under any payment bond? <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, and all other information necessary to fully explain the relevant occurrences:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (18) | In the past ten (10) years (measured from the date of issuance of this RFQ), has the entity or any Affiliate had a contract terminated for cause or convenience, or received a written waiver of another party's right to terminate a contract for cause? | <input type="checkbox"/> | <input type="checkbox"/> |



| <u>No.</u> | <u>Certification Questions</u> | <u>Yes</u> | <u>No</u> |
|-------------------|---|--------------------------|--------------------------|
| | <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, the date of termination or waiver, and all other information necessary to fully explain the relevant occurrences:</i> | | |
| (19) | In the past ten (10) years (measured from the date of issuance of this RFQ), has there been any instance involving any projects or contracts with a value in excess of one million dollars (\$1,000,000) in relation to which the entity or any Affiliate was determined by a court of law or in an arbitration proceeding, a dispute review board proceeding, or any other dispute resolution proceeding, or otherwise acknowledged in writing to be liable for a material breach of contract? <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, and all other information necessary to fully explain the relevant occurrences:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (20) | In the past five (5) years (measured from the date of issuance of this RFQ), has a surety or any Affiliate terminated a major subcontractor or dissolved a joint venture following award of a public works project but prior to its completion? <i>If yes, please provide details indicating the project(s), the major subcontractor or joint venture that was terminated and describe the basis for this action:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (21) | In the past five (5) years (measured from the date of issuance of this RFQ), has the entity or any Affiliate been issued any notice of default or notice to cure under by the owner of a public works project? <i>If yes, please provide details identifying all such projects by owner and include owner's contact details, the date of completion of the project, and all other information necessary to fully explain circumstances surrounding the default, any cure, and the outcome:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (22) | In the past five (5) years (measured from the date of issuance of this RFQ), has the entity, any of its subsidiaries or Affiliates ever been an "expatriate corporation" as that term is defined in California Public Contract Code (PCC) §10286.1(b)? <i>If yes, please provide the date such expatriate corporation" was established:</i> <i>If yes, does the entity meet the requirements of PCC §10286.1(b)(2)(A) or (B)?</i> | <input type="checkbox"/> | <input type="checkbox"/> |



| <u>No.</u> | <u>Certification Questions</u> | <u>Yes</u> | <u>No</u> |
|-------------------|---|--------------------------|--------------------------|
| | <input type="checkbox"/> No; <i>OR</i> | | |
| | <input type="checkbox"/> Yes, the entity meet the requirements of PCC §10286.1(b)(2)(A); <i>OR</i> | | |
| | <input type="checkbox"/> Yes, the entity meet the requirements of PCC §10286.1(b)(2)(B). | | |
| (23) | In the past five (5) years (measured from the date of issuance of this RFQ), has the entity or any Affiliate removed a key personnel from a project, or had a key personnel removed by the owner of a public works project, for performance issues? <i>If yes, please explain:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (24) | In the past five (5) years (measured from the date of issuance of this RFQ), has the entity been convicted of violating a state or federal law respecting the employment of undocumented aliens? <i>If yes, please explain:</i> | <input type="checkbox"/> | <input type="checkbox"/> |
| (25) | In the past five (5) years (measured from the date of issuance of this RFQ), has the entity had any license, credential, or registration revoked or suspended? <i>If yes, please provide specific details including date(s), reason(s), for revocation or suspension, whether same was reinstated, and any conditions thereto:</i> | <input type="checkbox"/> | <input type="checkbox"/> |



FORM 6: REFERENCE PROJECT EXPERIENCE COVER SHEET

Instructions

- (1) If the specific entity that undertook the identified project is not a Major Participant, but rather an Affiliate of such entity, please expressly indicate and identify the entity and its relationship to Proposer or Major Participant(s), as applicable. At SBCTA's sole discretion, such entity may be required to be a Financially Responsible Party and provide a guaranty of the Proposer under the Contract.
- (2) Describe the work and state the percent or dollar value of (a) the design and construction work the entity performed/was responsible for; or (b) the design work performed (if the entity is a designer). For example:
 - (a) a member of a Joint Venture with a 30% stake in a \$200 million project would insert "30%" or "\$60 million";
 - (b) an engineer who was the lead designer on a \$200 million project for which the total design fee was \$15 million would insert "\$200 million construction/\$15 million design", even if they used subconsultants and did not self-perform all \$15 million of design; and
 - (c) a structural subconsultant who performed \$2 million of structural work designing a \$50 million bridge for the lead designer on a project with a total construction value of \$200 million would insert "\$50 million construction/\$2 million design".
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form.



Proposer Name: [Proposer to provide]
Date: [Proposer to provide]

**Tunnel to Ontario International Airport Project
 Reference Project Experience Cover Sheet**

| No. | Required Information | Response ⁸ |
|---|---|---|
| I. Background Information | | |
| (1) | Project Name: | |
| (2) | Type of Project: | <i>[e.g. Design-Build; Design-Build-Operate-Maintain; Design-Build-Finance-Operate-Maintain; Design-Build-Finance]</i> |
| (3) | Type of Facility: | |
| (4) | Owner/Procuring Authority/Location: | |
| (5) | Brief Description of Project: | |
| (6) | Percent Responsibility | <i>[Refer to Instructions Page to this Form, Instruction (2)]</i> |
| (7) | Contract Term: | <i>[State both total term length and start and end dates for the contract, including operations and maintenance]</i> |
| (8) | Current Status: | <i>[e.g. under construction (including approx. % complete), in operation etc.]</i> |
| (9) | Key Dates and Milestones: ⁹ | <u>Key Dates/Milestones:</u> <i>[Contract execution: [●] (anticipated/contracted); [●] (actual)</i> <i>Commencement of design (if separate from construction): [●] (anticipated/contracted); [●] (actual)</i> <i>Commencement of construction: [●] (anticipated/contracted); [●] (actual)</i> <i>Achievement of Substantial Completion: [●] (anticipated/contracted); [●] (actual)</i> <i>Service/Operations Commencement (if applicable): [●] (anticipated/contracted); [●] (actual)</i> <i>Achievement of Final Completion: [●] (anticipated/contracted); [●] (actual)]</i> |
| II. Description of Team Member Involvement | | |
| (10) | Proposer Team Member(s) (or Affiliate(s)) Involved: | |
| (11) | Role of Proposer Team Member(s) (or Affiliate(s)): | <i>[Including whether the entity was involved in all or just some phases or aspects of the project.]</i> |

⁸ Bracketed and italic text in the "Response" column constitutes additional guidance for completing this Form, which should be deleted when completing the Form.

⁹ The schedule should generically refer to the period of time that events occurred after contract execution, rather than to specific calendar months and years (e.g. 'Commencement of construction: 6 months after contract execution', rather than 'Commencement of construction: June 2012,' etc.)



| | | |
|-----------------------------------|--|--|
| (12) | Key Personnel Involved, Roles & Responsibilities: | |
| III. Technical Information | | |
| (13) | Construction Value at Award: | <i>[See defined term "Construction Value".]</i> |
| (14) | Completion within/above Budget: | <i>[Detail (by approximate value and percentages) amount over/under budget at the time of project completion and briefly explain reasons for such deviations.]</i> |
| (15) | Completion within/beyond Schedule: | <i>[Detail (by approximate duration) amount of schedule savings/delay and briefly explain reasons for such deviations.]</i> |
| (16) | O&M Characteristics: | <i>[Brief description of O&M scope, vehicle types used, annual operating cost/revenue, capacity, and/or other relevant key metrics.]</i> |
| (17) | Relevance to Proposer's Project Approach: | <i>[Brief description of how the Reference Project demonstrates key elements of the Proposer's anticipated Project approach.]</i> |
| IV. Reference | | |
| (18) | Name: | |
| (19) | Title & Employer (current): | |
| (20) | Title & Employer (at time of project/transaction): | |
| (21) | Role on the project: | |
| (22) | Relationship to project owner: | |
| (23) | Phone & Email: | |
| (24) | Location & Time Zone: | |
| (25) | Other: ¹⁰ | |

¹⁰ Include any other notes that may be useful when speaking to this individual, e.g., that they are a non-English speaker, etc.



FORM 7: SAFETY RECORD QUESTIONNAIRE

Instructions

- (1) Information must be provided for the Lead Contractor and the Lead Tunneling Contractor with regard to all construction work undertaken in the United States (including the State of California), with separate statistics relative to the State of California.
- (2) If 2022 part-year data is available, please fill in 2019, 2020 and 2021 and mark 2019 as "N/A" and indicate the period for which 2022 data is available. If 2022 part-year data is not available, please fill in 2019, 2020 and 2021 and mark 2022 as "N/A".
- (3) For Items 2 to 6 in the table below, the information required for these items is the same as required for columns 3 to 6, Code 10, Log and Summary of Occupational Injuries and Illnesses, OSHA Form 200.
- (4) For Item 7 in the table below "Incidence Rate", Incidence Rate = No. Injuries (Cases) x 200,000 / Total Hours Worked.
- (5) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form.



Release of November 21, 2022

Proposer Name: []
Major Participant Name: []



| No. | Data | 2019 | 2020 | 2021 | 2022 | Average |
|-----|---|------|------|------|------|---------|
| (1) | Total Hours Worked (in thousands): <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (2) | Number of fatalities: <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (3) | Number of lost workdays: <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (4) | Number of lost workdays cases: <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (5) | Number of injury/illness cases: <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (6) | Number of days of restricted work activity due to injury/illness: <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (7) | Incidence Rate: Lost Workday Cases <ul style="list-style-type: none"> • Nationwide: • California: Days Lost <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |
| (8) | Worker's Compensation: Experience Modifier <ul style="list-style-type: none"> • Nationwide: • California: | | | | | |



Release of November 21, 2022

1. Is the identified Major Participant a party to an alternative dispute resolution system as provided for in Labor Code §3201.5?
 Yes No

2. Please attach a summary of the identified Major Participant's worker safety program, which shall include a description of how the identified Major Participant will provide protection to prevent damage, injury, or loss to its employees and its subcontractors and other persons who are on the Project site and will minimize lost or restricted workdays due to injuries.



FORM 8: KEY PERSONNEL

Instructions

- (1) Excluding the page required under instruction (2) below, each resume must not exceed two pages in length and must include (in the following order):
 - (a) state the specific role that the person is fulfilling for the Project;
 - (b) describe how the person(s) prior experience relates to their potential role in the Project;
 - (c) length of employment with current employer and all prior employers (the names of each of which must be specified) for at least the past 10 years;
 - (d) title, employer, roles, and responsibilities on (i) any of the projects listed in a completed Form 6 (Reference Project Experience) and (ii) any other potentially relevant Reference Projects;
 - (e) identification of any relevant (i) licenses and/or registrations, (ii) community or professional organization service activities or recognitions and/or (iii) professional disciplinary actions; and
 - (f) an express, written statement from each entity employing such individuals committing that the individuals designated for the Key Personnel position shall be available to serve the role so identified in connection with the Work.
- (2) Each resume shall include details of three references on a third page in the format provided in Annex A to this Form. References shall be previous owners or clients on projects on which the individual has worked within the past ten years which appear on the identified personnel's resume. If the individual has worked on less than four projects that meet these criteria, then other references may be included but shall clearly be marked as such.
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form.



Proposer Name: [Proposer to provide]

Form 8: List of Key Personnel

By submitting this completed form (with corresponding attached resumes), Proposer is deemed to confirm that each of the below named individuals is, and is reasonably expected to remain, available to serve in the position indicated by their name in connection with the Project for the period for which such position will be required to be filled as specified below.

| Key Personnel Position | Description |
|---|--|
| Project Director Name: [Proposer to provide] | <p>Position Description:</p> <ul style="list-style-type: none"> • Leader of the design and construction team responsible for developing an innovative and constructible design in accordance with SBCTA, federal and state standards and requirements, Applicable Law, and good industry practice. • Required to work closely with SBCTA, PCM, UPRR, other third parties, and key stakeholders. • Ensure Major Participants, other subcontractors and suppliers, Key Personnel, and other personnel are responsive, detailed, and timely and where not, take necessary action to remedy. • Has authority to bind Proposer on key matters relating to the Project. • Has authority to stop work. • Responsible for continued adherence to the Project schedule and budget. <p>Preferred Qualifications:</p> <ul style="list-style-type: none"> • 15 years of major heavy civil project experience. • Experience should include at least one project constructed in an urban environment with a construction value of \$200 million or greater. • Further desired qualifications for this position include experience with alternative project delivery in scope and size similar to the Project. |



| Key Personnel Position | Description |
|---|---|
| <p>Design Manager</p> <p>Name: [<i>Proposer to provide</i>]</p> | <p>Position Description:</p> <ul style="list-style-type: none"> • Responsible for ensuring that the overall Project design is completed and design criteria requirements are met in accordance with Project standards and contract requirements, SBCTA, City, federal and California standards and requirements, Applicable Law, and good industry practice. • Manage and coordinate the engineering expertise, including seismic and underground experience, needed for the design of the Project efficiently and in accordance with the approved Project schedule, budget, and requirements. • Work closely with various governmental entities to efficiently obtain approvals. <hr/> <p>Preferred Qualifications:</p> <ul style="list-style-type: none"> • Prior experience acting as a design manager on other tunneled transportation facilities. • California registered Professional Engineer. (<i>Required</i>) • 15 years of experience managing the design of complex transportation projects. • Prior experience acting as a design manager on at least one tunnel project constructed in an urban environment with a construction value of \$200 million or greater. |
| <p>Construction Manager</p> <p>Name: [<i>Proposer to provide</i>]</p> | <p>Position Description:</p> <ul style="list-style-type: none"> • Manage and implement the construction of the approved design in accordance with SBCTA, federal and California standards and requirements, Applicable Law, and good industry practice. • Coordinate all subcontractors' work and schedule of all materials in a safe and efficient manner. • Has authority to stop work. • Work professionally and effectively with SBCTA and other inspection personnel. |



| Key Personnel Position | Description |
|---|--|
| | <p>Preferred Qualifications:</p> <ul style="list-style-type: none"> • 15 years of experience managing the construction of complex transportation projects. • Experience should include at least one tunnel project constructed in an urban environment with a construction value of \$200 million or greater. |
| <p>Construction Safety / Security Manager</p> <p>Name: [<i>Proposer to provide</i>]</p> | <p>Position Description:</p> <ul style="list-style-type: none"> • Primarily and directly responsible for developing and implementing a comprehensive safety program and assuring compliance at all levels of the Design-Builder team. • Responsible for coordinating with SBCTA, Cities of Rancho Cucamonga and Ontario, OIAA, and all other applicable authorities regarding construction safety and security issues in the tunnel and surrounding areas. • Has authority to stop work. <p>Preferred Qualifications:</p> <ul style="list-style-type: none"> • 15 years of experience managing the safety and security of heavy civil construction projects. • Experience should include at least one tunnel project constructed in an urban environment. |
| <p>Tunnel Systems Integration Manager</p> <p>Name: [<i>Proposer to provide</i>]</p> | <p>Position Description:</p> <ul style="list-style-type: none"> • Primarily and directly responsible for managing the design, installation, commissioning, and integration of tunnel systems, including but not limited to fire and life safety, ventilation, drainage, electrical, illumination, signing, and communications. • Responsible for coordinating with SBCTA, AHJs, and all other applicable authorities regarding systems validation, testing and commissioning activities. |



| Key Personnel Position | Description |
|------------------------|--|
| | <p>Preferred Qualifications:</p> <ul style="list-style-type: none">• 15 years of experience managing the design, installation, commissioning, and integration of tunnel systems.• Experience should include at least one tunnel project constructed in an urban environment. |



Annex A to Form 8
Form for Key Personnel References

Proposer Name: [Proposer to provide]
Position: [relevant Key Personnel position]
Individual: [name]

References

Table with 4 columns: Required Information, Reference No. 1, Reference No. 2, Reference No. 3. Rows include Project(s)/Transaction(s), Reference's Name, Reference's Title (current), Reference's Employer (current), Reference's Title (at time of project/transaction), Reference's Employer (at time of project/transaction), Reference's Phone and Email, Reference's Location and Time Zone, and Other.

11 Include any other notes that may be useful when speaking to this individual, e.g., that they are a non-English speaker, etc.



FORM 9: CREDIT RATINGS

- | <u>Instructions</u> | |
|---------------------|---|
| (1) | For "Role" and "Name" indicate, respectively, role of Major Participant in Proposer team and such member's legal name. |
| (2) | If any entity that is rated by one or more Rating Agencies is not rated by any other Rating Agency, indicate "Not rated". |
| (3) | Proposers should delete this instructions box and additional instruction notes prior to submitting this Form. |

Proposer Name: *[Proposer to provide]*

Form 9: Credit Ratings

| Role | Entity Name | Fitch | Moody's | S&P | DBRS |
|------|-------------|-------|---------|-----|------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |



FORM 10: FORM OF PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the San Bernardino County Transportation Authority, a public entity of the State of California ("SBCTA") (referred to herein as "Obligee"), has selected _____, a _____ duly authorized to do business in the State of California and having its principal place of business at _____ (referred to herein as "Principal"), to enter into a Preconstruction Works Agreement as a Shortlisted Design-Build Team for the Tunnel to Ontario International Airport Project (the "Project") in response to SBCTA's Request for Qualifications (as amended, the "RFQ") issued on November 21, 2022, on the terms and conditions set forth therein; and

WHEREAS, Principal is required to furnish a bond guaranteeing the faithful performance of its obligations under the Preconstruction Works Agreement concurrently with delivery to Obligee of the executed Preconstruction Works Agreement.

NOW, THEREFORE, Principal and _____, a _____, an admitted surety insurer in the State of California having its principal place of business at _____ ("Surety"), are held and firmly bound unto Obligee in the amount of _____ DOLLARS lawful money of the United States of America (\$____,____.____) (the "Penal Sum"), for payment of which sum Principal and Surety jointly and severally firmly bind themselves and their heirs, executors, administrators, successors and assigns.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements under the Preconstruction Works Agreement, including any and all amendments and supplements thereto that may be executed with or without notice to the Surety, on Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless the Obligee as stipulated in the Preconstruction Works Agreement, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.

The following terms and conditions shall apply with respect to this bond:

1. The Preconstruction Works Agreement and the Request for Proposals ("RFP") for the Project (as defined in the Preconstruction Works Agreement) are incorporated by reference herein.
2. Upon occurrence of any of the following events, then this obligation shall be null and void; otherwise it shall remain in full force and effect:
 - (a) Principal's receipt of written notice from SBCTA that either (i) no Preconstruction Works Agreement for the Project will be entered into by SBCTA pursuant to the RFQ, or (ii) SBCTA has selected Shortlisted Design-Build Teams with whom to enter into Preconstruction Works Agreements for the Project, has received the executed Preconstruction Works Agreements and other required



documents, and does not intend to enter into the Preconstruction Works agreement with Principal;

(b) If SBCTA has not previously delivered notice of forfeiture as provided for under the terms of this bond, failure of SBCTA to enter into a Preconstruction Works Agreement with Principal within one hundred twenty (120) days of the SOQ Submission Date;

(c) Except as expressly provided otherwise in the Preconstruction Works Agreement or agreed to by SBCTA in writing, Principal's performance of all of its obligations under the executed Preconstruction Works Agreement, including submission of a responsive Proposal in response to the RFP at the conclusion of the Preconstruction Period; or

(d) If SBCTA has not previously delivered notice of forfeiture as provided for under the terms of this bond, the early termination by SBCTA of the Preconstruction Works Agreement.

3. This bond specifically guarantees the performance of each and every obligation of Principal under the Preconstruction Works Agreement, including, but not limited to, the obligation to submit a responsive Proposal in response to the RFP at the conclusion of the Preconstruction Period (as defined in the Preconstruction Works Agreement), as each such document may be amended and supplemented, but not to exceed the Penal Sum.
4. Whenever Principal shall be, and is declared by Obligee to be, in default under the Preconstruction Works Agreement, provided that Obligee is not then in material default thereunder, Surety shall promptly pay to SBCTA the full Penal Sum as liquidated damages and not as a penalty, within ten days after occurrence of such declaration. Principal agrees and acknowledges that such liquidated damages are reasonable in order to compensate SBCTA for damages it will incur as a result of Principal's failure to satisfy the obligations under the Preconstruction Works Agreement to which Principal agreed when submitting its Proposal. Such damages include potential harm to the credibility and reputation of the Project and of SBCTA with policy makers and with the general public, delays to the Project and additional costs of administering this or a new procurement (including engineering, legal, accounting, overhead and other administrative costs), or increased costs to enter into a Design-Build Agreement with an alternative Proposer. Principal further acknowledges that these damages would be difficult and impracticable to measure and prove, are incapable of accurate measurement because of, among other things, the unique nature of the Project and the efforts required to receive and evaluate proposals for it, and the unavailability of a substitute for those efforts. The amounts of the Penal Sum represents liquidated damages and good faith estimates and evaluations as to the actual potential damages that SBCTA would incur as a result of Principal's failure to satisfy the obligations under the Preconstruction Works Agreement to which Principal agreed when submitting its Proposal, and do not constitute a penalty. Principal agrees to such liquidated damages in order to fix and limit Principal's costs and to avoid later disputes over what amounts of damages are properly chargeable to Principal.



- 5. No change, alteration, modification, or supplement to the Preconstruction Works Agreement or the nature of the work to be performed thereunder, including without limitation any extension of time for performance, or any change or modification of any terms of payment or extension of time for any payment pertaining to or relating to the Preconstruction Works Agreement, or any rescission or attempted rescission of the Preconstruction Works Agreement or this bond, or any conditions precedent or subsequent in this bond attempting to limit the right of recovery of Obligee seeking to recover from this bond, or any fraud practiced by any other person other than Obligee seeking to recover from this bond, shall in any way affect the obligations of Surety under this bond. Surety waives notice of any such change, alteration, modification, supplement, or extension of time.

- 6. **[Use in case of multiple or co-sureties:** The Co-Sureties agree to empower a single representative with authority to act on behalf of all the Co-Sureties with respect to this bond, so that Obligee will have no obligation to deal with multiple sureties under this bond. All correspondence from Obligee to the Co-Sureties and all claims relating to this bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to Obligee designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be _____, and shall be contacted at the following address:

 _____]

[Use in case of a single surety: Correspondence or claims relating to this bond should be sent to Surety at the following address:

 _____]

- 7. No right of action shall accrue on this bond to or for the use of any entity other than Obligee or its successors and assigns.

IN WITNESS WHEREOF, Principal and Surety have caused this bond to be executed and delivered as of _____, 20__.



Release of November 21, 2022

Principal:

By: _____

Its: _____

(Seal)

Surety:

By: _____

Its: _____

(Seal)

[ADD APPROPRIATE SURETY ACKNOWLEDGMENTS]