



**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY**  
**REQUEST FOR PROPOSALS (RFP) 18-1001823**  
**FOR**  
**ON-CALL RIGHT OF WAY SERVICES**

**KEY RFP DATES**

<b>RFP Issue Date:</b>	<b>November 2, 2017</b>
<b>Pre-Proposal Conference Date:</b>	<b>N/A</b>
<b>Question Submittal Deadline:</b>	<b>November 17, 2017 @ 4:00 p.m.</b>
<b>Proposal Due Date:</b>	<b>December 18, 2017 @ 2:00 p.m.</b>
<b>Interview Date:</b>	<b>Tentatively - January 16, 2018</b>
<b>Contract Award Date:</b>	<b>March 2018</b>
<b>Notice To Proceed:</b>	<b>April 2018</b>



November 2, 2017

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS (RFP) 18-1001823  
“ON-CALL RIGHT OF WAY SERVICES”, (hereinafter referred to as  
“Project”)**

The San Bernardino County Transportation Authority (“SBCTA”) seeks proposals from qualified firms to provide **ON-CALL RIGHT OF WAY SERVICES** as identified in Attachment "A" "Scope of Work" to 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 March 2018. Firms submitting proposals will be evaluated based on qualifications, prior experience with the same or similar type of services identified in the attached Scope of Work, proposed staffing, and the firm’s understanding of the needs and requirements of the Project as identified in this RFP.

The RFP and all RFP schedule updates and addenda, together with other important information, are available on SBCTA’s website at: [www.gosbcta.com](http://www.gosbcta.com), click on “Contracting”, and select “Bid Opportunities”. The website is the official means of notification to all prospective proposers. Firms are requested to check the website periodically, and no less frequently than weekly, for RFP schedule updates, addenda, and other information. All proposers will be held accountable for compliance with all updates, addenda and other information posted on the website. Please note that SBCTA will not be responsible for mailing any addenda, schedule updates or other information to any firm.

Proposals are due on or before **December 18, 2017 @ 2:00 p.m.**

All questions related to this RFP must be put in writing and submitted to SBCTA no later than November 17, 2017 at 4:00 pm. All questions must be clearly labeled, “**Written Questions**” and submitted electronically to:

**Alicia Johnson**  
**Procurement Analyst**  
[procurement@gosbcta.com](mailto:procurement@gosbcta.com)  
**RFP 18-1001823**

Questions received after the deadline may or may not be responded to at the sole discretion of SBCTA. Questions received by the deadline or responded to after the deadline at the discretion of SBCTA, and the written responses will be posted via written addendum on SBCTA’s website at [http: www.gosbcta.com](http://www.gosbcta.com), click on “Contracting”, then select “Bid Opportunities”.

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

Proposers are advised that, as required by federal law, 49 CFR Part 26, PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS. SBCTA has implemented Disadvantaged Business Enterprise (DBE) requirements for federally funded projects. SBCTA will set Contract Task Order (CTO) specific DBE goals, as appropriate for each CTO when Federal funding will be used. .

**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.**

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

Effective March 1, 2015, any consultant or 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 firms awarded the contract will be required to comply with all applicable laws and regulations including but not limited to, equal opportunity laws and regulations.

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

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

## **SBCTA**

### **REQUEST FOR PROPOSALS 18-1001823**

#### **FOR**

#### **ON-CALL RIGHT OF WAY SERVICES**

### **I. PROPOSAL INSTRUCTIONS**

#### **A. INTRODUCTION**

San Bernardino County Transportation Authority, (“SBCTA” or “Authority”) is soliciting proposals from qualified firms to assist the Authority with various Right of way services, as needed, for projects in the Major Projects Program. The Authority is planning to award one or more contracts to qualified firms where Contract Task Orders (CTO) will be issued. The issuance of CTOs will be to the firm who best meets the Authority’s needs and requirements. The Authority does not guarantee that a certain number of CTOs will be issued, nor does it guarantee that all firms will receive an equal number of CTOs.

#### **B. PROJECTS AND SERVICES DESCRIPTION**

The projects which may require right of way services are those listed in the Quarterly Briefings “MAJOR PROJECTS PROJECT STATUS REPORT” located on the SBCTA home page at [www.gosbcta.com](http://www.gosbcta.com). Services may include a single or variety of right of way services, such as: surveying and engineering, appraisals, acquisition, relocation assistance, utility coordination, and railroad coordination. The right of way surveying and engineering services may include but not be limited to right of way mapping, right of way engineering, boundary surveys/maps, monumentation maps, survey control maps, record of survey, parcel or appraisal maps, lot line adjustment/subdivision maps, legal descriptions, plat exhibits, and marking the right of way for appraisals and utility potholing. Consultants shall utilize appropriate land surveying and land title practices as needed to establish property and easement boundaries, perform site reconnaissance and monument recovery, and file Records of Survey. In addition, Consultants shall provide the full array of property acquisition services leading to right of way certification, including but not limited to, appraisals, negotiations, right of way coordination/meetings with owners, providing support for the condemnation process, property management, remedial efforts and disposal of excess parcels. Also, for achieving right of way certification purposes, the Consultants shall provide staff experienced at performing utility relocation and railroad coordination. Further detail regarding this scope of work is included in Attachment A to this RFP.

Authority will provide overall direction and Contract Task Order (CTO) assignments to deliver the Major Projects Program and may assign its own staff for supplemental support to perform specific job responsibilities as well.

#### **C. MATERIALS FURNISHED BY AUTHORITY**

All appraisals, software, data, reports, surveys, drawings, and other documents furnished to the Consultant by Authority for the Consultant's use in the performance of services identified herein shall be made available only for use in performing the assignment and

shall remain the sole property of Authority. All such materials shall be returned to Authority upon completion of services, termination of the Contract, or other such time as Authority may determine. All other materials and equipment shall be provided by the firm.

The contract, if awarded, will be awarded without consideration of race, religion, color, age, sex, or national origin.

**D. CONTACT INFORMATION**

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

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

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

**E. PRE- PROPOSAL CONFERENCE**

There is no pre-proposal conference scheduled for this solicitation.

**F. WRITTEN QUESTIONS/CLARIFICATIONS**

All questions and or clarifications to this RFP, including questions that could not be specifically addressed at the Pre-Proposal Conference must be put in writing and submitted electronically to the Procurement Analyst at [procurement@gosbcta.com](mailto:procurement@gosbcta.com), and they must be received by SBCTA no later than **4:00 p.m., on November 17, 2017**. Questions received after the date and time specified may or may not be responded to, at the sole discretion of SBCTA. All questions/clarifications must be clearly labeled **“Written Questions”**. SBCTA is not responsible for failure to respond to questions that are not appropriately marked. SBCTA’s responses to the questions received by the date and time identified herein, including SBCTA’s answers will be posted on SBCTA’s website at [www.gosbcta.com](http://www.gosbcta.com), click on “Contracting”, then select “Bid Opportunities”.

**G. ADDENDA**

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

## **H. CONTRACT TYPE**

A Specific Rates of Compensation contract will be used for these Services. Any work provided by the consultant that is not specifically covered by the contract, will not be reimbursed. Please refer to the form of contract attached to this RFP for more detailed information.

## **I. CONTRACT TASK ORDERS**

SBCTA anticipates that the Contract(s) resulting from this RFP, if awarded, will be an “On-Call” contract with no guaranteed level of usage. SBCTA reserves the right to award to one or several firms for the services specified herein. As the need for certain services arises, SBCTA will issue a specific Scope of Services and request a concise technical and price proposal from each of the firms awarded an on-call contract. The firm who best meets the needs and requirements of SBCTA will be awarded the Contract Task Order.

## **J. INFORMED PROPOSER**

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

## **K. CONFLICT OF INTEREST**

Any person or firm that has assisted SBCTA in preparing any aspect of this RFP or any cost estimate associated with the Scope of Work related to this RFP is prohibited from submitting a proposal in response to this RFP. Firms that received assistance from any such person or entity, or who will use the services of such person or entity in performing the work will be disqualified. A firm who is prohibited from submitting a proposal in response to this RFP will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time. Firms responsible for a project’s design may not participate in construction management or construction inspection for the project. The determination of a conflict of interest, direct or incidental, shall be made by SBCTA based upon substantial evidence.

## **L. PRE-CONTRACTUAL EXPENSES**

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

## **M. IRAN CONTRACTING ACT OF 2010**

In accordance with Public Contract Code Section 2204(a), the proposer certifies that at the

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

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

#### **N. PREVAILING WAGES**

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

SBCTA will not accept a proposal and not award any contract without verification that the consultant and their subconsultants are currently registered. Consultants and subconsultants on all public works projects will be required to submit electronic certified payroll records (CPR's), to the Labor Commissioner on the DIR website. Firms are still required to submit CPR's directly to SBCTA for review, as well. The prime firm will be required to ensure that their subconsultants subject to prevailing wages are properly registered with the DIR prior to proposal submittal.

#### **O. MATERIALS FURNISHED BY SBCTA**

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

#### **P. PRE CONTRACTUAL EXPENSES**

The Authority shall not be liable for any pre-contractual expenses incurred by the firms in preparation of their proposals. The Proposer shall not include any such expenses as part of their price proposal. Pre-contractual expenses are defined as follows; a) preparing a proposal in response to this RFP; b) submitting a price proposal to Authority; and c) any and all expenses incurred by the Proposer to award this Contract.

#### **Q. DISADVANTAGED BUSINESS ENTERPRISE**

In conformance with title 49 CFR Part 26, SBCTA may establish a Contract Task Order specific Disadvantaged Business Enterprises (DBE) goal. If a CTO specific DBE goal is established, the proposer will be required to meet this goal or demonstrate Good Faith

Efforts as a condition of the award of the CTO. Firms shall complete and submit Form 10 O-1, "Local Agency Bidder DBE Commitment", "Form O-2, Consultant Contract DBE Commitment" and Form 12-B, "Bidders List of Subcontractors" at the time of each CTO proposal submittal.

When appropriate, there will be DBE specific goals on each CTO. The proposer, in order to be considered responsible and responsive, must meet the CTO specific DBE goal identified in the CTO request or make Good Faith Efforts to meet the goal established. If the goal is not met, the firm must document adequate Good Faith Efforts. Only DBE firms certified through the California Unified Certification Program (CUCP) will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

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

## **II. PROPOSAL SUBMITTAL**

Proposals are due at or before **2:00 p.m., December 18, 2017**. One original, five copies, and a CD or Flash Drive with a PDF version of the proposal, are to be submitted to:

**Alicia Johnson  
Procurement Analyst  
SBCTA  
1170 W. 3rd Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92410-1715  
ATTENTION: PROPOSAL FOR RFP 18-1001823**

All proposals are to be submitted in a sealed package, clearly marked with the RFP number and title and with the proposer's name and address. Postmarks will NOT be accepted in lieu of receiving the proposals by the date and time specified. **Proposals received after the date and time specified will be returned to the firm without further consideration or evaluation.**

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

### **A. PROPOSAL CONTENT**

The proposal is limited to 20 (8 ½" x 11") single pages 10 pages double sided in no less than 11-point font. This page limit shall include the Table of Contents, tabs and resumes. Charts and schedules may be included in 11" x 17" format. Each page must be consecutively numbered. Proposals and cover letters 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.

If at any time during the RFP process, a proposer makes any changes to proposed key personnel or subconsultants, the proposer must notify SBCTA in writing of those proposed changes as soon as they are known. SBCTA reserves the right to accept or reject such



proposed changes or to revise the evaluation scoring to reflect the proposed staffing changes.

All proposals must include the following information:

**1. Cover Letter**

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

**2. Contract Termination Circumstances**

If proposer has ever been terminated from a contract, describe the facts and circumstances in detail. Firms shall refer to SBCTA Policy No. 11000, for details. Firms may download the Policy from SBCTA’s website at [www.gosbcta.com](http://www.gosbcta.com), click on “Contracting”, select “Bid Opportunities”.

**3. Technical Information**

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

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

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

Specifically:

- Provide a brief profile of the proposer, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees. Include confirmation that the prime and subconsultants are registered with the Department of Industrial Relations.
- Provide a general description of the proposer's current financial condition; identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede ability to complete the Project.
- Describe the proposer's experience in performing work of a similar nature to that solicited in this RFP, and the participation in such work by the key personnel proposed for assignment to this Project. Highlight the proposer's and key personnel's experience with the work or services identified in the Scope of Work.
- Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.
- Provide a list of past joint work by the proposer and each subconsultant, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- Provide a minimum of three (3) references for work of a similar nature for both the firm and the Project Manager. Furnish the name, title, address and telephone number and e-mail address of the person(s) at the client organization who is most knowledgeable about the work performed. References may also be supplied from other work not cited in this section as related experience.

**b. Proposed Staffing and Project Organization**

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

Specifically:

- Provide education, experience with state and federal guidelines and applicable professional credentials of proposed project staff.
- Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this Project, current assignment, level of commitment to that assignment, availability for this assignment, and how long each person has been with the firm. SBCTA reserves the right to review, approve and/or designate the positions and functions deemed to be "key" to the project and request information concerning key personnel not listed as such by the proposer.
- Furnish brief resumes (not more than two [2] pages each) for the proposed key personnel.

- Include a project organization chart that clearly delineates communication and reporting relationships among the project staff, including subconsultants.
- Include a statement that key personnel will be available to the extent proposed, or designated by SBCTA, for the duration of the project, acknowledging that no person designated as “key” to the Project shall be removed or replaced without the prior written concurrence of SBCTA.
- Proposed staff for real estate acquisition shall possess the following qualifications at the time the Proposal is submitted:
  - Real Estate Broker’s or Salesperson’s license (when under the direct supervision of a Real Estate Broker) as issued by the California Department of Real Estate (required by law). All right of way contracts must be approved for content and signed or initialed by the Real Estate Broker.
  - Minimum two (2) years of experience in the acquisition of right for eminent domain purposes.
  - Successful completion of courses in the Uniform Relocation and Real Property Acquisition Policies Act taught by recognized organizations.
  - Specific knowledge and experience appropriate for the proposed project, including knowledge of State Eminent Domain Law.
- Consultants providing services for all components of right of way appraisal including appraisals, appraisal reviews, goodwill appraisals, furniture, fixture, machinery and equipment appraisals, and title and escrow services as outlined in the Scope of Services shall possess the following qualifications:
  - Candidates shall have expertise in the specific appraisal field appropriate for the contemplated assignment.
  - Appropriate Appraisal License as issued by the California Office of Real Estate Appraisers in accordance to the degree, complexity and value of the appraisal required.
    - Residential License for any noncomplex 1-4 family properties with value of \$1 million and Nonresidential property with a transaction value up to \$250,000.
    - Certified Residential for any 1-4 family properties without regard to transaction value or complexity; and Nonresidential property with a transaction value up to \$250,000.
    - Certified General for all real estate without regard to transaction value or complexity.
  - Minimum two (2) years of experience in appraisal of rights for eminent domain purposes.
  - Successful completion of a course in appraisal of partial acquisition for public agencies.
  - Successful completion of courses in the Uniform Relocation and Real Property Acquisition Policies Act taught by recognized organizations.

- Specific knowledge and experience appropriate for the proposed project, including knowledge of State Eminent Domain Law.
- Consultants providing Property Management, Hazardous Material Removal, Demolition, and Clearance Services shall possess these minimum qualifications:
  - Real Estate Broker's or Salesperson's License (when under the direct supervision of a Real Estate Broker) as issued by the California Department of Real Estate (required by law).
  - Minimum two (2) years' experience at the working level in management of rental properties.
  - Knowledge of applicable sections of the Uniform Relocation and Real Property Acquisition Policies Act, State Eminent Domain Law, and Landlord Tenant Law.

**c. Project Approach/Work Plan**

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

Specifically:

- Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the proposer's ability to accomplish the Project objectives and to meet the Project schedule.
- Outline sequentially the activities that would be undertaken in completing the tasks and specify who in the proposer's firm would perform the work.
- Identify methods that will be used to ensure quality control as well as budget and schedule control for the Project.
- Identify any special issues or problems that are likely to be encountered during this Project and how they will be addressed.

Proposers are encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the Project.

**4. Forms**

Proposers are required to complete and submit the following forms, which are enclosed in this RFP, with their proposals:

- a) Non-Lobbying Certification for Federal-Aid Contracts Instructions For Completion Of SF-LLL, Disclosure Of Lobbying Activities Disclosure Of Lobbying Activities
- b) Certification Regarding Debarment, Suspension, And Other Responsibility Matters - Primary Covered Transactions
- c) Proposer's Good Faith Efforts Affidavit
- d) Form 12-B, "Bidders List of Subcontractors"
- e) Certificate of Compliance with Insurance Requirements
- f) Disclosure of Campaign Contributions to Board of Directors

When a CTO request is issued, and a CTO specific DBE goal is established, the proposer will be required to meet this goal or demonstrate Good Faith Efforts as a condition of the award of the CTO by providing:

- a) Form 10 O-1, "Local Agency Bidder DBE Commitment",
  - b) DBE Form 10-O2, "Consultant Contract DBE Information"
  - c) DBE Form 15-H, "Good Faith Efforts"
  - c) Form 333, "Certification of Consultant, Commissions & Fees" must be completed by the prime and all subconsultants performing work in excess of \$150,000.
- \* CTO proposals with proposer's subconsultants, with subcontracts in excess of \$25,000, must complete the "Certification Regarding Debarment, Suspension And Other Ineligibility And Voluntary Exclusion – Lower Tier Covered Transactions", within ten (10) working days after the top ranked proposer received the "Notice of Intent To Award" letter issued by SBCTA.

## **5. Cost Proposal**

Proposers are asked to submit only the technical information requested in this RFP. **No cost proposal or work hours are to be included in this phase of the RFP process.** Please note that the firms awarded a contract will be asked to provide at least one of the following prior to execution of the contract; a copy of their prior fiscal year, and most recently completed fiscal year cognizant approved Indirect Cost Rate and approved state DOT Cognizant Letter of Approval; a copy of their prior fiscal year and most recently completed fiscal year, Indirect Cost Rate Schedules and audited report by an independent CPA; or a copy of the prior and most recently completed fiscal year Independent Cost Rates evaluation or audit report on a prior Caltrans or public agency contract, and any other governmental agency report/review/attestation.

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

SBCTA does not anticipate making substantive changes to its contract. Proposers are asked to include in their proposal a written discussion of any and all proposed exceptions to or deviations from SBCTA's Scope of Work or SBCTA's Contract presented herein as Attachments A and B, respectively. Proposers will be deemed to have accepted any and all terms and conditions not objected to or identified as an exception or deviation in the proposal and there will be no further negotiations of any such terms and conditions not presented in the proposal. SBCTA may reject proposals where identified exceptions or deviations affect terms or conditions that SBCTA considers non-negotiable.

## **7. Appendices**

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

### **III. ACCEPTANCE OF PROPOSALS**

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

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

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

- A. The selection process shall be fair, open, and competitive.
- B. The selection of the firm will be based on clearly stated objectives, identified in this RFP.
- C. Selection of the firm shall be based upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required Work identified in the Scope of Work.
- D. Upon review of the proposals, a shortlist of firms may be invited to an interview tentatively scheduled for **January 16, 2018**, at SBCTA's office located at 1170 W. 3rd Street, San Bernardino, CA 92410. The contract will be awarded to multiple technically qualified proposers' best conforming to the RFP, which is in the opinion of SBCTA, most advantageous to SBCTA, and with which a successful negotiation and agreement on cost and price can be concluded as set forth in Article V below. The determination of the competitive range is at the sole discretion of SBCTA's Evaluation Committee.
- E. SBCTA reserves the right to reject any and all proposals. SBCTA is under no obligation to award a contract for the subject Work. At the conclusion of the evaluation process, the Evaluation Committee will recommend to the body or officer having authority to award the Contract on behalf of SBCTA ("Awarding Authority") the proposer who ranked the highest in overall score. SBCTA reserves the right to request additional information and/or clarification from any or all proposers to this RFP, but is under no obligation to do so.
- F. Proposals will be evaluated based on the criteria and weights identified herein.
  - **Qualifications, Related Experience and References:** Proposer's experience, years in business, and past and current client references; technical expertise and professional competence in areas directly related to this RFP, number of years' experience performing similar work; demonstrated ability to manage and coordinate the Work; deliver quality products and services; deliver projects within budget and on schedule; and experience working with public agencies identified in the RFP. - 40 points.
  - **Proposed Staffing and Project Organization:** Technical expertise and professional competence in areas directly related to the work identified in this RFP; level of experience; knowledge of state and federal guidelines and requirements; certifications

and licenses required and training of key personnel assigned, including subconsultants, if applicable; strength of experience and stability of proposed personnel; breadth and depth of resources; coordination of Work and quality control; availability of proposed staffing; and concurrence with restrictions on changes in key personnel. - 40 points.

- **Work Plan:** Depth of understanding of SBCTA's needs and requirements, and understanding of the Scope of Work; proposer's approach and methodology/systems reflecting the ability to provide the requested Work; demonstrated knowledge of the Work being requested; identification and knowledge of all requirements cited in the Scope of Work; and proposed technical or procedural innovations identified in the proposal. - 20 points.

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

## **V. NEGOTIATIONS AND AWARD**

The Contract will be negotiated with multiple top-ranked proposers as a bench for when Contract Task Orders are required to satisfy delivery of the Major Projects Program. However, SBCTA may elect at any time to not negotiate any further and not award the contract.

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

## **VI. PROTEST INFORMATION**

SBCTA has on file written Protest Procedures (Policy 11007). Proposers may download a copy from [www.gosbcta.com](http://www.gosbcta.com), hover over “About SBCTA”, and click on “Contracting Opportunities”.

## **VII. DEBRIEFING**

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

## **VIII. PUBLIC RECORDS ACT**

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

submitted and by submitting a proposal, the proposer agrees that SBCTA may use any information, documentation or writing contained in the proposal for any SBCTA purpose.



**ATTACHMENT A – “SCOPE OF WORK”**

## SCOPE OF WORK

San Bernardino County Transportation Authority (“SBCTA”) is issuing this Request for Proposals for a CONSULTANT to provide **ON-CALL RIGHT OF WAY SERVICES** for a period of three (3) years with two (2) one-year options for extension, to be exercised at the sole discretion of SBCTA, on an On-Call basis in support of current and future SBCTA projects.

Such services may include, but are not limited to, the following work program:

### A. PROJECT MANAGEMENT

This task covers typical project management services including the requirements for meetings, schedules, progress reports, and administration of the CONSULTANT work. Depending on the specific project assignment, SBCTA may require additional Project Management services to be performed by CONSULTANT but typical services anticipated at this time include, but are not limited to, the following:

#### 1. Coordination and Meetings

CONSULTANT shall meet with the relevant parties to discuss issues pertinent to the project assignments. CONSULTANT shall participate in project meetings (i.e. Project Development Team (PDT) meetings, Agency coordination meetings, workshops) and be prepared to discuss project status, issues, policy, or procedural issues. CONSULTANT shall bring progress plans as appropriate and assist in developing meeting notices, agenda, minutes and/or handouts as needed.

#### 2. Administration

Administration shall include the following elements:

- Supervise, coordinate, and monitor work for conformance with the appropriate standards and policies
- Apply for and/or assist to obtain City approvals and permits as required
- Prepare, circulate, and file correspondence and memoranda as appropriate
- Maintain project files using the CALTRANS Uniform File System, unless otherwise directed by SBCTA

#### 3. Schedule and Progress Reports

CONSULTANT shall submit an initial Project Schedule for each Contract Task Order assignment. As directed by SBCTA, the schedule shall be tailored for project specific activities as appropriate to track right of way acquisition and project clearance activities from the initial appraisal phase through property possession. Following approval by SBCTA, this schedule will become the Baseline Project Schedule and will be tracked throughout the duration of the project.

As directed by SBCTA, schedule updates will be part of a monthly Progress Report

prepared by CONSULTANT that describes the project status, outstanding action items, and/or issues for AUTHORITY approval. If appropriate and requested by SBCTA, the schedule and/or Progress Report may require updating more frequently.

#### 4. Quality Assurance/Quality Control (QA/QC) Plan

CONSULTANT shall maintain a Quality Assurance/Quality Control Plan throughout term of this Contract. The QA/QC Plan is intended to ensure that the appraisals, maps, reports, plans, studies, estimates, and other documents submitted under this Scope of Services are complete, accurate, checked, and proofread to meet professional standard practices in effect at the time of execution of the Contract.

Upon receipt of the Notice to Proceed (NTP), CONSULTANT shall discuss and explain their plan to provide a reasonable quality control check system and quality assurance program for the contract services described herein follow the applicable standard practices in effect at the time of execution of the Contract. Within twenty (20) working days of receiving the NTP, CONSULTANT shall submit a draft copy of the QA/QC Plan for review and approval by SBCTA. If requested by SBCTA, CONSULTANT shall modify and/or revise the QA/QC Plan as needed to appropriately control the project quality program for the contract.

#### 5. Budget Management

Consultant shall manage the budget throughout the term of the Contract Task Order (CTO). Consultant will provide SBCTA on updates of the cost to date of the Contract Task Order and its budget every invoice. An increase in cost or scope needs to be reported to SBCTA and authorized by SBCTA.

### **B. RIGHT OF WAY ENGINEERING AND SURVEYING SERVICES**

Right of Way Engineering and Surveying services may include, but are not limited to, the following:

1. CONSULTANT shall provide right of way engineering and field surveying services including, but not limited to: preparing Boundary Maps, Monumentation Maps, Survey control maps, Records of Survey, Lot Line Adjustments, Subdivision maps, Parcel Maps, Appraisal maps, utility potholing information maps, Legal Descriptions & Plats, Certificates of Compliance, as described in the California Government Code Section 66499.35, and other right of way engineering services as directed by SBCTA.
2. CONSULTANT shall prepare Boundary, Monumentation and Survey Control maps showing all parcels and easement boundaries and their relationship to the land net monuments used to define them. In cases where SBCTA is working in conjunction with the) Caltrans , these maps shall conform to the State's manuals as follows: PLANS PREPARATION MANUAL, the RIGHT OF WAY MANUAL, SURVEYS MANUAL and the DRAFTING MANUAL in regard to content and appearance of said right of way engineering and field surveying products.
3. CONSULTANT shall utilize appropriate land surveying and land title practices to:

- Establish all property and easement boundaries within and overlapping the project area
- Perform site reconnaissance and monument recovery
- Establish or reestablish all monumentation required by State law and local regulations
- File a Record of Survey, or Corner Recorder as necessary, to comply with the Land Surveyors Act
- The preparation, filing and associated fees will be the responsibility of CONSULTANT.

All data, maps and documents produced by CONSULTANT shall be subject to approval and acceptance by SBCTA's Project Manager. In the event of non-acceptance due to errors or omissions, CONSULTANT shall have seven calendar days to make corrections and return maps and documents to SBCTA. Final acceptance will occur only after the work product has been determined to conform to this documents scope of work and requirements.

4. All surveying and mapping work affecting the State of California Right of Way at any location, or along any route, shall be in accordance with State law and local regulation and the procedures and instructions contained in the Caltrans Right of Way Manual and the Caltrans Surveys Manual (Manual). Additionally, all such work shall be in accordance with the procedures and instructions contained in the Caltrans District 8 Right of Way Engineering Requirements for the Preparation Documents and Maps (Requirements). In the event of conflict, the Requirements shall be controlling. All Right of Way acquisitions by AUTHORITY with the intent to ultimately convey such acquisitions to the State, are considered State right of way acquisitions.
5. CONSULTANT shall appoint a Survey Manager who is a Licensed Land Surveyor or Licensed Civil Engineer, authorized to practice land surveying by the State of California. The Survey Manager will be responsible for all survey related work to be performed by CONSULTANT for SBCTA.
6. Deliverables shall generally consist of electronic files of pertinent reports and documents. Any required electronic mapping, Base map, (Hardcopy), Monumentation map, Appraisal maps, etc. shall be in a format consistent with Microstation File (.DGN). Electronic documents shall be in ASCII text; Microsoft Word 2000 or 2003. Completed Record of Survey, (filed with the County Recorder) shall be formatted at full size for Adobe Acrobat professional (.PDF). A Mylar copy shall also be provided. All survey field notes shall also be in an Adobe Acrobat professional format.
7. If any legal issues exist during the course of an assignment, CONSULTANT shall coordinate with SBCTA who will request a legal opinion. All legal opinions shall be rendered by SBCTA's legal counsel.
8. As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.

### **C. RIGHT OF WAY APPRAISAL SERVICES FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND AGRICULTURAL PROPERTIES**

CONSULTANT shall provide right of way appraisal services for developed or undeveloped residential, commercial, industrial and agricultural properties. CONSULTANT may be required to produce appraisal reports for full or partial acquisitions, easements, temporary construction easements, leased or licensed properties, and sale or disposition of excess/surplus properties. Such appraisal services may include, but are not limited to, the following:

1. CONSULTANT shall prepare appraisals in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the State of California Government Code, the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations Ch. 6, Art 1, Section 6000 et seq.), the California Code of Civil Procedure, the Uniform Standards of Professional Appraisal Practice (USPAP), and in some cases, the Uniform Appraisal Standards for Federal Land Acquisition Act. CONSULTANT must be licensed by the State of California.
2. CONSULTANT must be qualified to provide expert witness testimony and defend the conclusions reached in the appraisal at any Administrative or Judicial proceeding.
3. All reports and deliverables shall generally be transmitted electronically to AUTHORITY.
4. CONSULTANT may be required to meet with and coordinate their efforts with SBCTA staff, SBCTA legal counsel, and other consultants or Caltrans staff; participate in office or project site meetings.
5. Appraisal reports may be reviewed for acceptance and independent approval by the review appraisers. Revisions may be required by reason of this review process. Consultants may be requested to complete and deliver revised and/or updated appraisals. In the event of non-acceptance due to errors or omissions, CONSULTANT shall have fifteen (15) calendar days to make corrections and return the revised appraisals to the review appraiser.
6. For proposed acquisitions, the owner of the real property or a designated representative will be invited by CONSULTANT to accompany the CONSULTANT during the inspection of the property. This invitation must be in the form of a letter entitled "Notice to Appraise" written by the CONSULTANT to the owner. A copy of the invitation will be included in the appraisal report.
7. It is the CONSULTANT's responsibility to contact SBCTA's project engineers for discussion and/or clarification of any project design matters. This is critical in the appraisal of partial acquisitions and easements where the CONSULTANT may need cross sections or other project engineering data to complete the report.
8. The highest and best use for the property in the before condition must be determined and supported. If a partial acquisition is involved, the highest and best use of the property in the after condition must be determined and supported. If the existing use is not the premise on which the valuation is based, the appraisal will contain an explanation justifying the determination that the property is available and adaptable for a different highest and best use and there is demand for that use in the market.

9. Where the acquisition involves only a part (or portion) of the property, the CONSULTANT will estimate any severance damages and special benefits to the remainder, including reasoning and market data to support the conclusion. The CONSULTANT will indicate if the remainder constitutes an economic or uneconomic unit in the market and/or to the present owner.
10. The California Eminent Domain Law will be followed in partial acquisitions. Special benefits are to be offset only against damages to the remainder in accordance with the law.
11. Appraisal for easement acquisitions will reflect the restrictive elements of the easement to be acquired and the potential effect of such elements on the utility of the property considering its highest and best use. Full details with respect to any interference with the highest and best use of the property affected must be explained and supported.
12. The CONSULTANT must estimate and support the economic rent, state the contract rent and the remaining term of the lease as of the date of value. Include lessor and lessee responsibilities for paying major expenses, e.g. taxes, insurance and maintenance.
13. CONSULTANT shall itemize in detail the “improvements pertaining to realty” (Eminent Domain Law-CCP Section 1263.205) showing their replacement cost new, depreciated value in place, salvage value if any, and relocation estimate. To the extent possible, determine the ownership claims of the Improvements Pertaining to the Realty.
14. In cases where the Appraisal Assignment requires a Specialty Appraisal (Furniture, Fixtures, Machinery and Equipment) and/or Specialists Reports (title, survey, soils, and engineering), CONSULTANT may be required to coordinate with SBCTA staff and/or consultants for such services as directed by SBCTA. Fees charged by SBCTA staff and/or consultants for Specialty Appraisal and/or Specialists Reports shall be paid directly by SBCTA.
15. It is the CONSULTANT’s responsibility to thoroughly review the Specialty Appraisal for adoption (with adjustments or not, as appropriate) and inclusion in the overall appraisal. The estimated values that the specialty items actually contribute to the overall value of the real estate will be separately stated but included in the total value of the property.
16. If any legal issues exist during the course of the appraisal assignment, CONSULTANT shall notify SBCTA who will request legal opinion. All legal opinions shall be rendered by SBCTA’s legal counsel.
17. It is the CONSULTANT’s responsibility to contact SBCTA’s project manager to arrange for legal counsel discussions and/or clarifications in identifying personal or real property.
18. If hazardous waste is discovered on the property, CONSULTANT shall notify SBCTA.

#### **D. APPRAISAL REVIEW SERVICES**

Appraisal services may include, but are not limited to, the following:

1. When required by SBCTA, CONSULTANT shall examine appraisals prepared by the Residential, Commercial, Industrial, Agricultural and/or Furniture, Fixtures, Machinery and Equipment appraisers.

2. CONSULTANT shall provide Review Appraisal Services based on nationally recognized appraisal standards and techniques, including those established by the Uniform Standards of Professional Appraisal Practice (USPAP), the Uniform Appraisal Standards for Federal Land Acquisition; ensure compliance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the State of California Government Code, the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations CH 6, Art 1, Section 6000 et seq.), and the California Code of Civil Procedure. Comply with the requirements of the Caltrans Right of Way Manual, when applicable. CONSULTANT's Appraiser must be licensed by the State of California.
3. CONSULTANT must be qualified to provide expert witness testimony and defend the conclusions at any Administrative or Judicial proceeding.
4. CONSULTANT may be required to meet with and coordinate their efforts with SBCTA staff, SBCTA legal counsel, and other consultants or Caltrans staff; participate in office or project site meetings.
5. It is the CONSULTANT's responsibility to contact SBCTA's project engineers for discussion and/or clarification of any project design matters. This is critical in reviewing appraisals of partial acquisitions and easements where engineering data have to be verified.
6. Review Appraiser shall examine appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.
7. If the CONSULTANT is unable to recommend approval of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain additional appraisal, CONSULTANT may develop appraisal documentation to recommend value.
8. CONSULTANT's Review Appraiser and the CONSULTANT's Appraiser should discuss the appraisal assignment as soon work is assigned. The Review Appraiser and, if practical, the Appraiser should hold at least one field review in order to identify any legal issues that may exist. If any legal issues exist, the Review Appraiser shall request legal opinion.
9. All legal opinions shall be rendered by SBCTA's legal counsel and the appraisal prepared in accordance therewith.
10. CONSULTANT's Review Appraiser's certification of the recommended value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation. Any damages or benefits to any remaining property shall also be identified in the statement.
11. All reports and deliverables shall generally be transmitted electronically to SBCTA.
12. As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.

## **E. GOODWILL APPRAISAL SERVICES**

Goodwill appraisal services may include, but are not limited to, the following:

1. CONSULTANT's Appraiser shall prepare Goodwill Valuations in accordance with the California Code of Civil Procedure, and the Uniform Standards of Professional Appraisal Practice (USPAP). Appraiser must be licensed by the State of California.
2. Appraiser must be qualified to provide expert witness testimony and defend the conclusions reached in the appraisal at any Administrative or Judicial proceeding.
3. All reports and deliverables shall generally be transmitted electronically to SBCTA.
4. Appraiser may be required to meet with and coordinate their efforts with SBCTA staff, SBCTA legal counsel, or other consultants or Caltrans staff; participate in office or project site meetings.
5. In valuing the loss of goodwill to a business, Appraiser shall rely upon the definition of fair market value found in Section 1263.320 of the California Code of Civil Procedure, and compensation for loss of goodwill as outlined in Section 1263.510 of the California Code of Civil Procedure.
6. It is the Appraiser's responsibility to contact SBCTA's staff for discussion and/or clarification of any project design matters as well as relocation sites for the business.
7. Appraiser shall work with and take direction from SBCTA legal counsel in the delivery of their reports.
8. If any legal issues exist during the course of the appraisal assignment, Appraiser shall request legal opinion. All legal opinions shall be rendered by SBCTA's legal counsel.
9. As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.

## **F. FURNITURE, FIXTURES, MACHINERY AND EQUIPMENT APPRAISAL SERVICES**

Such appraisal services may include, but are not limited to, the following:

1. CONSULTANT shall prepare appraisals in accordance with the California Code of Civil Procedure, the Uniform Standards of Appraisal Practice (USPAP), the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the State of California Government Code; the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations Ch. 6, Art 1, Section 6000 et seq.). Appraiser must be licensed by the State of California.



2. CONSULTANT must be qualified to provide expert witness testimony and defend the conclusions reached in the appraisal at any Administrative or Judicial proceeding.
3. All reports and deliverables shall generally be transmitted electronically to SBCTA.
4. CONSULTANT may be required to meet with and coordinate their efforts with SBCTA staff, SBCTA legal counsel, or other consultants or Caltrans staff; participate in office or project site meetings.
5. It is the CONSULTANT's responsibility to contact SBCTA's project engineers for discussion and/or clarification of any project design matters.
6. It is the CONSULTANT responsibility to contact SBCTA's legal counsel for discussion and/or clarification in identifying personal or real property.
7. If any legal issues exist during the course of the appraisal assignment, CONSULTANT shall request legal opinion. All legal opinions shall be rendered by SBCTA's legal counsel.
8. As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.

Additional Qualifications for appraisal-related services:

- CONSULTANT shall have a minimum five years' experience as full time appraiser
- CONSULTANT shall be a member of a professionally recognized appraisal society or institute, such as the Appraisal Institute
- CONSULTANT shall have completed a minimum ten appraisal assignments in California involving potential acquisition pursuant to the laws of eminent domain
- CONSULTANT shall certify that CONSULTANT has not been disciplined in the last five years as an appraiser by any government or professional association

**G. RIGHT OF WAY ACQUISITION AND RELOCATION, REAL PROPERTY SEARCHES, IDENTIFICATION AND FEASIBILITY STUDIES FOR REPLACEMENT AND MITIGATION SITES, and COST ESTIMATES**

CONSULTANT services may include, but are not limited to, the following:

1. All CONSULTANT work shall comply with applicable Federal, State and local statutes and regulations, including but not limited to, the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, and implemented by 49 CFR Part 24; the California Government Code; the State of California Relocation Assistance and Real Property Acquisition Guidelines (Title 25, California Code of Regulations Ch. 6, Art 1, Section 6000 et seq.); the California Code of Civil Procedure; the Uniform Standards for Federal Land Acquisition Act; the California Public Utilities Code; and the California Streets and Highways Code.
2. All reports and deliverables shall generally be transmitted electronically to SBCTA.

3. CONSULTANT may be required to meet and coordinate their efforts with SBCTA staff, SBCTA legal counsel, and other consultants or Caltrans staff; participate in office or project meetings.
4. As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.
5. CONSULTANT may be required to take direction from SBCTA's legal counsel in the delivery of services, and to provide testimony in any Administrative or Judicial proceeding related to services rendered by CONSULTANT to SBCTA.
6. If any legal issues exist during the course of CONSULTANT's performance of services required by SBCTA, CONSULTANT shall request legal opinion. All legal opinions shall be rendered by SBCTA's legal counsel.
7. CONSULTANT may be required to review right of way acquisition and relocation files of current and past SBCTA projects to ensure compliance with applicable state and/or federal regulations.
8. CONSULTANT's Acquisition/Negotiation Agents must provide evidence of proper real estate license in the State of California.
9. CONSULTANT must demonstrate knowledge and experience in working with the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the California Department of Transportation (Caltrans), railroad entities and major utility owners.
10. On a project by project basis and as needed, CONSULTANT shall assign individuals to key positions such as a Project Manager, an Acquisition/Negotiation Manager, a Relocation Assistance Manager, and a Utilities Relocation Coordinator who may not be replaced without the written consent of SBCTA.

## **H. TITLE AND ESCROW SERVICES**

Title and Escrow Services may include, but are not limited to, the following:

1. At the initiation of the work program, the CONSULTANT shall meet with SBCTA staff regarding AUTHORITY's requirements for specific title work and escrow services assignments.
2. CONSULTANT shall provide Preliminary Title Reports and Litigation Guaranties on all Fee Simple and less than Fee Simple property and property interests as requested by SBCTA.
3. CONSULTANT shall ensure that all Preliminary Title Reports are accurate and complete.
4. CONSULTANT shall provide all additional legal documents required by SBCTA, such as, copies of conveyance deed, deed restrictions, liens and encumbrances, title chains and the like.

5. CONSULTANT staff shall prepare and review all legal documents necessary to ensure that SBCTA is acquiring good title to the property or property interests to be purchased, free from liens and encumbrances.
6. CONSULTANT shall provide all necessary assistance to SBCTA to clear all exceptions stated in the Preliminary Title Reports, unless waived by AUTHORITY in writing.
7. CONSULTANT shall ensure that all conditions precedent and conditions subsequent provided for in Purchase and Sales Agreements are met and satisfied prior to Close of Escrow.
8. CONSULTANT shall prepare, subject to review and approval by SBCTA's Legal Counsel, Escrow Instructions for execution by SBCTA and the grantor(s) or grantee(s). CONSULTANT shall ensure that all legal requirements are satisfied prior to Close of Escrow.
9. CONSULTANT shall provide efficient Escrow Services to SBCTA and property owners involved in SBCTA related transactions.
10. CONSULTANT shall prepare all necessary conveyance documents; demand and release of lien/encumbrance documents and submit the same for approval by SBCTA Legal Counsel prior to close of escrow.
11. CONSULTANT shall obtain grantor(s) Tax Identification Number, Social Security Number, Employer Identification Number or Federal Employer Identification Number prior to Close of Escrow and provide the same to SBCTA.
12. CONSULTANT shall record all documents necessary for the acquisition of property/property rights, release of liens and encumbrances with the proper State, County and City recorder's office.
13. CONSULTANT shall prepare an Escrow Closing Schedule in accordance with written instructions from SBCTA and property owners.
14. CONSULTANT shall meet and coordinate its work with other right of way consultants as directed by SBCTA.
15. Immediately prior to Close of Escrow, CONSULTANT shall order and provide SBCTA with an Updated Preliminary Title Report to ensure that no new liens and/or encumbrances are recorded on the property/property interests to be acquired by SBCTA.
16. At Close of Escrow, CONSULTANT shall prepare and submit an Escrow Closing Statement to SBCTA and other parties to the transaction, together with copies of all documents conveying title to SBCTA, copies of releases of liens and encumbrances, receipt for payments made on behalf of SBCTA and the other parties to the transaction.
17. At Close of Escrow, the CONSULTANT shall issue a Standard Owner's Policy of Title Insurance effectively insuring SBCTA's interest and ownership of the property or property rights acquired, unless an ALTA Policy of Title Insurance is requested by SBCTA.

18. CONSULTANT shall provide multi-lingual services as needed for efficient closing of SBCTA transactions.
19. As requested by SBCTA, CONSULTANT may be required to testify in any administrative or judicial proceeding.
20. CONSULTANT shall perform any other normal procedures and processes necessary to implement the assignment or work program and shall provide any other supporting information and/or correspondence required by SBCTA.
21. CONSULTANT shall assign a Project Manager, a Title Office and an Escrow Officer to this procurement, which may not be replaced without the written consent of SBCTA.
22. If legal issues exist during CONSULTANT's performance of services required by SBCTA, CONSULTANT shall request legal opinion. All legal opinions shall be rendered or concurred to by SBCTA's legal counsel.
23. As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or CONSULTANT's shall be paid directly by SBCTA.

#### **I. PROPERTY MANAGEMENT, HAZARDOUS MATERIAL REMOVAL, DEMOLITION AND CLEARANCE SERVICES**

Services may include, but not be limited to, the following:

1. General Property Management Services
  - a) Maintain a Certified Property Manager (CPM) on staff during the full term of the agreement and/or task order as necessary.
  - b) In cases where occupants need to remain in the property prior to relocation, administer temporary lease agreements, which include rent collection, ensure payment of utility bills and maintain decent living conditions for occupants. Prepare, maintain and submit a monthly Rent Collection and Receivables Aging Report.
  - c) Prepare and maintain a monthly Property Inventory Report.
  - d) After occupants have been relocated and properties are vacant, CONSULTANT shall coordinate with SBCTA to appropriately fence and secure properties and prevent trespassers, intruders and vandals from gaining entry to properties.
  - e) As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work (i.e. perform soil testing, environmental clean-up) required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.

## 2. Hazardous Material Removal, Demolition and Clearance

### a) Surveys of buildings, Containers, etc.

The CONSULTANT may be required to provide survey activities. Survey activities may include the surveying and testing, as applicable, of buildings, structures, stored materials, tank contents, soils, water and containers to determine whether hazardous waste or materials are present. The CONSULTANT may also be required to perform environmental site assessment work to confirm that the properties are free and clear of hazardous materials, potentially requiring the on-call team to assist with required environmental assessment and/or site remediation work as directed by SBCTA.

Typical surveys or assessments may include, but not be limited to inspections for:

- Asbestos containing materials (ACM) in buildings and pipelines
- PCB containing materials in transformers, equipment, containers
- Fuels and other chemicals in tanks, barrels and storage containers
- Review of buildings or structures to determine whether hazardous materials are being used or stored
- The presence of lead paint
- Environmental Assessment (i.e. Phase 1, Phase 2)
- Only when requested will a Certified Industrial Hygienist (CIH) be utilized for survey plans and work. Requests for a CIH will be through the project or task order process. When surveys are included in a task order, survey activities as well as results shall be included as a report or as part of the Site Investigation Report.
- Soil
- Groundwater

### b) Removal and Disposal of Asbestos and Lead Paint

This work shall consist of identifying, quantifying, removing and disposing of materials containing friable and/or non-friable asbestos prior to the demolition of improvements and obtaining all necessary licenses, permits, certification and other documents needed for the work. No grinding equipment that may expose asbestos containing materials may be used.

CONSULTANT shall prepare a plan presenting the methods for removing, handling, transporting and disposing of friable or non-friable asbestos. Prior to submittal to the Project Manager, the local Air Quality Management District must approve the plans for friable asbestos. The submittal of these plans to the Southern California Air Quality Management District (SCAQMD) must occur 14 days prior to the start of work. This plan shall include identification of all Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) licenses, permits and certifications required for asbestos abatement work, removal, handling and transport.

All asbestos work and lead paint removal shall conform to federal, state and local laws governing the identification, preparation, workers, equipment, safety, monitoring, signing, fencing, removing, and hauling of friable and non-friable asbestos and shall supply copies or information on all applicable licenses, permits, and notifications required by applicable laws and regulations.

In cleaning sites that involve asbestos removal, CONSULTANT must be properly licensed for such work. CONSULTANT shall be responsible for maintaining, monitoring, securing, and posting the site in accordance with all laws, regulations and permits required for asbestos abatement work. The CONSULTANT shall be provided with an asbestos report prior to starting the job, and will be required to provide the SBCTA manager with copies of all documents required for abatement and certification at the conclusion of the removal and disposal of asbestos.

CONSULTANT shall use a California Uniform Hazardous Waste Manifest, which will be signed by the Project Manager or his designee. Project Manager will supply the EPA Generator number for the CONSULTANT if necessary.

CONSULTANT shall use hazardous waste haulers having current registration with the California Department of Health Services (CDOHS), and shall have a U.S. EPA Identification Number (US EPA ID Number). All vehicles used to transport hazardous waste shall have a valid Certificate of Compliance affixed to the vehicle.

Asbestos containerized for transportation to a disposal site shall be appropriately labeled. CONSULTANT shall pay any disposal site charges.

Non-friable asbestos containing material is to be considered hazardous waste. CONSULTANT shall take precautions during removal that it remains wet, breakage is minimized, minimal visual emissions are allowed and it is not physically altered or powdered to result in the release of free asbestos fibers.

If the CONSULTANT discovers any asbestos containing material or other hazardous waste not noted in the port provided by SBCTA, the CONSULTANT must stop work. The CONSULTANT must call the Project Manager and should give an estimate of cost for this unforeseen work. Said materials will be removed only after approval in writing by the Project Manager. The removal of unforeseen asbestos will comply with the requirements pertaining to removal and disposal of asbestos.

c) Hazardous and/or Toxic Waste or Materials

CONSULTANT shall immediately notify the Project Manager upon encountering any type of hazardous and/or toxic wastes or materials during the demolition and removal process. Project Manager will request an immediate site investigation by SBCTA's designated consultant.

Should it become necessary to terminate the demolition and removal process, CONSULTANT shall be compensated only for work in progress or actually completed. The amount of such compensation is to be determined by the Project Manager. No payment shall be made for delay or lost profits anticipated for uncompleted work.

Failure of the CONSULTANT to notify SBCTA of the presence of hazardous and/or toxic wastes or materials may result in legal liability to the CONSULTANT for all actual damages resulting to SBCTA.

d) Demolition and Clearance

CONSULTANT may be required to provide related demolition and clearance services, including but not limited to, demolition and clearance, removal of walls, fences, trees and shrubs, asbestos and lead based paint removal and disposal, site remediation of hazardous materials, and fencing or securing within 24 hours of Task Order execution. CONSULTANT shall work through a Demolition Contractor whom shall furnish all labor, tools, materials and equipment necessary to provide routine and/or emergency demolition and clearance services for residential, commercial and industrial properties. In the performance of this task, CONSULTANT shall at all times comply with all applicable laws, decisions, ordinances, statutes, rules, and regulations of the U. S. Government, the state of California, and any political subdivision or public authority thereof, including without limitation, tax, labor, prevailing wage, safety, security and social security laws and regulations. In addition, CONSULTANT shall perform the services there under in a manner so as not to endanger the safety or any person and property.

CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices necessary for the due and lawful performance of work. CONSULTANT shall comply with the provisions of said statutes in obtaining such permits, licenses and other authorizations, and they shall be obtained in sufficient time to prevent delays to the work.

CONSULTANT shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) adjacent to the work site, which is not to be removed and which does not unreasonably interfere with the work required under this contract.

CONSULTANT shall protect from damage all existing improvements and utilities near the work site, and on adjacent property owned by a third party, the locations of which are made known to or should be known by the CONSULTANT. CONSULTANT shall repair any damage, at its own cost or expense, to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the CONSULTANT fails or refused to repair the damage promptly, SBCTA may have the necessary work performed and charge the cost to the CONSULTANT.

e) Demolition and Clearance Special Provisions

All materials resulting from provision of demolition and clearance services shall become the property of the Demolition Contractor and shall be removed from the premises. Hazardous materials shall be disposed of in accordance with appropriate laws and regulations including OSHA Construction Standard (29 CFR1926.1101) and EPA National Emission Standards for Hazardous Air Pollutants (NESHAP 40 CFR subpart M).

Sewer capping shall be the first order of work. CONSULTANT shall disconnect and cap sewer lines at the property line or back of sidewalk. All sewer capping shall be subject to inspection by the responsible agency. CONSULTANT shall notify the responsible agency a minimum of 24 hours prior to capping the sewer. The excavation resulting from

the sewer cap operation shall be covered until inspection by the responsible agency and immediately backfilled after inspection. CONSULTANT or his representative shall be on the site at the time the responsible agency inspects the sewer cap. Prior to starting demolition operations, CONSULTANT shall contact utility companies to verify the location of their service lines to be protected in place and/or verify removal of their service lines.

Prior to starting demolition operations adjacent to any public way, CONSULTANT shall erect a protection fence. A protection fence will not be necessary when the distance from the improvement to the public way is more than one-half the height of the improvement being demolished.

Where a protection fence is erected on a public sidewalk, a pedestrian walkway shall be provided. The walkway and sidewalk shall meet the Code requirements established by the City/Jurisdiction where the project is located. The required width of the walkway shall be unobstructed.

No structural member in any level shall be demolished or removed until the level next above is completely removed, excepting Class "A" masonry and/or concrete improvements, subject to the approval of the responsible agency.

The cleaning of brick on the site is prohibited. CONSULTANT shall break the floor of and fill all basements, pits, and sumps and backfill all excavations resulting from the removal operations.

CONSULTANT shall not proceed from one item of work to the next until the previous item is in non-hazardous condition and all combustible material has been removed.

CONSULTANT shall clear and grub all trees, shrubs and vegetation unless otherwise specified in a task order. Tree removal shall include removing the major root ball and backfilling the resulting excavations.

CONSULTANT shall not remove fencing adjoining improved property unless instructed to do so by the Project Manager.

Unless specifically stated otherwise in these provisions, SBCTA assumes no responsibility for conditions not evident at the time of bid openings or for subsequent change or damage of any nature to the improvements not within the control of the SBCTA.

The Project Manager reserves the right to remove such items from the improvements as deemed suitable before directing CONSULTANT to begin demolition operations.

f) Workmanship

The workmanship shall be in conformance with the building codes of the state, county, and city in which the work is being done. CONSULTANT shall conduct operations in such a manner to cause the least obstruction and/or inconvenience to the surrounding tenants and/or property owners.



It is the CONSULTANT's responsibility to notify the Project Manager to have all work inspected within 24 hours of work completion for final inspection of work. CONSULTANT shall leave each work site in a clean and neat condition, and shall haul away and legally discard any materials or debris caused by work actions from the job site, at no additional cost.

g) Coordination of Work with other SBCTA consultants.

As directed by SBCTA, CONSULTANT shall coordinate with other SBCTA staff and/or consultants for supplemental work (i.e. perform soil testing, environmental clean-up) required for the effective delivery of the Measure I Program and other Federally Funded Programs. Fees charged by SBCTA staff and/or consultants shall be paid directly by SBCTA.

h) Estimated Time of Completion

Precise time frame for completion of work will be specified in the task order to be issued upon award of work. The exact time frame will depend on the volume and type of work, typically within 45 calendar days, including Southern California Air Quality management District (SCAQMD) notification.

## **J. RELOCATION SERVICES**

The CONSULTANT shall provide a Relocation Assistance Coordinator, as needed, to implement the Relocation Assistance Program (RAP) in accordance with applicable laws, regulations, and policies. Services may include, but are not limited to, the following:

1. Implement the Uniform Act and other requirements.
2. Prepare Relocation Impact Documents (RID), Replacement Housing Valuations, and other R/W Planning documents.
3. Identify that sufficient consultants are available to perform the RAP requirements of the project such that there is adequate time to spend with each displace to ensure the appropriate level of advisory assistance is provided and that claims are processed in a timely manner.
4. Coordinate increase of rental rates with Caltrans R/W staff to ensure that increases for RAP eligible occupants are in accordance with rental policy for residential rental rates. Increases in rental rates for 90-day Occupants may drastically affect their entitlements.
5. Perform inspections of the real property just prior to or at the close of escrow to determine if the acquired items of realty are still on-site, and explain to the displaces who will remain in occupancy that they are responsible for maintenance of the property until they vacate.

Describe grace period, if any, for businesses renting from the State, in the rental agreement.

## **K. UTILITY RELOCATION COORDINATOR**

CONSULTANT shall provide a Utility Relocation Coordinator with knowledge and experience with Local, State, and Federal laws, policies, and procedures that deal with Utility Relocation to verify utilities, identify utility conflicts, coordinate utility relocation, and manage and track billings related to these activities for utilities in physical conflict or in violation of the Department's utility accommodation policy for transportation projects. Additionally, the Utilities' Relocation Coordinator shall be knowledgeable in liability determination for cost of utility relocation by understanding and using Master Contracts between Caltrans and utility companies, State Streets and Highways Code, and Statutes relating to the Department of Transportation. Services may include, but are not limited to, the following:

1. CONSULTANT shall establish files that document action taken or recommended.
2. Prepare estimates based on possible relocations. Update and revise the estimates when necessary.
3. Identify and verify all utility facilities lying within existing and proposed rights of way.
4. Coordinate all positive location requirements for all high/low risk utility facilities within the project limits.
5. Coordinate "avoidance" and relocation of facilities.
6. Assist in preparing and/or reviewing: encroachment exception requests, high/low risk policy exceptions, FHWA Request for Authorization packages, FHWA Approval of Utility Agreement, portions of the Right of Way Data Sheets, portions of the R/W Certification document.
7. Prepare Notices to Owners, Utility Agreements, and Encroachment Permits.
8. Verify relocation billings and process for payment when acceptable.

## **L. RAILROAD COORDINATOR**

On an as needed basis, CONSULTANT shall provide a railroad coordinator to lead the efforts required to provide clearance between the subject railroad and other agencies to perform design and construction activities. Other agencies may consist of SBCTA, Caltrans, and/or cities. Services may include, but are not limited to, the following:

1. Coordinate with PM, SBCTA, and other agencies.
2. Schedule and coordinate meetings with the various agencies and the railroad.
3. Develop a schedule of activities required for clearance.
4. Monitor the activities and action items and report this to the right of way project manager regularly.
5. Prepare required documentation.

**ATTACHMENT B – “PROPOSED CONTRACT”**

**CONTRACT 18-1001823**

**BY AND BETWEEN**

**SBCTA**

**AND**

---

**FOR**

**ON-CALL RIGHT OF WAY SERVICES**

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

**RECITALS:**

**WHEREAS**, SBCTA requires Work as described in Exhibit A of this Contract and;

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

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

**NOW, THEREFORE**, the Parties agree as follows:

**ARTICLE 1. INTRODUCTION**

- 1.1 The work to be performed under this Contract is set forth in Exhibit A, “Scope of Work” and Exhibit B “CONSULTANT’s Approved Cost Proposal” dated (Insert Date) (collectively the “Work”).
- 1.2 CONSULTANT and the agents and employees of CONSULTANT, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of SBCTA.

- 1.3 Without the written consent of SBCTA, this Contract is not assignable by CONSULTANT either in whole or in part. SBCTA may assign its rights and obligations under this Contract in whole or in part to any related or successor agency.
- 1.4 No alteration or variations of the terms of this Contract shall be valid, unless made in writing and signed by the Parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the Parties.
- 1.5 The consideration to be paid to CONSULTANT as provided in this Contract shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
- 1.6 SBCTA's Project Manager for this Contract is Timothy Byrne.

## **ARTICLE 2. PROJECT DESCRIPTION/SCOPE OF WORK**

CONSULTANT agrees to perform the Work in accordance with all applicable professional architectural, engineering, construction management, land surveying and/or materials testing standards which are generally accepted in the State of California, in accordance with the terms and conditions expressed herein and in the sequence, time, and manner defined herein. The word "Work", as used herein, includes without limitation, the performance, fulfillment and discharge by CONSULTANT of all obligations, duties, tasks, and Work imposed upon or assumed by CONSULTANT hereunder. As an On-Call contract, Work performed under this Contract can only be performed upon the issuance of a written "Contract Task Orders" approved and executed by both parties in accordance with the terms, conditions, and instructions contained in this contract. All Work shall be completed to the satisfaction of SBCTA, with its satisfaction being based on prevailing applicable professional standards.

## **ARTICLE 3. CONSULTANT's REPORTS OR MEETINGS**

- 3.1 CONSULTANT shall submit progress reports to SBCTA at least once a month. The report should be sufficiently detailed for SBCTA to determine if CONSULTANT is performing to expectations and is on schedule, to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered so remedies can be developed.
- 3.2 CONSULTANT's Project Manager shall meet with SBCTA, as needed, to discuss progress on the Contract.

## **ARTICLE 4. PERFORMANCE PERIOD**

- 4.1 This Contract shall go into effect on (Insert Date), contingent upon approval by SBCTA's Awarding Authority and execution by SBCTA and CONSULTANT shall commence Work after written notification to proceed by SBCTA's Procurement Analyst. The Contract shall end on March 31, 2023, unless extended by written amendment.
- 4.2 Any recommendation for contract award is not binding on SBCTA until the Contract is fully executed and approved by SBCTA's Awarding Authority.
- 4.3 SBCTA at its sole discretion may extend the original term of the Contract by exercising up to 2 one year option terms. The maximum term of this Contract, including all option term(s) if exercised, will not exceed March 31, 2025.

## **ARTICLE 5. ALLOWABLE COSTS AND PAYMENTS**

- 5.1 CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal Exhibit B. The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- 5.2 In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Contract Task Order.
- 5.3 Specific projects will be assigned to CONSULTANT through issuance of Contract Task Orders.
- 5.4 After a project to be performed under this contract is identified by SBCTA, SBCTA will prepare a draft Contract Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a SBCTA Project Manager. The draft Contract Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the Contract Task Order proposal as specified in the request along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After selection and an agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both SBCTA and CONSULTANT.
- 5.5 Contract Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's Cost Proposal.
- 5.6 Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- 5.7 When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from SBCTA before exceeding such estimate.
- 5.8 Progress payments for each Contract Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- 5.9 CONSULTANT shall not commence performance of work or services until this contract has been approved by SBCTA, and notification to proceed has been issued by SBCTA'S Procurement Analyst. No payment will be made prior to approval or for any work performed prior to approval of this contract.
- 5.10 A Contract Task Order is of no force or effect until returned to SBCTA and signed by an authorized representative of SBCTA. No expenditures are authorized on a project and work shall not commence until a Contract Task Order for that project has been executed by SBCTA.
- 5.11 CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by SBCTA's Project Manager of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Contract Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work

for which CONSULTANT is billing, or upon completion of the Contract Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Contract Task Order number. Credits due SBCTA that include any equipment purchased under the provisions of Article 16 Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to SBCTA's Accounts Payable Department at the following email address: ap@gosbcta.com.

- 5.12 The period of performance for Contract Task Orders shall be in accordance with dates specified in the Contract Task Order. No Contract Task Order will be written which extends beyond the expiration date of this Contract.
- 5.13 The total amount payable by SBCTA for an individual Task Order shall not exceed the amount agreed to in the Contract Task Order, unless authorized by contract amendment.
- 5.14 If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Contract Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- 5.15 Contract Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.
- 5.16. The total amount payable by SBCTA for all Contract Task Orders resulting from this contract shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Contract Task Orders.

## **ARTICLE 6. TERMINATION**

- 6.1 Termination for Convenience – SBCTA's Executive Director shall have the right at any time, with or without cause, to terminate further performance of Work by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Work and shall preserve Work in progress and completed Work, pending SBCTA's instruction, and shall turn over such Work in accordance with SBCTA's instructions.
  - 6.1.1 CONSULTANT shall deliver to SBCTA, all deliverables prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA. Upon such delivery, CONSULTANT may then invoice SBCTA for payment in accordance with the terms of this Contract.
  - 6.1.2 If CONSULTANT has fully and completely performed all obligations under this Contract up to the date of termination, CONSULTANT shall be entitled to receive from SBCTA as complete and full settlement for such termination a pro rata share of the Contract cost based upon the percentage of all contracted Work satisfactorily executed to the date of termination.
  - 6.1.3 CONSULTANT shall be entitled to receive the actual costs incurred by CONSULTANT to return CONSULTANT's tools and equipment, if any, to it or its suppliers' premises, or to turn over Work in progress in accordance with SBCTA's instructions plus the actual cost necessarily incurred in effecting the termination.

- 6.2 Termination for Cause - In the event CONSULTANT shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy shall be filed against CONSULTANT or a receiver shall be appointed on account of its insolvency, or if CONSULTANT shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice, SBCTA may, without prejudice to any other rights or remedies SBCTA may have, and in compliance with applicable Bankruptcy Laws: (a) hold in abeyance further payments to CONSULTANT; (b) stop any Work of CONSULTANT or its subconsultants related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONSULTANT specifying the date of termination. In the event of such termination by SBCTA, SBCTA may take possession of the products and finished Work by whatever method SBCTA may deem expedient.
- 6.2.1 A waiver by SBCTA of one default of CONSULTANT shall not be considered to be a waiver of any subsequent default of CONSULTANT, of the same or any other provision, nor be deemed to waive, amend, or modify this Contract.
- 6.2.2 CONSULTANT shall deliver to SBCTA all finished and unfinished deliverables under this Contract prepared by CONSULTANT or its subconsultants or furnished to CONSULTANT by SBCTA within ten (10) working days of said notice.
- 6.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to SBCTA, satisfactory in form and content to SBCTA and verified by SBCTA. In no event shall CONSULTANT be entitled to any payment for prospective profits or any damages because of such termination.

## **ARTICLE 7. FUNDING REQUIREMENTS**

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



## **ARTICLE 8. CHANGE IN TERMS**

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

## **ARTICLE 9. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION**

- 9.1 CONSULTANTS must give consideration to DBE firms as specified in 23 CFR §172.5(b), 49 CFR, Part 26. If the CTO has a DBE goal, CONSULTANT must meet the DBE goal by using DBEs as subconsultants or document a good faith effort to have met the goal. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace the subconsultant with another DBE subconsultant if the goal is not otherwise met. A DBE may be terminated only with written approval by SBCTA and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting SBCTA's consent for the proposed termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- 9.2 SBCTA, as a recipient of federal financial assistance, is required to implement a Disadvantaged Business Program in accordance with federal regulations at 49 CFR Part 26 issued by the U.S. Department of Transportation (DOT). The CTO specific goals will be determined when a CTO for services is issued. CONSULTANT must furnish all documentation satisfactory to SBCTA that the work committed to DBEs was actually performed by DBEs. Requests for progress payments must include a summary of payments (Form 315) actually made to DBEs during the invoice period, which includes a total of all payments made to all subconsultants under this Contract. DBE participation shall be credited toward the overall DBE goal only when payments are actually made to the DBE firms. CONSULTANT shall submit on the 15<sup>th</sup> of every month to SBCTA's Procurement Analyst, Form 315. Upon completion of the Contract, CONSULTANT shall submit "Final Report-Utilization of Disadvantaged Business Enterprises--First Tier Subconsultants" Form 17-F with the final invoice. Failure to submit the required reports shall result in SBCTA imposing a penalty of \$100 per day, per report.
- 9.3 CONSULTANT shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in SBCTA exercising the right to impose administrative remedies, which shall include, but shall not be limited to the following: withholding of payment due to CONSULTANT equivalent to the difference between the actual DBE attainment and the CTO DBE goal; suspension of payment to CONSULTANT of any other monies held by SBCTA; and termination of the Contract, in whole or in part. The administrative remedies shall not

apply if the CONSULTANT is able to demonstrate, to the satisfaction of SBCTA, that it exercised Good Faith Efforts in an attempt to meet the Contract DBE goal.

- 9.4 SBCTA will bring to the attention of the DOT Operating Administration, in writing, any false, fraudulent, or dishonest conduct in connection with SBCTA's administration of Caltrans' DBE program, to enable the DOT Operating Administration to take the necessary and appropriate steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, or action under suspension and debarment or Program Fraud and Civil Penalties rules) as provided in Title 49 CFR, Part 26, Section 26.109. SBCTA also will consider similar action under its own legal authorities, including, but not limited to, responsibility determinations in future contracts.

## **ARTICLE 10. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- 10.1 CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- 10.2 CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 10.3 Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR Part 200 and 48 CFR Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to SBCTA.
- 10.4 All subcontracts in excess of \$25,000 shall contain the above provision.

## **ARTICLE 11. CONTINGENT FEE**

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

## **ARTICLE 12. RETENTION OF RECORDS/AUDIT**

- 12.1 For the purpose of determining compliance with Public Contract Code Section 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Contract pursuant to Government Code section 8546.7, CONSULTANT, and subconsultants shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Contract, including but not to, the costs of administering the Contract. All Parties shall make such materials available at their respective offices at all reasonable times during the Contract period and for three years from the date of final payment under the Contract. The state, State Auditor, SBCTA, FHWA, or any other duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its

certified public accountant work papers that are pertinent to the Contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

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

### **ARTICLE 13. DISPUTES**

13.1 Any dispute, other than audit, concerning a question of fact arising under this Contract that is not disposed of by agreement shall be decided by a committee consisting of SBCTA's Procurement Analyst and SBCTA's Program Manager who may consider written or verbal information submitted by CONSULTANT.

13.2 Not later than 30 days after completion of all Work under the Contract, CONSULTANT may request review by SBCTA's Executive Director, of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

13.3 Neither the pendency of a dispute, not its consideration by SBCTA's Executive Director excuse CONSULTANT from full and timely performance in accordance with the terms of this Contract.

### **ARTICLE 14. AUDIT REVIEW PROCEDURES**

14.1 Any dispute concerning a question of fact arising under an interim or post audit of this Contract that is not disposed of by agreement, shall be reviewed by SBCTA's Chief Financial Officer.

14.2 Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by SBCTA's Chief Financial Officer of unresolved audit issues. The request for review must be submitted in writing.

14.3 Neither the pendency of a dispute, nor its consideration by SBCTA will excuse CONSULTANT from full and timely performance, in accordance with the terms of this Contract.

14.4 CONSULTANT and subconsultant contracts, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA) ICR Audit work paper review. If selected for an audit or review, the Contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The Contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by SBCTA's Project Manager to conform to the audit or review recommendations. CONSULTANT agrees that individual items of cost identified in the audit report may be incorporated into the Contract by this reference if directed by SBCTA at SBCTA's sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state, or local governments have access to CPA work papers, will be considered a breach of Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.

- 14.5 CONSULTANT's Approved Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The CONSULTANT's Approved Cost Proposal shall be adjusted by the CONSULTANT and approved by SBCTA to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the Contract terms and cause for termination of the Contract and disallowance of prior reimbursed costs.
- 14.5.1 During Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each Party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, SBCTA will reimburse the CONSULTANT at a provisional ICR until a FAR compliant ICR (e.g. 48 CFR, Part 31: GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials Audit Guide; and other applicable procedures and guidelines) is received and approved by A&I. Provisional rates will be as follows:
- 14.5.1.1 If the proposed rate is less than 150%, the provisional rate reimbursed will be 90% of the proposed rate.
- 14.5.2.1 If the proposed rate is between 150% and 200%, the provisional rate will be 85% of the proposed rate.
- 14.5.3.1 If the proposed rate is greater than 200%, the provisional rate will be 75% of the proposed rate.
- 14.6 If Caltrans is unable to issue a cognizant letter per this Article, Caltrans may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (6) months to review CONSULTANT's and/or the independent CPA's revisions.
- 14.7 If the CONSULTANT fails to comply with the provisions of this Article, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the provisional ICR that was established upon initial rejection of the ICR and set forth in this Article above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement under this Contract.
- 14.8 CONSULTANT may submit to SBCTA their final invoice only when all of the following items have occurred: (a) Caltrans approves or rejects the original revised independent CPA-audit ICR; (b) all work under this Contract has been completed to the satisfaction of SBCTA; and, (c) Caltrans has issued its final ICR review letter. The CONSULTANT must submit its final invoice to SBCTA no

later than 60 days after occurrence of the last of these items.

14.9 The provisional ICR will apply to this Contract and all other contracts executed between SBCTA and the CONSULTANT, either as a prime or subconsultant, with the same fiscal year period ICR.

## **ARTICLE 15. SUBCONTRACTING**

- 15.1 Nothing in this Contract or otherwise, shall create any contractual relation between SBCTA and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to SBCTA for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from SBCTA's obligation to make payments to the CONSULTANT.
- 15.2 CONSULTANT shall perform the Work contemplated with resources available within its own organization and no portion of the Work pertinent to this Contract shall be subcontracted without prior written authorization by SBCTA, except, that which is expressly identified in the CONSULTANT's Approved Cost Proposal.
- 15.3 CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by SBCTA.
- 15.4 Any subcontract in excess of \$25,000 entered into as a result of this Contract, shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- 15.5 Any substitution of subconsultants must be approved in writing by SBCTA prior to the start of Work by the subconsultant(s).

## **ARTICLE 16. EQUIPMENT PURCHASE**

- 16.1. Prior authorization in writing, by SBCTA's Project Manager shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- 16.2. For purchase of any item, service or consulting work not covered in CONSULTANT's Approved Cost Proposal and exceeding \$5,000 prior written authorization by SBCTA's Project Manager, three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- 16.3. Any equipment purchased as a result of this Contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, SBCTA shall receive a proper refund or credit at the conclusion of the Contract, or if the Contract is terminated, CONSULTANT may either keep the equipment and credit SBCTA in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established SBCTA procedures; and credit SBCTA in an amount equal to the sales price. If

CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to SBCTA and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by SBCTA." 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

16.4 All subcontracts in excess \$25,000 shall contain the above provisions.

## **ARTICLE 17. INSPECTION OF WORK**

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

## **ARTICLE 18. SAFETY**

18.1 CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by SBCTA and SBCTA representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

18.2 Pursuant to the authority contained in Section 591 of the Vehicle Code, SBCTA has determined that such areas are within the limits of the Project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

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

## **ARTICLE 19. INSURANCE**

19.1 Prior to commencing the Work, at all times during the performance of the Work and for such additional periods as required herein, CONSULTANT shall, at CONSULTANT's sole expense, procure and maintain insurance coverage with the following minimum requirements, and shall require all subcontractors of every tier performing any of the Work to procure and maintain such insurance specified below:

19.1.1 Professional Liability – The policies must include the following:

- \$3,000,000 per claim limits
- \$9,000,000 in the aggregate for all claims.
- If Coverage is on a claims made basis:
  - Policy shall contain a retroactive date for coverage of prior acts, this date will be prior to the date the CONSULTANT begins to perform Work under this Contract.
  - CONSULTANT shall secure and maintain "tail" coverage for a minimum of (3) years after Contract completion.

19.1.2 Worker's Compensation/Employer's Liability Insurance – The policies must include the following:

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

Such policies shall contain a waiver of subrogation in favor of the parties named as Indemnitees below. Such insurance shall be in strict accordance with the applicable workers' compensation laws in effect during performance of the Work by CONSULTANT or any subconsultant of any tier. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with a waiver of subrogation in favor of CONSULTANT and all parties named as Indemnitees below. SBCTA and CONSULTANT must be certificate holders and must be provided at least 30 days advance notice of cancellation, unless the cancellation is for non-payment, then at least 10 days advance notice of cancellation shall be provided. Where coverage is provided through the California State Compensation Insurance Fund, the requirement for a minimum A.M. Best rating does not apply.

19.1.3 Commercial General Liability Insurance – The policy must include the following:

- \$2,000,000 per occurrence limit/\$4,000,000 in the aggregate for property damage or bodily injury
- \$1,000,000 per occurrence limit for personal injury and advertising injury
- \$4,000,000 aggregate limit for property damage, bodily injury, personal and advertising injury
- \$2,000,000 per occurrence limit for products/completed operations coverage. CONSULTANT shall maintain products and completed operations coverage for 10 years following the acceptance of Work or until all applicable statutes of limitations expire, whichever length of time is longer. Coverage is to be on an "occurrence" form. "Claims made" and "modified occurrence" forms are not acceptable.
- An endorsement stating that any aggregate limits apply on a "per project" and on a "per location" basis.
- The project name must be indicated under "Description of Operations/Locations."
- The policy shall be endorsed to provide: "This insurance will be primary and noncontributory with any other insurance of the additional insureds."

All commercial general liability insurance policies shall also include premises-operations (including explosion, collapse and underground coverage) and products-completed operations coverage; severability of interests (full separation of insureds); contractual liability coverage (including coverage to the maximum extent possible for the indemnifications contained in this Contract); broad form property damage coverage (including completed operations); and a duty to defend in addition to (without reducing) the limits of the policy(ies). All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the commercial general liability insurance coverage with limits not less than:

- Each occurrence limit: \$1,000,000

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

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

19.1.4 Umbrella/Excess CGL Insurance – The policy must include the following:

- \$5,000,000 umbrella or excess liability for any project with a Contract value of \$25,000,000 or less.
- Combined total for Commercial General Liability and Excess Liability limits of \$25,000,000 will be required for projects with a Contract value in excess of \$25,000,000.
- The umbrella or excess policy shall follow form over the CONSULTANT's primary general liability coverage and shall provide a separate aggregate limit for products and completed operations coverage.
- The umbrella or excess policy shall not contain any restrictions or exclusions beyond what is contained in the primary policy.
- The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

19.1.5 Commercial Auto Insurance The policy must include the following:

- Auto Liability limits of not less than \$5,000,000 each accident
- Combined Bodily Injury and Property Damage Liability insurance
- Coverage must include owned autos, hired or non-owned autos

The commercial automobile liability insurance shall be written on the most recent edition of ISO form CA 00 01 or equivalent acceptable to SBCTA and shall include, without limitation, contractual liability coverage and additional insured status for the Additional Insureds named below. CONSULTANT waives all rights of subrogation against the Additional Insureds named below, for recovery of loss, injury and/or damages to the extent such loss, injury and/or damages are covered by the commercial automobile liability insurance required herein. All subconsultants of any tier performing any portion of the Work for CONSULTANT shall also obtain and maintain the same insurance coverage as specified in this subparagraph, with the same waiver of subrogation in favor of all parties named as Additional Insureds below, and CONSULTANT.

19.1.6 Pollution Liability. The policy must include the following if it is determined by SBCTA's Risk Manager to be in SBCTA's best interests to require such policy:

- \$2,000,000 per claim or occurrence limits/\$4,000,000 in the aggregate
- If the services involve mold identification / remediation, the policy shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.
- If the services involve lead-based paint or asbestos identification/remediation, the policy shall not contain lead-based paint or asbestos exclusions.

## 19.2 General Provisions

19.2.1 Qualifications of Insurance Carriers. All policies written by insurance carriers shall



be authorized and admitted to do business in the state of California with a current A.M. Best rating of A-VIII or better. Professional Liability and Contractor's Pollution Liability policies may be from non-admitted carriers provided they are authorized and licensed in the state of California and meet the current A.M. Best rating of A: VIII or better

- 19.2.2 Additional Insurance Coverage. All policies, except those for Workers' Compensation and Professional Liability insurance, shall name San Bernardino County Transportation Authority, Caltrans and their officers, directors, members, employees, agents and volunteers, as additional insureds ("Additional Insureds"). With respect to general liability arising out of or connected with work or operations performed by or on behalf of the CONSULTANT under this Contract, coverage for such Additional Insureds shall not extend to liability to the extent prohibited by section 11580.04 of the Insurance Code. The additional insured endorsements shall not limit the scope of coverage for SBCTA to vicarious liability but shall allow coverage for SBCTA to the full extent provided by the policy.
- 19.2.3 Proof of Coverage. Evidence of insurance in a form acceptable to SBCTA's Risk Manager, including certificates of insurance and the required additional insured endorsements, shall be provided to SBCTA's Procurement Analyst prior to issuance of the NTP or prior to commencing any Work, as SBCTA specifies. Certificate(s) of insurance, as evidence of the required insurance shall: be executed by a duly authorized representative of each insurer; show compliance with the insurance requirements set forth in this Article; set forth deductible amounts applicable to each policy; list all exclusions which are added by endorsement to each policy; and also include the Contract Number and the SBCTA Project Manager's name on the face of the certificate. If requested in writing by SBCTA, CONSULTANT shall submit complete copies of all required insurance policies within ten (10) business days of a written request by SBCTA.
- 19.2.4 Deductibles. Regardless of the allowance of exclusions or deductibles by SBCTA, CONSULTANT shall be responsible for any deductible amount and shall warrant that the coverage provided to SBCTA is consistent with the requirements of this Article. CONSULTANT will pay, and shall require its subconsultants to pay, all deductibles, co-pay obligations, premiums and any other sums due under the insurance required in this Article. All deductibles will be in amounts acceptable to SBCTA's Risk Manager. CONSULTANT will advise SBCTA in writing as to the amounts of any deductible, or as to any increase in any insurance deductible under any insurance required above. There will be no deductibles in excess of \$250,000 per occurrence, loss or claim under the insurance. There shall be no Self-insured retention. SBCTA will have the right, but not the obligation, to pay any deductible due under any insurance policy. If SBCTA pays any sums due under any insurance required above, SBCTA may withhold said sums from any amounts due CONSULTANT. The policies shall not provide that any deductible, or other payment required under the policy can be paid only by the named insured, and not by an additional insured.
- 19.2.5 CONSULTANT's and Subconsultants' Insurance will be Primary. All policies required to be maintained by the CONSULTANT or any subconsultant with the exception of Professional Liability and Worker's Compensation shall be endorsed to be primary coverage, and any coverage carried by any of the Additional Insureds named herein shall be excess and non-contributory. Further, none of

CONSULTANT's or subconsultants' pollution, automobile, general liability or other liability policies (primary or excess) will contain any cross-liability exclusion barring coverage for claims by an additional insured against a named insured.

- 19.2.6 Waiver of Subrogation Rights. To the fullest extent permitted by law, CONSULTANT hereby waives all rights of recovery under subrogation against the Additional Insureds named herein, and any other consultant, subconsultant or sub-subconsultant performing work or rendering services on behalf of SBCTA, in connection with the planning, development and construction of the Project. To the fullest extent permitted by law, CONSULTANT shall require similar written express waivers and insurance clauses from each of its subconsultants of every tier. CONSULTANT shall require all of the policies and coverages required in this Article to waive all rights of subrogation against the Additional Insureds. Such insurance and coverages provided shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss or claim.
- 19.2.7 Cancellation. If any insurance company elects to cancel or non-renew coverage for any reason, CONSULTANT will provide SBCTA thirty (30) days prior written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONSULTANT will provide SBCTA ten (10) days prior written notice. In any event, CONSULTANT will provide SBCTA with a copy of any notice of termination or notice of any other change to any insurance coverage required herein which CONSULTANT receives within one business day after CONSULTANT receives it by submitting it to SBCTA at [procurement@gosbcta.com](mailto:procurement@gosbcta.com) to the attention of SBCTA's Procurement Analyst, and by depositing a copy of the notice in the U.S. Mail in accordance with the notice provisions of this Contract.
- 19.2.8 Enforcement. SBCTA may take any steps as are necessary to assure CONSULTANT's compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of contract. In the event the CONSULTANT fails to obtain or maintain any insurance coverage required, SBCTA may, but is not required to, maintain this coverage and charge the expense to the CONSULTANT or withhold such expense from amounts owed CONSULTANT, or terminate this Contract. The insurance required or provided shall in no way limit or relieve CONSULTANT of its duties and responsibility under the Contract, including but not limited to obligation to indemnify, defend and hold harmless the Indemnitees named below. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for liability in excess of such coverage, nor shall it preclude SBCTA from taking other actions as available to it under any other provision of the Contract or law. Nothing contained herein shall relieve CONSULTANT, or any subconsultant of any tier of their obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract.
- 19.2.9 No Waiver. Failure of SBCTA to enforce in a timely manner any of the provisions of this Article shall not act as a waiver to enforcement of any of these provisions at a later date.
- 19.2.10 Insurance required of the CONSULTANT shall be also provided by subconsultants or by CONSULTANT on behalf of all sub-consultants to cover their services

performed under this Contract. CONSULTANT may reduce the amounts of insurance limits provided by sub-consultants to be proportionate to the amount of the sub-consultant's contract and the level of liability exposure for the specific type of work performed by the sub-consultant. CONSULTANT shall be held responsible for all modifications, deviations, or omissions in these insurance requirements as they apply to subconsultant.

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

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

## **ARTICLE 20. INDEMNITY**

20.1 To the extent, but only to the extent, that CONSULTANT's Work falls within the scope of Civil Code Section 2782.8, the following indemnification is applicable:

CONSULTANT shall indemnify and defend (with legal counsel reasonably approved by SBCTA), San Bernardino County Transportation Authority Caltrans, and their authorized officers, employees, agents and volunteers, from any and all losses, damages, liability, actions, and/or costs for claims that arise out of, pertain to or are related to the negligence, recklessness, or willful misconduct of the design professional.

20.2 For all other Work, CONSULTANT agrees to indemnify, defend (with legal counsel reasonably approved by SBCTA) and hold harmless the SBCTA Entities and their authorized officers, employees, agents and volunteers ("Indemnitees"), from any and all claims, actions, losses, damages and/or liability (Claims) arising out of or related to any act or omission of CONSULTANT or any of its officers, employees, agents, subconsultants or volunteers and for any costs or expenses incurred by Indemnitees on account of any such Claims except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. CONSULTANT's indemnification obligation applies to an Indemnitee's "active" as well as "passive" negligence but does not apply to an Indemnitee's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

## **ARTICLE 21. OWNERSHIP OF DATA**

21.1 Upon completion of all Work under this Contract, ownership and title to all reports, documents, plans, specifications, and estimates, produced as part of this Contract will automatically be vested in SBCTA, and no further agreement will be necessary to transfer ownership to SBCTA. CONSULTANT shall furnish SBCTA all necessary copies as needed to complete the review and approval process.

21.2 It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this Contract has been entered into.

- 21.3 CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by SBCTA of the machine-readable information and data provided by CONSULTANT under this Contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by SBCTA of the project documentation on other projects or additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.
- 21.4 Applicable patent rights provisions regarding rights to inventions shall be included in the Contract as appropriate (48 CFR 27, Subpart 27.3, Patent Rights under Government Contracts for federal-aid contracts).
- 21.5 SBCTA may permit copyrighting reports or other agreement products. If copyrights are permitted, the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.
- 21.6 Any subcontract in excess of \$25,000 entered into as a result of this Contract, shall contain all of the provisions of this Article.

## **ARTICLE 22. CLAIMS FILED BY SBCTA'S CONSTRUCTION CONTRACTOR**

- 22.1 If claims are filed by SBCTA's construction contractor relating to Work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with SBCTA and legal staff, and for testimony, if necessary, at depositions, administrative proceedings, trial or arbitration proceedings.
- 22.2 CONSULTANT's personnel that SBCTA considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from SBCTA. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the CONSULTANT's personnel services under this Contract.
- 22.3 Services of the CONSULTANT's personnel in connection with SBCTA's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Contract in order to resolve the construction claims.
- 22.4 Any subcontract in excess of \$25,000 entered into as a result of this Contract, shall contain all of the provisions of this Article.

## **ARTICLE 23. CONFIDENTIALITY OF DATA**

- 23.1 All financial, statistical, personal, technical, or other data and information relative to SBCTA's operations, which are designated confidential by SBCTA and made available to CONSULTANT in order to carry out this Contract, shall be protected by CONSULTANT from unauthorized use and disclosure.
- 23.2 Permission to disclose information on one occasion, or at a public hearing held by SBCTA relating to the Contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

- 23.3 CONSULTANT shall not comment publicly to the press or any other media, including social media regarding the Contract or SBCTA's actions on the same, except to SBCTA's staff, CONSULTANT's own personnel involved in the performance of this Contract, at public hearings or in response to questions from a SBCTA Board Committee or other public meeting approved by SBCTA.
- 23.4 CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding Work performed or to be performed under this Contract without prior review of the contents thereof by SBCTA, and receipt of SBCTA's written permission.
- 23.5 Any SBCTA communications or materials to which CONSULTANT or its subconsultants or agents have access, or materials prepared by CONSULTANT under the terms of this Contract, shall be held in confidence by CONSULTANT, who shall exercise reasonable precautions to prevent the disclosure of confidential information to anyone except as expressly authorized by SBCTA. Any communications with or work product of SBCTA's legal counsel to which CONSULTANT or its subconsultants or agents have access in performing Work under this Contract shall be subject to attorney-client privilege and attorney work product doctrine and shall be confidential. CONSULTANT shall not release any reports, information or promotional material or allow for the use of any photos related to this Contract for any purpose without prior written approval of SBCTA.
- 23.6 Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.

#### **ARTICLE 24. NATIONAL LABOR RELATIONS BOARD CERTIFICATION**

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

#### **ARTICLE 25. EVALUATION OF CONSULTANT**

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

#### **ARTICLE 26. RETENTION OF FUNDS**

- 26.1 Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.
- 26.2 No retainage will be withheld by SBCTA from progress payments due the CONSULTANT. Retainage by the CONSULTANT or subconsultants is prohibited, and no retainage will be held by CONSULTANT from progress payments due subconsultants. Any violation of this provision shall subject the violating CONSULTANT or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This

requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANTS and subconsultants.

## **ARTICLE 27. RESPONSIBILITY OF CONSULTANT**

- 27.1 CONSULTANT shall be responsible for the professional quality, technical accuracy, and the assurance of compliance with all applicable federal, state, and local laws and regulations, and other Work furnished by the CONSULTANT under the Contract. The Contract includes reference to the appropriate standards for design or other standards for Work performance stipulated in the Contract.
- 27.2 In addition to any other requirements of this Contract or duties and obligations imposed on CONSULTANT by law, CONSULTANT shall, as an integral part of its Work, employ quality control procedures that identify potential risks and uncertainties related to scope, schedule, cost, quality and safety of the Project and the Work performed by CONSULTANT within the areas of CONSULTANT's expertise. Risks that may be encountered include, but are not limited to, soil conditions, constructability, factors of safety, impact on adjacent properties, public safety, and environmental considerations. At any time during performance of the Scope of Work, should CONSULTANT observe, encounter, or identify any unusual circumstances or uncertainties, which could pose potential risk to SBCTA or the Project. CONSULTANT shall immediately document such matters and notify SBCTA in writing. CONSULTANT shall also similarly notify SBCTA in regard to the possibility of any natural catastrophe, potential failure, or any situation that exceeds environmental, design, and/or construction assumptions and could precipitate a failure of any structure or other part of the Project. Notifications under this paragraph shall be specific, clear and timely, and in a form which will enable SBCTA to understand and evaluate the magnitude and effect of the risk and/or uncertainties involved.
- 27.3 When a modification to a construction contract is required because of an error or deficiency in the design Work provided under this Contract, CONSULTANT shall be responsible for any and all additional costs associated with the construction contract or the construction of the Project.
- 27.4 SBCTA shall advise CONSULTANT of their responsibility and collect the amount due, including but not limited to, withholding of payments, if the recoverable cost will exceed the administrative cost involved or is otherwise in SBCTA's best interest. SBCTA shall include in the Contract Audit File a written statement of the reasons for the decision to recover or not recover the costs from CONSULTANT.
- 27.5 CONSULTANT shall, document the results of the Work to the satisfaction of SBCTA, and if applicable, Caltrans and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of SBCTA's objectives.
- 27.6 As applicable, the responsible consultant/engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her, certify as-built drawings, and where appropriate, indicate his/her California registration or license number.

## **ARTICLE 28. TECHNICAL DIRECTION**

- 28.1 Performance of Work under this Contract shall be subject to the technical direction of SBCTA's Project Manager. The term "Technical Direction" is defined to include, without limitation:
- 28.1.1 Directions to CONSULTANT, which redirect the Contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Scope of Work.
  - 28.1.2 Provision of written information to CONSULTANT, which assists in the interpretation of drawings, reports, or technical portions of the Scope of Work described herein.
  - 28.1.3 Review and, where required by the Contract, approval of technical reports, drawings, specifications and technical information to be delivered by CONSULTANT to SBCTA under the Contract.
  - 28.1.4 SBCTA may modify this Contract for certain administrative modifications without issuing a written amendment. Administrative modifications as defined herein are limited to: substitutions of personnel identified in this Contract, including Key Personnel and project personnel and subconsultants; modifications to hourly rates, classifications, and names of personnel in Exhibit B; and modifications of the address of the CONSULTANT. All administrative modifications shall be documented in writing between the Parties.
- 28.2 Technical Direction must be within the Scope of Work under this Contract. SBCTA does not have the authority to, and may not, issue any Technical Direction which:
- 28.2.1 Increases or decreases the Scope of Work;
  - 28.2.2 Directs CONSULTANT to perform Work outside the original intent of the Scope of Work;
  - 28.2.3 In any manner cause an increase or decrease in the Contract price as identified in this Contract, or the time required for Contract performance;
  - 28.2.4 Changes any of the expressed terms, conditions or specifications of the Contract; unless identified herein;
  - 28.2.5 Interferes with the CONSULTANT's right to perform the terms and conditions of the Contract; or
  - 28.2.6 Approves any demand or claim for additional payment.
- 28.3 Failure of CONSULTANT and SBCTA's Project Manager to agree that the Technical Direction is within the scope of the Contract, or a failure to agree upon the Contract action to be taken shall be subject to the provisions of the "DISPUTES" Article herein.
- 28.4 All Technical Direction shall be issued in writing by SBCTA's Project Manager.
- 28.5 CONSULTANT shall proceed promptly with the performance of Technical Direction, in the manner prescribed by this Article and within their authority under the provisions of this Article. If, in the opinion of CONSULTANT, any instruction or direction by SBCTA

falls within one of the categories defined in 28.2.1 through 28.2.6 above, CONSULTANT shall not proceed but shall notify SBCTA in writing within five (5) working days after receipt of any such instruction or direction and shall request SBCTA to modify the Contract accordingly. Upon receiving the notification from the CONSULTANT, SBCTA's Project Manager shall:

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

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

28.6 There shall be no changes in CONSULTANT's Key Personnel as identified herein, without prior written approval by SBCTA's Project Manager.

**ARTICLE 29. KEY PERSONNEL**

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

Key Personnel are:

Name	Job Classification/Function

**ARTICLE 30. REPRESENTATIONS**

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

**ARTICLE 31. TAXES, DUTIES AND FEES**

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



## **ARTICLE 32. PERMITS AND LICENSES**

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

## **ARTICLE 33. STATEMENT OF COMPLIANCE**

- 33.1 CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2 California Code of Regulations (CCR) Section 11102.
- 33.2 During the performance of this Contract, CONSULTANT and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g. cancer), age (over 40), marital status and denial of family care leave. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Section 12990 et seq. and the applicable regulations promulgated thereunder (Title 2 CCR Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. CONSULTANT and subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- 33.3 The CONSULTANT shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- 33.4 The CONSULTANT, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

## **ARTICLE 34. DEBARMENT AND SUSPENSION CERTIFICATION**

- 34.1 CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied

with Title 2 CFR Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (non-procurement)”, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to SBCTA.

- 34.2 Exception will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- 34.3 Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highways Administration.

#### **ARTICLE 35. STATE PREVAILING WAGE RATES**

- 35.1 CONSULTANT shall comply with the State of California’s General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all federal, state, and local laws and ordinances applicable to the Work.
- 35.2 Any subcontract entered into as a result of this Contract if for more than \$25,000 for public works construction, or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- 35.3 When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

#### **ARTICLE 36. CONFLICT OF INTEREST**

- 36.1 CONSULTANT shall disclose any financial, business, or other relationship with SBCTA that may have an impact upon the outcome of this Contract, or any ensuing SBCTA construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Contract, or any ensuing SBCTA construction project, which will follow.
- 36.2 CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest, direct or indirect, which would conflict in any manner or degree with the performance of Work required under this Contract or be contrary to the interests of SBCTA as to the Project. CONSULTANT further agrees that in the performance of this Contract no person having any such interest shall be employed. CONSULTANT is obligated to fully disclose to SBCTA, in writing, any conflict of interest issues as soon as they are known to CONSULTANT. CONSULTANT agrees that CONSULTANT’s staff designated by SBCTA’s Executive Director as “Consultants” under the Political Reform Act shall timely file Statements of Economic Interest with the SBCTA Clerk of the Board.

36.3 Any subcontract in excess of \$25,000 entered into as a result of this Contract, shall contain all of the provisions of this Article.

**ARTICLE 37. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION**

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

**ARTICLE 38. PROHIBITION OF EXPENDING SBCTA, STATE OR FEDERAL FUNDS FOR LOBBYING**

38.1 CONSULTANT certifies to the best of his or her knowledge and belief that:

38.1.1 No state, federal or local agency appropriated funds have been paid, or will be paid on by or on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, or loan, or cooperative agreement.

38.1.2 If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

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

**ARTICLE 39. NOTIFICATION**

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

<b>To CONSULTANT</b>	<b>To SBCTA</b>
	<b>1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor</b>
	<b>San Bernardino, CA 92410-1715</b>
<b>Attn:</b>	<b>Attn:</b>
	<b>cc: Procurement Manager</b>
<b>Phone:</b>	<b>Phone: (909) 884-8276</b>

**ARTICLE 40. STOP WORK ORDER**

Upon failure of CONSULTANT or its subconsultants to comply with any of the requirements of this Contract, SBCTA shall have the right to stop any or all Work affected by such failure until such failure is remedied or to terminate this Contract in accordance with “TERMINATION” provision herein.

**ARTICLE 41. CLAIMS**

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

**ARTICLE 42. ERRORS AND OMISSIONS**

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

**ARTICLE 43. WARRANTY**

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

**ARTICLE 44. INDEPENDENT CONTRACTOR**

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

**ARTICLE 45. ATTORNEY’S FEES**

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

**ARTICLE 46. GOVERNING LAW AND VENUE**

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

**ARTICLE 47. FEDERAL, STATE AND LOCAL LAWS**

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

**ARTICLE 48. PRECEDENCE**

- 48.1 The Contract consists of the Contract Articles, Exhibit A “Scope of Work”, and Exhibit B “CONSULTANT’s Approved Cost Proposal”, SBCTA’s Request For Proposals and CONSULTANT’s Proposal, all of which are incorporated into this Contract by this reference.
- 48.2 The following order of precedence shall apply: first, the Contract Articles, second, Exhibits A and B; third, SBCTA’s Request For Proposals; and last, CONSULTANT’s Proposal.
- 48.3 In the event of an express conflict between the documents listed in this Article, or between any other documents, which are a part of the Contract, CONSULTANT shall notify SBCTA in writing within three (3) business days of its discovery of the conflict and shall comply with SBCTA’s resolution of the conflict.

**ARTICLE 49. GRATUITIES**

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

**ARTICLE 50. REVIEW AND ACCEPTANCE**

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

**ARTICLE 51. DRUG FREE WORKPLACE**

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

**ARTICLE 52. FORCE MAJEURE**

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

**ARTICLE 53. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT**

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

**ARTICLE 54. ENTIRE DOCUMENT**

- 54.1 This Contract constitutes the sole and only agreement governing the Work and supersedes any prior understandings, written or oral, between the Parties respecting the Project. All previous proposals, offers, and other communications, written or oral, relative to this Contract, are superseded except to the extent that they have been expressly incorporated into this Contract.
- 54.2 No agent, official, employee or representative of SBCTA has any authority to bind SBCTA to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of this Contract, and CONSULTANT hereby stipulates that it has not relied, and will not rely, on same.
- 54.3 Both Parties have been represented or had the full opportunity to be represented by legal counsel of their own choosing in the negotiation and preparation of this Contract. Therefore, the language in all parts of this Contract will be construed, in all cases, according to its fair meaning, and not for or against either Party.

**ARTICLE 55. CONTRACT**

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

**ARTICLE 56. EFFECTIVE DATE**

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

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

**CONSULTANT**

**SBCTA**

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

By: \_\_\_\_\_  
Alan D. Wapner  
President, Board of Directors

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

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

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Eileen Monaghan Teichert  
General Counsel

**CONCURRENCE**

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

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



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

For Specific Rates of Compensation contracts – use SBCTA Form 351-10H

**ATTACHMENT C RFP FORMS**

**NON-LOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS**

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

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

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

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

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

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

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

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

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

(item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

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

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

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

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

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## INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION

### TITLE 2, CODE OF FEDERAL REGULATIONS, PARTS 180 and 1200

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

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

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

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

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

The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in 2 CFR Part 180, Subpart I. You may contact SBCTA for assistance in obtaining a copy of those regulations.

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

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



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

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

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

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

*Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more -2 CFR 180.220(b) and 2 CFR 1200.220).*

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

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

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

The terms "covered transaction", "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal or bid," and "voluntarily excluded," as used in this clause, have the meanings set out in 2 CFR Part 180, Subpart I. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

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

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

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

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

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

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

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

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

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

**THE PRIMARY PARTICIPANT**

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

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

**Signature and Title of Authorized Official:**

\_\_\_\_\_

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

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

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

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

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

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

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

**CERTIFICATION OF CONSULTANT, COMMISSION & FEES –  
FORM 333**

To be submitted with top ranked firms price proposal-

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

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

**CERTIFICATE OF COMPLIANCE WITH  
INSURANCE REQUIREMENTS**

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

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

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

AND

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

OR

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

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

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

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

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

\_\_\_\_\_  
Address

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

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

**Broker Information:**

Name:  
\_\_\_\_\_

\_\_\_\_\_  
Address

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

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

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

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

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

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

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

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

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any SBCTA Director or alternate in the 12 months preceding the date of issuance of this Request for Bids/Requests for Proposals?

YES  NO

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

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

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any Board member or alternate?

YES  NO

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

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

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



BIDDER:

---

Signature of Bidder

---

Date

---

Name

---

Title

---

Company

---

Address

---

City, State, and Zip

ATTACHMENT A

SBCTA BOARD OF DIRECTORS AND ALTERNATES

Agency	Board Representative	Alternate
City of Adelanto	Rich Kerr	Jermaine Wright, Sr.
City of Barstow	Julie McIntyre	Carmen Hernandez
City of Big Bear Lake	Bill Jahn	Randall Putz
City of Chino	Eunice Ulloa	Tom Haughey
City of Chino Hills	Ed Graham	Art Bennett
City of Colton	Frank Navarro	Richard DeLaRosa
City of Fontana	Acquanetta Warren	Jesus Sandoval
City of Grand Terrace	Darcy McNaboe	Sylvia Robles
City of Hesperia	Bill Holland	Russell Blewett
City of Highland	Larry McCallon	Penny Lilburn
City of Loma Linda	Rhodes "Dusty" Rigsby	Ronald Dailey
City of Montclair	Paul Eaton	John Dutrey
City of Needles	Edward Paget	Jeff Williams
City of Ontario	Alan Wapner	Debra Dorst-Porada
City of Rancho Cucamonga	L. Dennis Michael	Diane Williams
City of Redlands	Jon Harrison	Patricia Gilbreath
City of Rialto	Deborah Robertson	Edward Scott
City of San Bernardino	R. Carey Davis	James Mulvihill
City of Twentynine Palms	Joel Klink	Dan Mintz
City of Upland	Debbie Stone	Gino Filippi
City of Victorville	Jim Kennedy	James Cox
City of Yucaipa	David Avila	Bobby Duncan
County of San Bernardino 1 <sup>st</sup> District	Robert Lovingood	N/A
County of San Bernardino 2 <sup>nd</sup> District	Janice Rutherford	N/A
County of San Bernardino 3 <sup>rd</sup> District	James Ramos	N/A
County of San Bernardino 4 <sup>th</sup> District	Curt Hagman	N/A
County of San Bernardino 5 <sup>th</sup> District	Josie Gonzales	N/A
Town of Apple Valley	Curt Emick	Barbara Stanton
Town of Yucca Valley	Rick Denison	Merl Abel

**ATTACHMENT D- DBE INFORMATION**

# **DISADVANTAGED BUSINESS ENTERPRISE INFORMATION AND INSTRUCTIONS**

## **1. CONTRACT DBE GOAL**

SBCTA may establish a goal for the participation by DBEs for each CTO. If the selected firm has a total DBE commitment in excess of the DBE goal, the firm will be held to the higher commitment amount.

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

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

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

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

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

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

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

The objectives of the program are:

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

- To assist the development of firms that can compete successfully in the marketplace outside the DBE program;
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs; and
- SBCTA encourages the participation of small businesses in the performance of contracts.

### **3. PROPOSER'S RESPONSIBILITY**

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

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

#### 4. DEFINITIONS

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

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

disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by SBCTA pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:

1. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
2. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
3. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
4. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, Burma, Thailand, Malaysia, Indonesia the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas, Macao. Fiji, Tonga, Kirbati, Juvalu, Naura, Micronesia, or Hong Kong;
5. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; and
6. Women, regardless of ethnicity or race.

H. **"Other Socially and Economically Disadvantaged Individuals"** - means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration to meet the social and economic disadvantage criteria described below 1. Social Disadvantage:

1. The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
2. The individual must demonstrate that he/she has personally suffered social disadvantage.
3. The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.
4. The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant.
5. The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.
6. A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

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

1. The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.
2. The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- Availability of financing
- Bonding capability
- Availability of outside equity capital
- Available markets

With respect to the individual and the business concern:

- Personal and business assets
- Personal and business net worth
- Personal and business income and profits

3. "Owned and Controlled"- means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.
4. The term "Agreement" also means "Contract".
5. Agency also means the SBCTA.
5. **DBE CERTIFICATION** - SBCTA is participating as a non-certifying member in the California Unified Certification Program (CUCP). SBCTA requires all DBEs listed by proposer for participation to be certified by the CUCP as eligible DBEs at the time of proposal submission. It is the responsibility of the proposer to verify the DBE certification status of all listed DBE's.
  - A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposers may call (916) 440-0539 for web or download assistance.
  - B. Access the CUCP database from Caltrans, Civil Rights, Business Enterprise Program website at: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)
    - Click on the link in the left menu titled Disadvantaged Business Enterprise.
    - Click on Search for a DBE Firm link.
    - Click on Access to the DBE Query Form located on the first line in the center of the page.
    - Searches can be performed by one or more criteria.
    - Follow instructions on the screen.
  - C. To obtain a list of certified DBEs without Internet Access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBE's may be ordered at:



California Department of Transportation  
Publication Distribution Unit  
1900 Royal Oaks Drive  
Sacramento, CA 95815-3800  
Please make checks payable to: Caltrans

- D. A copy of the directory of certified DBE firms can also be downloaded at:  
<http://caltrans-opac.ca.gov/publicat.htm>.

## 6. DBE ELIGIBILITY AND COMMERCIALY USEFUL FUNCTION STANDARDS

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

## 7. DBE CREDITING PROVISIONS

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

## 8. GOOD FAITH EFFORTS

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

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

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

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

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

- D. Subsequent efforts to follow-up on initial solicitations to DBEs, including contract requirements, plans and specifications timely provided to DBEs for purposes of soliciting their proposals. Documentation should include:

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

- I. Provide offer of assistance to interested DBE's in obtaining bonding, lines of credit, and/or insurance required by the Contractor. A description of assistance extended and made available by proposer to interested DBEs in obtaining bonding, lines of credit and/or insurance. At minimum, proposer must provide evidence of the availability of assistance by providing copies of subcontracting advertisements and DBE solicitation letters.
- J. Utilization of outreach services available within the DBE community, including contractor groups, local, state and federal DBE offices and other organizations that provide assistance in the recruitment and placement of DBE's. Notices to community outreach services should be issued at least 15 calendar days prior to submittal due date. Copies of letters, faxes, telephone logs, etc., used to contact organizations, which include the names of organizations/groups, dates, names of contacts, and telephone numbers; and copies of correspondence received from these entities acknowledging contact. The proposer must document outreach to a minimum of five organizations/groups.
- K. Only those efforts made prior to proposal submittal due date will be considered in evaluating Good Faith Efforts. Failure to submit the required Good Faith Effort documentation within four (4) working days after proposal submittal will be grounds for finding the proposal non-responsive.

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

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

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

- The proposer must provide the **“Proposer’s Good Faith Efforts Affidavit” Form** (to certify that it will exercise good faith efforts to meet or exceed the established DBE participation goal inclusive of amendments, modifications, options and change orders, prior to the commencement of work. A sample document is included in this Attachment.
- **“Bidders List of Subcontractors” (Exhibit 12-B)**  
SBCTA is required to maintain a “Bidders List” containing information about all firms (DBE and non-DBE) that bid, proposal or quote on SBCTA’s DOT-assisted contracts, in accordance with 49 CFR Part 26.11, for use in SBCTA’s overall annual DBE goal-setting process. Therefore, the proposer shall provide the requested information for every firm who submitted a bid, proposal or quote, including the primary proposer, whether successful or unsuccessful in their attempt to obtain a contract:

**WHEN A CTO REQUEST IS ISSUED, AND A CTO SPECIFIC DBE GOAL IS ESTABLISHED, THE PROPOSER WILL BE REQUIRED TO MEET THIS GOAL OR DEMONSTRATE GOOD FAITH EFFORTS AS A CONDITION OF THE AWARD OF THE CTO BY PROVIDING:**

- **“Local Agency Proposer DBE Commitment (Consultant Contract)”** (Exhibit 10-O1)  
The proposer must demonstrate its commitment to meet the DBE goals that may be set on the CTOs under this contract. If DBEs are included in the proposer’s proposal, they shall be included in Exhibit 10-O1. Even if no DBE participation will be reported, the successful proposer must execute and return the 10-O1 form. The proposer will also be required to identify these and any additional DBEs proposed in resulting CTOs using Exhibit 10-O2.
- **“Local Agency Proposer DBE Information (Consultant Contract)”** (Exhibit 10-O2)  
The purpose of the form is to collect data required under 49 CFR Part 26. This form collects all DBE participation. Even if no DBE participation will be reported, the successful proposer must execute and return the form.
- **Good Faith Efforts** (Exhibit 15-H)  
CTO Proposers shall submit Exhibit 15-H to document adequate good faith efforts. Proposers should submit Exhibit 15-H even if the “Local Agency Bidder – DBE Commitment” form (10-O1) indicates that the proposer has met the DBE goal. This will protect the proposer’s eligibility for award of the CTO if the administering agency determines that the proposer failed to meet the goal for various reasons, e.g., a DBE firm was not certified by the proposal due date, or the proposer made a mathematical error.

**REQUIRED DOCUMENTS TO BE SUBMITTED BY THE AWARDED FIRM ON THE 15<sup>TH</sup> OF EACH MONTH:**

- **Summary of Disadvantaged Business Enterprise (DBE) – Subconsultants Paid Monthly Report** (Form 315)  
Form 315 must be submitted every month to report all payments made to DBE’s (including DBEs). It is important to identify all DBE firms that were paid during the reporting period for the project, including all DBEs listed on the DBE Commitment Form (Exhibit 10-01), regardless of tier. The form must be signed and dated by the proposer’s representative that is responsible for reporting DBE compliance matters. The form must be submitted no later than the 15<sup>th</sup> day of each month to SBCTA’s Procurement Analyst at [procurement@gosbcta.com](mailto:procurement@gosbcta.com).

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

- **Notification of Disadvantaged Business Enterprises (DBE) Substitution Letter**  
SBCTA must have prior written approval of any DBE subconsultant substitutions. If a listed DBE subconsultant is terminated, you must make good faith efforts to find another DBE subconsultant to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to

meet the DBE goal. The substitute DBE must be certified as a DBE by the CUCP at the time of request for substitution. SBCTA does not pay for work or material unless it is performed or supplied by the listed DBE, unless the DBE is terminated in accordance with this section and California Civil Code 4107.

- **Disadvantaged Business Enterprises (DBE) Certification Status Change-** (Exhibit 17-O)  
If a DBE subconsultant is decertified during the life of the Contract, the decertified subconsultant shall notify the Contractor in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify the Contractor in writing with the date of certification. Any changes should be reported in writing to SBCTA's Project Manager within 30 days.

**REQUIRED DOCUMENT TO BE SUBMITTED AT THE CONCLUSION OF THE PROJECT:**

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



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

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

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



## EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

(Inclusive of all DBEs at time of proposal)

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

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

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

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

*The Consultant shall complete the following information:*

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

*SBCTA shall complete the following information:*

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the

Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.

**24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.

**25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.

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

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

## EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

(Inclusive of all DBEs listed at proposal submittal date)

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

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>			\$
20. Local Agency Contract Number: _____ 21. Federal-Aid Project Number: _____ 22. Contract Execution Date: _____  Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  _____ 23. Local Agency Representative's Signature      24. Date			<b>14. TOTAL CLAIMED DBE PARTICIPATION</b>  IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  _____ 15. Preparer's Signature      16. Date
_____ 25. Local Agency Representative's Name      26. Phone  _____ 27. Local Agency Representative's Title			_____ 17. Preparer's Name      18. Phone  _____ 19. Preparer's Title
			%

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

**INSTRUCTIONS- EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS  
(DBE AND NON-DBE) PART I AND PART II)**

**ALL PROPOSERS:**

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

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

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

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

It is the proposer's responsibility to verify that the DBE(s) are certified with the CUCP.

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

**PART I**

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

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

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

**PART I**

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

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

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

Federal-aid Project No. \_\_\_\_\_ Proposal Due Date: \_\_\_\_\_

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

Lowest, second lowest and third lowest proposers shall submit the following information to document adequate good faith efforts. Proposers should submit the following information even if the “Local Agency Bidder – DBE Commitment” form (10-01) or Consultant Contract DBE Commitment form (10-02) indicates that the proposer has met the DBE goal. This will protect the proposer’s eligibility for award of the contract if the administering agency determines that the proposer failed to meet the goal for various reasons, e.g., a DBE firm was not certified at proposal opening, or the proposer made a mathematical error.

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

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

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

Publications	Dates of Advertisement

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

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

- c. The items of work which the proposer made available to DBE firms, including, where appropriate, any break down of the contract work items (including those items normally performed by the proposer with its own forces) into economically feasible units to facilitate DBE participation. It is the proposer's



responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

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

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

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


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


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


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


--

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

Names of Agency/Organization	Method/Date of Contact	Results

h. Any additional data to support a demonstration of good faith efforts please include here.


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

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

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

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

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

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

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

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

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

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



## **INSTRUCTIONS – SUMMARY OF MONTHLY DBE PAYMENTS - FORM NO. 315**

This form requires specific information regarding the Disadvantaged Business Enterprise subcontractors paid on this contract.

Form 315 must be completed for all DBEs – including all DBEs paid for each monthly period. The form requires that the Reporting Period (month/year) be included. A Report Number should also be completed. This field should include a sequential number with the first form having number “1”. The date prepared should also be included.

**IMPORTANT:** Identify all DBE firms that were paid during the reporting period for the project -- including all DBEs listed on the DBE Commitment form (Exhibit 10-O1), regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed should be consistent, where applicable, with the names and items of work in the "List of Subcontractors" submitted with your proposal.

There is a column for the “Dollars Paid This Month”. Enter the Total amount paid for each DBE firm for the reporting period. Also include the total amount paid to date, which shall include the amount paid for the current reporting period.

Include the Schedule Activity ID for construction contracts. Include a brief description for the type of work performed. The original dollar amount committed to the DBE firm should be included in the appropriate Column and any increase or decrease in the subcontract amount resulting from a change order shall be included in the “Dollar +/- resulting from Change order Activity” column.

**Form 315 must be signed and dated by the prime consultant’s representative that is responsible for reporting DBE compliance matters. The form must be submitted to SBCTA’s Procurement Analyst no later than the 15<sup>th</sup> day of each month.**

San Bernardino County Transportation Authority  
**Summary of Disadvantaged Business Enterprise (DBE) - Subcontractors Paid Monthly Report**



Reporting Period (Month/Year)	Report Number	Date Prepared
-------------------------------	---------------	---------------

1) Project Name		2) Project Location	
3) Contract Number	4) Original Contract Award Amount	5) Contract Award Date	
6) Current Contract Value	7) SANBAG Payment to Prime This Month	8) Total Amount Paid to Prime to Date	
9) Date of Last Progress Payment Received from SBCTA	10) Percent of Project Complete	11) DBE Goal Percentage (committed)	
12) Prime Contractor			
13) Contact Person			
14) Street Address			
15) City/State/Zip			
16) Area Code/Phone No.			
17) Email Address			
18) SUBCONTRACTOR/SUPPLIER			
Subcontractor/Supplier #1	Dollars Paid This Month	Schedule Activity ID (Construction only)	Type of Work Performed
Name	Dollar Amount Paid to Date		Original Dollar Amount Committed
Address			Dollar +/- resulting from Change Order Activity
Area Code/Phone			
Contact Person			
Subcontractor/Supplier #2			
Name			
Address			
Area Code/Phone			
Contact Person			
Subcontractor/Supplier #3			
Name			
Address			
Area Code/Phone			



San Bernardino County Transportation Authority  
**Summary of Disadvantaged Business Enterprise (DBE) - Subcontractors Paid Monthly Report**



Reporting Period (Month/Year)	Report Number	Date Prepared
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Contact Person							
Subcontractor/Supplier #4	↓	↓	↓	↓	↓	↓	↓
Name							
Address							
Area Code/Phone							
Contact Person							
Subcontractor/Supplier #5	↓	↓	↓	↓	↓	↓	↓
Name							
Address							
Area Code/Phone							
Contact Person							
Subcontractor/Supplier #6	↓	↓	↓	↓	↓	↓	↓
Name							
Address							
Area Code/Phone							
Contact Person							

**INSTRUCTIONS**  
 The Prime shall make prompt payment of all monies due and owed to DBE and non-DBE firms within 10 business days upon receipt of payment from San Bernardino County Transportation Authority (SBCTA) as per Contract Agreement. Payment of retention shall be made to all DBE and non-DBE subcontractors within 10 days after satisfactory completion of the subcontracted work.  
 This form is due to SBCTA by the 15<sup>th</sup> of each month and should reflect all payments made to subs through the last day of the previous month.  
 The Prime must report monthly, even if the sub(s) did not perform any work for the previous month. Please forward signed original documents by email and/or fax.  
 Always mail the original each month to: SBCTA, 1170 W. Third Street, 2<sup>nd</sup> Floor, San Bernardino, CA 92410, ATTN: Contract Compliance Officer

Completed By: \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_





Reporting Period (Month/Year)	Report Number	Date Prepared
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### Instructions – Summary of Monthly DBE Payments Information SANBAG Form 315 (Construction Contracts)

#### SUCCESSFUL BIDDER:

This form requires specific information regarding the disadvantaged business enterprise subcontractors paid on this construction contract.

The form must be completed for all DBEs – including all UDBEs paid for each monthly period. The form requires that the Reporting Period (month/year) be included. A Report Number should also be completed. This field should include a sequential number with the first form having number "1". The date prepared should also be included.

**IMPORTANT:** Identify all DBE firms that were paid during the reporting period for the project -- including all UDBEs listed on the UDBE Commitment form (Exhibit 15G(1)), regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed should be consistent, where applicable, with the names and items of work in the "List of Subcontractors" submitted with your bid.

There is a column for the "Dollars Paid This Month". Enter the Total amount paid for each DBE firm for the reporting period. Also include the total amount paid to date, which shall include the amount paid for the current reporting period.

Include the Schedule Activity ID for construction contracts. Include a brief description for the type of work performed. The original dollar amount committed to the DBE firm should be included in the appropriate Column and any increase or decrease in the subcontract amount resulting from a change order shall be included in the "Dollar +/- resulting from Change Order Activity" column.

SBCTA Form 315 must be signed and dated by the prime contractor's representative that is responsible for reporting DBE compliance matters. The form must be submitted no later than the 15<sup>th</sup> day of each month.